



# INTERIM RECORD

A SUMMARY OF INTERIM ACTIVITIES

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## Legislation approved in 2021 session to have statewide impact

by Rob Weber

FRANKFORT -- The Kentucky General Assembly's 2021 regular session was gavelled to a close on March 30, ending a session in which lawmakers approved a state budget for the coming fiscal year and numerous other measures that will affect people throughout the state.



Sen. Christian McDaniel, R-Taylor Mill, discusses House Bill 192, the executive branch budget, in the Senate chamber. Lawmakers approved the plan that will guide spending for the fiscal year that begins July 1.

Most new laws approved this year will go into effect on June 29, except for those that specify a different effective date or include an emergency clause that made them take effect the instant they became law.

Legislation approved by the 2021 General Assembly includes measures on the following topics:

**Adoption.** House Bill 210 will ensure that employers offer adoptive parents the same amount of time off as birth parents when a child under the age of ten is being adopted.

**Asthma.** Senate Bill 127 encourages schools to keep bronchodilator rescue inhalers in at least two locations and will require schools with inhalers to have policies in place regarding their use.

**Attorney General.** House Bill 2 will give the attorney general greater authority to enforce laws concerning abortion clinics in Kentucky.

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# Legislation approved,

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**Born-alive infants.** Senate Bill 9 requires that medically appropriate and reasonable life-saving and life-sustaining medical care and treatment must not be denied to any born-alive infant, including cases in which an attempted abortion results in a live birth.

**Billboards.** House Bill 328 will re-establish the state's regulatory authority for roadside billboards after a federal court ruling called the state's prior regulations into question. It will put Kentucky's statute back in place with changes intended to ensure its constitutionality.

**Broadband.** House Bill 320 will expand broadband internet service to underserved areas with \$250 million for the broadband deployment fund. The measure will also reduce barriers for electric cooperatives to offer the service.

**Capitol security.** Senate Bill 227 will require Kentucky State Police to brief the leadership of the General Assembly and the Legislative Research Commission on security matters relating to the State Capitol campus.

**Child and new mother fatalities.** House Bill 212 will require data in an annual state report on fatalities among children and new mothers to include information on demographics, race, income and geography associated with the fatalities.

**Child protection.** House Bill 254 will raise the penalty for possession or viewing of matter portraying a sexual performance by a minor under the age of 12 years to a Class C felony. It will also raise the penalty for the distribution of matter portraying a sexual performance of a minor under the age of 12 years to a Class C felony for the first offense and a Class B felony for each subsequent offense.

**Child support.** House Bill 402 will increase the amount considered flagrant nonsupport from \$1,000 to \$5,000.

**Civil actions.** House Bill 3 will allow civil actions regarding the constitutionality of a Kentucky statute,



Rep. Pamela Stevenson, D-Louisville, discusses a bill during a legislative committee meeting. Lawmakers passed 200 bills into law during the 2021 legislative session.

executive order, administrative regulation or order of any cabinet be filed outside of Franklin County.

**Colon cancer.** Senate Bill 16 will change the name of Kentucky's Colon Cancer Screening Program to the Colon Cancer Screening and Prevention Program. A second provision will raise money for the screening program from the sale of special cancer prevention license plates. It will also require the Department for Medicaid Services to release statistics on cancer services related to colorectal cancer.

**Commission on Race and Access to Opportunity.** Senate Bill 10 will create the Commission on Race and Access to Opportunity. The group will conduct studies and research on issues where disparities may exist in areas including education, child welfare, health care, the economy and criminal justice system.

diabetes by capping cost-sharing requirements for prescription insulin at \$30 per 30-day supply in state-regulated health plans.

**Driver safety.** House Bill 439 will require vision testing for renewal of a driver's license, starting in 2024.

**Education.** House Bill 563 will give families more options when making decisions about schools. The bill will allow the use of education opportunity accounts, a type of scholarship, for educational expenses and, for students in some of the state's largest counties, for private school tuition. Individuals or businesses who donate to organizations that issue education opportunity accounts will be eligible for a tax credit. The measure will also require a board of education to adopt a nonresident pupil policy to govern terms under which the district allows enrollment of nonresident pupils.

Diabetes. House Bill 95 will help those with

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# Legislation approved, from page 2

**Elections.** House Bill 574 will make some of the election procedures implemented last year to accommodate voting during the pandemic permanent. The measure will offer Kentuckians three days – including a Saturday – leading up to an election day for early, in-person voting. It will allow county clerks to continue to offer ballot drop boxes for those who do not wish to send their ballots back by mail. It will also counties to offer voting centers where any registered voter in the county could vote.

**Ethics.** Senate Bill 6 will create standards for ethical conduct for transition team members of all newly elected statewide officeholders. The standards include identifying any team member who is or has been a lobbyist. It will require disclosure of current employment, board member appointments and any non-state sources of money received for their services. It will also prohibit the receipt of nonpublic information that could benefit a transition team member financially.

**Firefighters.** House Bill 44 will allocate funding to help full-time and volunteer firefighters experiencing a post-traumatic stress injury or disorder receive proper care from a licensed mental health professional.

**First responders.** Senate Bill 169 will give first responders injured in the line of duty access to more disability benefits. Line of duty or duty-related disability benefits payable to a member of any of the systems administered by the Kentucky Retirement Systems will increase from 25% to 75% of the member's monthly average pay.

**Fish and Wildlife Commission.** House Bill 394 calls for the state's Fish and Wildlife Resources Commission to have sole authority to appoint the commissioner of the Department of Fish and Wildlife Resources.

**Gaming.** Senate Bill 120 will define pari-mutuel wagering in state law in a manner intended to ensure the legality of certain historical horse racing games that are often compared to slot machines.



Rep. Jennifer Decker, R-Waddy, the primary sponsor of House Bill 574, listens as Secretary of State Michael Adams testifies in favor of the election reform measure.

**General Assembly.** House Bill 4 will let voters decide next year on a proposed amendment to the Kentucky Constitution that will allow the General Assembly to convene an additional 12 legislative days each year upon a joint proclamation from the Senate president and House speaker.

**Groceries.** House Bill 190 will exempt legally

permitted food service establishments from any state or local laws and administrative regulations that prohibit the sale of grocery items such as bread, milk, and other staples.

**Illegal dumping.** Senate Bill 86 will designate 100 percent of a new open dumping fine to be paid to the county where the violation occurred.

**Immunizations.** Senate Bill 8 would create exemptions from any mandatory immunizations for those who object based on religious beliefs. It also prohibits orders during an epidemic from requiring the immunization of people who object based on conscientiously held beliefs or the written opinion of the person's physician that immunization would be injurious to the person's health.

**Inmate care.** Senate Bill 84 will ban jails, penitentiaries, local and state correctional facilities, residential centers and reentry centers from placing inmates who are pregnant or within the immediate postpartum period in restrictive housing, administrative segregation, or solitary confinement. It will grant an inmate who gives birth 72 hours with a newborn before returning to the correctional facility and will offer six weeks of postpartum care. It also mandates that incarcerated pregnant women have access to social workers and any community-based programs to facilitate the placement and possible reunification of their child.

**In-person instruction.** House Bill 208 ensured that public schools reopened to in-person instruction in some capacity by March 29. Under the legislation, public schools are expected to be open to in-person instruction at least four days a week for the remainder of the 2020-21 academic year. Schools have the option to operate under a hybrid model where students spend part of the week attending in-person classes and the rest from home. The bill requires schools to allow a student to attend in-person classes at least twice a week under the hybrid model. It also limits the remaining amount of nontraditional instruction days school districts are allowed to use.

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Kentucky-grown products. Senate Bill 102 will include Asian Carp, paddlefish, or sturgeon in the definition of “Kentucky-grown agricultural product”.

Late fees. House Bill 272 will allow water districts to impose a 10 percent late fee and cut off service for nonpayment of bills. Customers who receive financial assistance for their bills are exempt.

Livestock. House Bill 229 will make someone guilty of criminal mischief for intentionally or wantonly causing damage to livestock.

Living organ donors. House Bill 75 will prohibit certain insurance coverage determinations based upon the status of an individual as a living organ donor. It will also encourage the Cabinet for Health and Family Services to develop educational materials relating to living organ donation.

Medicaid. Senate Bill 55 will prohibit copays for Medicaid beneficiaries.

Microbreweries. Senate Bill 15 will allow microbreweries to sell and deliver up to 2,500 barrels to any retailer under certain restrictions. It will also require arbitration for some disputes with distributors.

Newborn safety. House Bill 155 will allow the use of a “newborn safety device” when a newborn is being anonymously surrendered by a parent at a participating staffed police station, fire station, or hospital. The device allows a parent surrendering an infant to do so safely using a receptacle that triggers an alarm once a newborn is placed inside so that medical care providers can immediately respond and provide care to the child.

Organ and tissue donation. Senate Bill 12 prohibit a person from selling or purchasing human organ or tissue and to prohibit for-profit entities from procuring any eye, cornea, eye tissue, or corneal tissue. The measure is intended to preserve the nonprofit nature of human eye tissue donations.



(From left) Sen. Robin Webb, D-Grayson, Senate President Robert Stivers II, R-Manchester, and Senate Majority Caucus Chair Julie Raque Adams, D-Louisville, review legislation during a break from a conference committee meeting

Oversight and investigations. House Bill 6 will change the name of the Legislative Program Review and Investigations Committee to the Oversight and Investigations Committee. The goal is to make it the main investigative committee in the General Assembly. It will also, for the first time, define the committee’s subpoena powers.

Police standards. Senate Bill 80 will strengthen the police decertification process by expanding the number of acts considered professional wrongdoing. Such acts include unjustified use of excessive or deadly force and engaging in a sexual relationship with a victim. The bill also will require an officer to intervene when another officer is engaging in the use of unlawful and unjustified excessive or deadly force. It will also set up a system for an officer’s automatic decertification under certain circumstances and will prevent an officer from avoiding decertification by resigning before an internal investigation is complete.

Public records. House Bill 312 will limit the ability of people who do not live, work or conduct business in Kentucky to obtain records through the state’s open records law. These restrictions do apply to out-of-state journalists. The legislation specifies that open records requests can be made via email. It also calls for a standardized form to be developed for open records request, though no required to be used. It will allow the legislative branch to make final and unappealable decisions regarding decisions on open records requests it receives. The bill will allow government agencies up to five days to respond to open records requests.

Recovery Ready Communities. House Bill 7 will establish the Advisory Council for Recovery Ready Communities. The council will be responsible for establishing a “Kentucky Recovery Ready Community Certification Program” to provide a measure of a city’s or county’s substance use disorder recovery programs and to assure citizens and businesses that a city or county is committed to ensuring the availability of high quality recovery programs in its community.

Retirement. Senate Bill 214 allows Kentucky Employees Retirement System employers who are voluntarily ceasing participation in the system may make multiple lump-sum payments by the set due date and to receive interest credit for early payment.

School year “redo.” Senate Bill 128 gives students from kindergarten through 12th grade the ability to repeat the last school year in recognition of the disruptions caused to students by the COVID-19 pandemic.

depict a person’s death, killing, rape, sexual assault or abuse. The act is named in honor of Bailey Nicole Holt and Preston Ryan Cope, who were killed in the 2018 Marshall County High School shooting at the age of 15.

Worker safety regulations. House Bill 475 will prohibit the Kentucky Occupational Safety and Health Standards Board or the secretary from adopting or enforcing any occupational safety and health administrative regulation that is more stringent than the corresponding federal provision.

Youth camps. Senate Bill 66 will establish employment and background check standards for staff members working or volunteering at youth camps.





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# Committee Meetings

## Minutes of the 567th Meeting

December 2, 2020

### Call to Order and Roll Call

The 567th meeting of the Legislative Research Commission was held on Wednesday, December 2, 2020, at 1:30 PM, in Room 171 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative David Osborne, Co-Chair; Senators Julie Raque Adams, David P. Givens, Morgan McGarvey, Dennis Parrett, Damon Thayer, Johnny Ray Turner, and Mike Wilson; Representatives Derrick Graham, Angie Hatton, Joni L. Jenkins, Chad McCoy, David Meade, Suzanne Miles, and Steven Rudy.

LRC Staff: Jay Hartz and Christy Glass.

President Stivers called the meeting to order. Representative Osborne made a motion to appoint Representative Steven Rudy as House Majority Floor Leader. The motion seconded by Senator Thayer, a voice vote was taken and the motion was approved unanimously.

President Stivers asked for a Motion to approve the minutes of the September 9, 2020, meeting; accept as indicated items A. through G. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items C. through I. under New Business, and accept and refer as indicated items 1. through 51. under Communications.

There being no further discussion, a motion having been made by Senator Wilson and seconded by Representative Osborne, a roll call vote was taken, and the motion approved. The following items were approved, accepted or referred.

## MINUTES OF THE September 9, 2020 meeting.

### STAFF AND COMMITTEE REPORTS

Committee Activity Reports since September 2, 2020.

Report of the Administrative Regulations Review Subcommittee meetings on September 8, October 13, and November 9, 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Health, Welfare, and Family Services during its meetings on September 23, October 28, and November 19, 2020.

Committee review of administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meeting on October 22, 2020.

Committee review of administrative regulations by the Interim Joint Committee on Local Government during its meeting on November 17, 2020.

Committee review of administrative regulations by the Interim Joint Committee on Agriculture during its meeting on November 18, 2020.

Committee review of administrative regulations by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting on November 19, 2020.

## NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 181** (An act relating to tax expenditures), **BR 260** (An act relating to the taxation of pension income), **BR 261** (An act relating to a tax credit for volunteer firefighters), **BR 399** (An act relating to exemptions for disaster response businesses and employees), and **BR 425** (An act relating to the taxation of tobacco products) to **Appropriations and Revenue**; **BR 45** (An act relating to coverage of mental health wellness examinations), **BR 61** (An act relating to mental health parity), **BR 199** (An act relating to epinephrine auto-injectors), **BR 328** (An act relating to reimbursement for pharmacist services), **BR 354** (An act relating to health care to provide for an all-payer claims database and making an appropriation therefor), and **BR 831** (An act relating to prescription insulin) to **Banking and Insurance**; **BR 29** (An act relating to paid parental leave), **BR 30** (An act relating to employment discrimination), **BR 48** (An act relating to production of vital medical supplies), **BR 259** (An act relating to workers' compensation), **BR 262** (An act relating to occupational disease claims), **BR 312** (An act relating to a living wage), **BR 314** (An act relating to wages), **BR 315** (An act relating to prevailing wage), **BR 316** (An act relating to wages for employment), **BR 317** (An act relating to earned paid sick leave), **BR 318** (An act relating to employment provisions for employees on parental leave), **BR 319** (An act relating to workers' compensation), **BR 322** (An act relating to employment), **BR 324** (An act relating to wage theft), **BR 334** (An act relating

to prevailing wage in the Commonwealth), **BR 336** (An act relating to leave from employment), **BR 344** (An act relating to paid parental leave), **BR 345** (An act relating to antitrust regulation in Kentucky), **BR 346** (An act relating to public procurement), **BR 353** (An act relating to collective bargaining for public employees), and **BR 448** (An act relating to unemployment insurance) to **Economic Development and Workforce Investment**; **BR 26** (An act related to teacher professional development), **BR 184** (An act relating to postsecondary readiness), **BR 197** (An act relating to student health), **BR 239** (An act relating to nonteaching time for teachers), **BR 240** (An act relating to boards of education), **BR 357** (An act related to preschool education programs), **BR 366** (An act relating to local school boards), and **BR 379** (A resolution honoring Randy Poe upon being appointed to the Kentucky Board of Education) to **Education**; **BR 24** (An act relating to public assistance), **BR 62** (An act relating to the Advisory Council for Medical Assistance), **BR 97** (An act relating to health disparity impacts), **BR 274** (An act relating to free-standing alternative birthing centers), **BR 301** (An act relating to ensuring basic liberties regarding immunizations and declaring an emergency), **BR 305** (An act relating to assisted-living communities), **BR 327** (A resolution proclaiming April 26, 2021, to be Diabetic Ketoacidosis Awareness Day in Kentucky), **BR 329** (An act relating to the taxation of incontinence products), **BR 350** (An act relating to eliminating the certificate of need in order to control healthcare costs through competition and declaring an emergency), **BR 389** (A concurrent resolution establishing the Severe Mental Illness Task Force), **BR 418** (An act relating to immunization and declaring an emergency), **BR 436** (An act relating to living organ donation), **BR 441** (An act relating to surgical smoke evacuation), **BR 475** (An act relating to controlled substances), and **BR 840** (A joint resolution directing all hospitals offering emergency services, the Kentucky Board of Nursing, the Kentucky Association of Sexual Assault Programs, and the Kentucky Office of Victim Advocacy to report information relating to sexual assault nurse examiners and sexual assault medical-forensic examinations) to **Health, Welfare, and Family Services**; **BR 74** (An act relating to case disposition times), **BR 79** (An act relating to custodial interrogations by law enforcement), **BR 80** (An act relating to solitary confinement of juveniles), **BR 120** (An act relating to sex offender registrants), **BR 169** (An act relating to discriminatory practices against a person), **BR 171** (An act relating to intimidation of a sports official), **BR 179** (An act relating to cruelty to animals), **BR 187** (An act relating to landlords and tenants), **BR 202** (An act relating to firearms), **BR 220** (An act relating to sexual offenses by peace officers), **BR 284** (An act relating to torture of a dog or cat), **BR 303** (An act relating to the safety of canines and felines), **BR 376** (An act relating to the performance of an abortion upon a minor and declaring an emergency), **BR 428** (An act relating to firearms and declaring an emergency), **BR**

**431** (An act relating to gun safety for children), and **BR 860** (An act relating to civil rights) to **Judiciary**; **BR 244** (An act relating to audiology and speech-language pathology), **BR 245** (An act relating to the Psychology Interjurisdictional Compact), **BR 349** (An act relating to adopting the most cost-effective alternative in administrative regulations having a major economic impact on the Kentucky economy), and **BR 394** (An act relating to massage therapy) to **Licensing, Occupations, and Administrative Regulations**; **BR 117** (An act relating to mental health and making an appropriation therefor) and **BR 377** (An act relating to the publication of minutes of special purpose governmental entities) to **Local Government**; **BR 102** (An act relating to construction or demolition waste disposal), **BR 342** (An act relating to the right to repair heavy equipment), and **BR 14** (An act relating to the Kentucky Retirement Systems) to **Natural Resources**; **BR 17** (An act relating to actuarial reporting for the state-administered retirement systems), **BR 119** (An act relating to campaign finance), **BR 168** (An act relating to dually employed retirement system members), **BR 196** (An act relating to open records), **BR 198** (An act relating to open meetings), **BR 217** (An act relating to polling places), **BR 223** (An act relating to elections), **BR 280** (An act proposing an amendment to the Constitution of Kentucky relating to the recall of elected officials), **BR 359** (An act relating to campaign finance), **BR 362** (An act relating to election districts and making an appropriation therefor), **BR 371** (An act relating to elections), **BR 460** (An act relating to reciprocity among the state-administered retirement systems), and **BR 835** (An act proposing an amendment to the Constitution of Kentucky relating to abortion) to **State Government**; **BR 415** (An act relating to railroads) and **BR 826** (A resolution urging the General Assembly to adopt legislation to adequately fund the Commonwealth's transportation system) to **Transportation**; **BR 258** (An act establishing celebratory commissions for the Kentucky State Parks centennial anniversary, the Old Fort Harrod State Park semiquincentennial anniversary, and the United States semiquincentennial anniversary) to **Tourism, Small Business, and Information Technology**; **BR 241** (An act relating to the exemption of income taxation for military pensions), **BR 333** (An act relating to the Kentucky National Guard Adoption Assistance Program and declaring an emergency) and **BR 467** (An act relating to life insurance for members of the Kentucky National Guard) to **Veterans, Military Affairs, and Public Protection**.

Referral of administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **302 KAR 050:013** (Repeal of 302 KAR 050:020, 302 KAR 050:030, 302 KAR 050:055, and 302 KAR 050:090), **302 KAR 050:021** (Policies and procedures for hemp growers), **302 KAR 050:031** (Policies and procedures for hemp processors and handlers), **302 KAR 050:056** (Sampling and THC testing; post-testing actions; disposal of noncompliant

harvests), and **302 KAR 050:080** (Materials incorporated by reference) to **Agriculture**; **803 KAR 025:089 & E** (Workers' compensation medical fee schedule for physicians) and **803 KAR 025:240** (Workers' compensation unfair claims settlement practices) to **Economic Development and Workforce Investment**; **102 KAR 001:340** (Calculation of final average salary if there is a corresponding change in position or in length of employment during any of the final three (3) years prior to retirement), **702 KAR 007:065** (Designation of agent to manage middle and high school interscholastic athletics), **702 KAR 007:140E** (School calendar), **704 KAR 003:303** (Required Academic Standards), and **704 KAR 008:090** (Required Kentucky Academic Standards for Technology) to **Education**; **201 KAR 020:085** (Licensure periods and miscellaneous requirements), **201 KAR 020:161** (Investigation and disposition of complaints), **201 KAR 035:040** (Continuing education requirements), **902 KAR 002:020 & E** (Reportable disease surveillance), **902 KAR 004:030** (Newborn screening program), **902 KAR 010:036** (Repeal of 902 KAR 010:035), **902 KAR 045:110** (Permits and fees for retail food establishments, vending machine companies, and restricted food concessions), **902 KAR 050:050** (Manufacturing plant requirements), **902 KAR 050:071** (Repeal of 902 KAR 050:070), **902 KAR 050:080** (Standards of identity and labeling), **902 KAR 050:090** (Milk adulteration), and **902 KAR 050:120** (Unpasteurized goat milk) to **Health, Welfare, and Family Services**; **804 KAR 004:415** (Direct shipper license) and **820 KAR 001:050 & E** (Raffles) to **Licensing, Occupations, and Administrative Regulations**; **739 KAR 002:050** (Volunteer fire department aid) to **Local Government**; **045 KAR 001:050** (Audits of fiscal courts) to **State Government**; **017 KAR 001:040** (Application requirements for tuition waiver programs related to veterans), **017 KAR 003:050** (Drug testing procedures at Kentucky Department of Veterans' Affairs state veterans' nursing homes), **017 KAR 004:030** (Veterans' Service Organization Burial Honor Guard Program), **017 KAR 004:040** (Indigent Veterans' Burial Program), and **017 KAR 005:020** (Kentucky Medal for Freedom) to **Veterans, Military Affairs, and Public Protection**.

From Senator John Schickel and Representative Adam Koenig, Co-chairs of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations: Memorandum requesting approval to meet outside the interim on December 14 at 10:30 a.m. to allow the committee to receive testimony on topics that were not able to be scheduled during the interim. There are no apparent conflicts.

From Director Jay D. Hartz: 2021 Regular Session Calendar.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the appointment of Bob Napolilli to the Exceptional Waiver Services Task Force.

From Senator Whitney Westerfield and Representative Jason Petrie, Co-chairs of the Interim

Joint Committee on Judiciary: Memorandum requesting approval to meet outside the interim on December 3. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the appointment of Linda Bridwell to the 2020 Public Water and Wastewater System Infrastructure Task Force.

From Senator Ralph Alvarado and Representative Kimberly Poore Moser, Co-chairs of the Interim Joint Committee on Health, Welfare, and Family Services: Memorandum requesting to meet December 14, 2020, at 1:00 p.m. to allow the committee to review prefiled and possible legislation for the 2021 Regular Session. There are no apparent conflicts.

From Senator Jimmy Higdon and Representative Jim DuPlessis, Co-chairs of the Public Pension Oversight Board: Memorandum regarding recommendations of Actuarial Analysis standardized template and evaluation period.

## COMMUNICATIONS

From the Finance and Administration Cabinet: Investment Income Report for September 2020.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 2, 3, and 4 and year-to-date activity for the period of July 1, 2020, through October 31, 2020.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending September 30, 2020.

From the Auditor of Public Accounts: Report of the Audit of the Kentucky Heritage Land Conservation Nature License Plate Fund.

From the Cabinet for Health and Family Services: 2020 Child Abuse and Neglect Annual Report of Child Fatalities and Near Fatalities.

From the Department of Fish and Wildlife Resources: 2020 Status of Hunting Land Access in Kentucky.

From the Auditor of Public Accounts: FY 20 Report of the Audit of the Kentucky Department of Veterans' Affairs Veterans' Program Trust Fund.

From the Auditor of Public Accounts: FY 20 Report of the Audit of the Kentucky Department of Veterans' Affairs I Support Veterans License Plate.

From the Teachers' Retirement System: FY 20 Annual Report.

From the Teachers' Retirement System: FY 20 In-state Investments Report.

From the Personnel Cabinet: 2020 Kentucky Employees' Health Plan Twentieth Annual Report.

From the University of Kentucky: 2019-2020 Kentucky Interagency Groundwater Monitoring Network Annual Report.

From the Department for Local Government: 2020 Special Purpose Governmental Entity Compliance Report.

From the Finance and Administration Cabinet: FY 20 Disaster Relief Sales and Use Tax Refund Totals.

From the Cabinet for Health and Family Services: 2020 Relative and Fictive Kin Caregiver Placements Annual Report.

From the Administrative Office of the Courts: 2020 Open Court Pilot Project.

From the Kentucky Board of Medical Licensure: 2020 Annual Report.

From the Commonwealth Office of Technology: 2020 Personal Information Security and Breach Notification Annual Report.

From the Auditor of Public Accounts: 2019-2020 Report of the Audit of the Kentucky Lottery Corporation.

From the Auditor of Public Accounts: FY 20 Report of the Audit of the Kentucky Reclamation Guaranty Fund.

From Kentucky Employers' Mutual Insurance: 2021 Administrative Budget.

From the Auditor of Public Accounts: Report of the Audit of the Bourbon County-Nicholas County Regional Jail Authority for the years 2015, 2016, 2017, and 2018.

From the Justice and Public Safety Cabinet: FY 21 County Jail Incentive Program, First Quarter Report.

From the Justice and Public Safety Cabinet: FY 21 Population Management Report, First Quarter Report.

From the Justice and Public Safety Cabinet: FY 21 Substance Abuse Treatment and Job Training Pilot.

From the Kentucky Judicial Form Retirement System: FYS 19 and 20 Financial Statements.

From the Kentucky Judicial Retirement System: 2020 Judicial Retirement Plan Hybrid Cash Balance GASB Disclosure Report.

From the Kentucky Judicial Retirement System: 2020 Judicial Retirement Plan Defined Benefit GASB Disclosure Report.

From the Kentucky Legislators Retirement Plan: 2020 Legislators Retirement Plan Defined Benefit GASB Disclosure Report.

From the Kentucky Legislators Retirement Plan: 2020 Legislators Retirement Plan Hybrid Cash Balance GASB Disclosure Report.

From the Auditor of Public Accounts: Examination of Certain Financial Operations and Internal Policies and Controls of the City of Bedford.

From the Cabinet for Health and Family Services: FY 20 Kentucky Child Victims of Human Trafficking Annual Report.

From the Energy and Environment Cabinet: 2020 Kentucky Agriculture Water Quality Authority Biennial Report.

From the Department of Fish and Wildlife: 2020 Annual Professional Standards Update.

From the Kentucky Higher Education Assistance Authority: FY 20 Actual Valuation for Kentucky's Affordable Prepaid Tuition (KAPT).

From the Cabinet for Health and Family Services: 2020 Annual Status Report of the Kentucky Commission on Services and Supports for Individuals with Intellectual and Other Developmental Disabilities.

From the Department of Education: School District Participation Rates per 702 KAR 7:125E.

From the Office of Homeland Security: 2020 Annual Report.

From the Cabinet for Economic Development: 2020 Office of Entrepreneurship, Kentucky Industrial Revitalization Act Annual Report.

From the Department for Local Government: 2020 Regional Development Agency Assistance Annual Report.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of September 30, 2020.

From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending September 30, 2020.

From the Auditor of Public Accounts: FY 20 Report of the Audit of the Kentucky Artisan Center at Berea.

From the Auditor of Public Accounts: FY 20 Report of the Audit of the Kentucky River Authority.

From the Cabinet for Health and Family Services: Department for Community Based Services Third Quarter Caseload Report.



From the Department of Education: 2020 Physical Activity and Nutrition Report.

From the Auditor of Public Accounts: FY 20 Report of the Audit of the Kentucky Public Employee Health Insurance Program.

From the Cabinet for Health and Family Services: 2020 Annual Report on Committed Children.

From the Finance and Administration Cabinet: 2020 Alternative Fuel Vehicle Report.

From the Kentucky Legislative Ethics Commission: 2020 Annual Report.

From the Cabinet for Economic Development, Kentucky Commission on Small Business Advocacy: 2020 Kentucky Business One Stop Portal Annual Report.

Senator Thayer asked to be recognized to note that this meeting is Senator Johnny Ray Turner's last meeting of the Legislative Research Commission. Senator Thayer, as well as Representative Hatton, Senator Wilson, Senator McGarvey, Senator Parrett, and Senator Stivers, each thanked Senator Turner for his service, honor, and integrity to the LRC and the Kentucky State Senate for twenty years.

Senator Turner expressed gratitude for all the kind words and said it has been a great honor for him to serve in the Kentucky General Assembly and especially the Kentucky State Senate representing the 29<sup>th</sup> District.

There being no further business, the meeting was adjourned.

## Interim Joint Committee on Health, Welfare, and Family Services

### Minutes of the 7th Meeting of the 2020 Interim

December 15, 2020

#### Call to Order and Roll Call

The 7th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Tuesday, December 15, 2020, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Tom Buford, Danny Carroll, Denise Harper Angel, Alice Forgy Kerr, Morgan McGarvey, and Stephen Meredith; Representatives Danny Bentley, Tina Bojanowski,

Adam Bowling, George Brown Jr, Tom Burch, Daniel Elliott, Deanna Frazier, Robert Goforth, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Steve Sheldon, Cherlynn Stevenson, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Jason Dunn, Division Director, Division of Family Support, Department for Community Based Services, Cabinet for Health and Family Services; Terry Brooks, Executive Director, Mahak Kalra, Chief Policy and Advocacy Director, Kentucky Youth Advocates; Marta Miranda-Straub, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Melanie Taylor, Assistant Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services; Van Ingram, Executive Director, Kentucky Office of Drug Control Policy, Justice and Public Safety Cabinet; Bonnie Hackbarth, Vice President, External Affairs, Foundation for a Healthy Kentucky; Mayor Les Stapleton, Prestonsburg, Kentucky; Representative Kim Banta; Vanessa Ashley; Jon Inman, Chief Policy and External Affairs Officer, Teresa Cooper, Director of Government Affairs, Kentucky Primary Care Association; and Kimi Banta.

LRC Staff: DeeAnn Wenk, CSA, Ben Payne, Chris Joffrion, Samir Nasir, Becky Lancaster, Hillary Abbott, and Shyan Stivers.

#### Approval of Minutes

A motion to approve the minutes of the November 19, 2020, meeting was made by Representative Bowling, seconded by Representative Webber, and approved by voice vote.

#### Consideration of Referred Administrative Regulations

The following referred administrative regulation with amendments were placed on the agenda for consideration: **201 KAR 020:085 Proposed** - Licensure periods and miscellaneous requirements; **201 KAR 020:161 Proposed** - Investigation and disposition of complaints; **201 KAR 035:040 Proposed** - Continuing education requirements; **902 KAR 002:020 Emergency** - Reportable disease surveillance; **902 KAR 002:020 Proposed** - Reportable disease surveillance; **902 KAR 004:030 Proposed** - Newborn screening program; **902 KAR 045:110 Proposed** - Permits and fees for retail food establishments, vending machine companies, and restricted food concessions; **902 KAR 050:050 Proposed** - Manufacturing plant requirements; **902 KAR 050:071 Proposed** - Repeal of 902 KAR 050:070; **902 KAR 050:080 Proposed** - Standards of identity and labeling requirements; **902 KAR 050:090 Proposed** - Milk adulteration; and **902 KAR 050:120 Proposed** - Unpasteurized goat milk.

#### Pandemic Electronic Benefits Transfer

#### (PEBT)

Terry Brooks, Executive Director Kentucky Youth Advocates (KYA), stated that food security was an issue before the pandemic but also expanded due to the pandemic. The 2020 KIDS COUNT Data Book noted that 16 percent of Kentucky's children are suffering from food insecurity. By national estimates, there was a 70 percent increase in food insecurity. For Kentucky to meet the food needs of families there must be a flexible, multiple pronged approach. He stated there must be private and public efforts. The private efforts are already happening in Kentucky. The Free Store and Dare to Care are working with Kroger in a nonprofit effort. The rollout of the Pandemic Electronic Benefits Transfer (PEBT) cards was a strong and vigorous effort. He stated that the Cabinet for Health and Family Services (CHFS) leadership was extremely responsive when KYA brought up a problem.

Jason Dunn, Division Director, Division of Family Support, Department for Community Based Services (DCBS), Cabinet for Health and Family Services, stated that PEBT cards were made available to states through the bipartisan Families First Coronavirus Response Act passed by Congress on March 18, 2020. PEBT cards are a 100 percent federally funded program. PEBT cards are designed to provide a reimbursement equivalent to the value of free meals that students would have received in the school setting if not for the measures put in place to control the spread of COVID-19. PEBT cards are a different type of benefit than the better-known Supplemental Nutrition Assistance Program (SNAP). He discussed the eligibility requirements for free or reduced priced meals. He stated that 81 percent of Kentucky school children meet the Community Eligibility Provision (CEP) under federal law.

Mr. Dunn stated that all students are eligible for PEBT cards if they are: eligible for free or reduced-price meals, including all students attending CEP schools; and unable to attend school in-person due to efforts to control the spread of COVID-19. PEBT cards can only serve students served by the National School Lunch Program, which includes almost all public schools, Kentucky's military base schools, and some private schools. PEBT cards are 100 percent federally funded; benefits do not flow through the state or to any individual, but are paid to grocers, farmers' markets, and other United States Department of Agriculture (USDA) approved businesses only when the card is used to purchase eligible food items. DCBS, working closely with the Kentucky Department of Education (KDE), was able to: provide PEBT benefits to all students who were current SNAP beneficiaries directly to existing SNAP EBT cards; and establish an application process for all other non-SNAP students who were eligible for PEBT cards. He explained that the second phase of PEBT cards, in the fall of 2020,

had issues due to delays in guidance, short deadlines, and eligibility complications. He stated that with such a short deadline, implementing an application process was not practical. DCBS provided PEBT cards to all potentially-eligible children using the best data available at the time.

Mr. Dunn stated that any child attending a school covered by the Community Eligibility Standard and in a non-traditional instruction (NTI) program was eligible to receive PEBT benefits. This could include those that would not normally receive these kinds of benefits. There was no mandate to use the benefits, those that did not require the support could simply destroy the card as instructed in the accompanying letter. He stated that amount per student varied based on in-person school schedule. DCBS identified the schools that were inadvertently omitted from the dataset for August and September PEBT cards. DCBS issued PEBT cards to those students last week. PEBT cards have been re-authorized from October 2020 through September 2021, if needed, by the Continuing Appropriations Act and the Other Extensions Act. Eligibility is similar to past phases, except that states can use “simplifying assumptions” to average and standardize benefit amounts. He stated that some children in childcare centers were added to the list of eligible PEBT card recipients. DCBS will continue to learn and make improvements along with the federal partners.

Mahak Kalra, Chief Policy and Advocacy Director, Kentucky Youth Advocates, stated that organizations must work together with stakeholders, the business community, educators, health professionals, churches, and others to ensure that families have access to food. Kentucky needs to build on the capacity of local and state efforts to work and learn together to change the course for children. The PEBT program can be strengthened by educating the general public on how the PEBT program is administered, what to expect from the PEBT program, and how to get questions answered. KYA received calls from families wanting to know what the program is, how to access the PEBT program, and the amount of money on the card.

Ms. Kalra stated that another idea is to create a plan to engage stakeholders who are actively connecting with families including KDE. She stated that Kentucky needs to do a better job of engaging leaders of immigrant communities when developing outreach plans. Schools are a trusted source of information in a community, schools sending information to families could improve communication. Kentucky needs to consider increasing capacity to answer calls and emails regarding the PEBT program. The PEBT card needs to be simple and easy to use for families. She stated that adding a phone and email option could streamline communication. Kentucky can achieve food stability by strengthening the PEBT program to

ensure all families that are eligible have access to the financial support.

In response to questions and comments from Representative Moser, Mr. Dunn stated that the first round of PEBT card distribution had an application process. If a parent was not a SNAP recipient, they had to actively apply in order to receive the PEBT card. In the second round of PEBT card distribution did not include enough time to set up the application process. DCBS made the decision to issue the cards to all children who were potentially eligible for the benefit or in a CEP school. DCBS plans on setting up a more structured plan for the next rounds of PEBT card distribution. Mr. Dunn stated that he believes a high percentage of people have used the PEBT cards. He stated that DCBS will consider making a plan to ensure eligible families are applying for the PEBT benefits. DCBS has not finalized a plan how the application process will work for the October and beyond benefits.

In response to questions and comments from Representative Bojanowski, Mr. Brooks stated that 16 percent of Kentucky’s children are suffering from food insecurity.

In response to questions and comments from Representative Sheldon, Mr. Dunn stated that the benefit amount is based on the cost of delivering meals in schools which is averaged over the state. The spring average was \$5.70 per student per day. In the fall average was \$5.86 per student per day.

In response to questions and comments from Representative Gibbons Prunty, Mr. Dunn stated that it is routine in public schools that all students qualify for the PEBT benefit if the amount of students eligible for free or reduced-price meals in the school equals 81 percent or higher. Mr. Brooks stated that it was not that long ago that schools had ways to identify individual children with numbers or colors to not stigmatize them for free or reduced-price meals. He stated that the federal law for all students in a school to receive free or reduced-price meals in a school if the total qualifying amount is high. That law has been in place long before the pandemic.

In response to questions and comments from Senator Danny Carroll, Mr. Dunn stated that if a Head Start program was affiliated with a school and fall under the national school lunch program, it would be eligible for the PEBT benefit. Other Head Start programs were served by the Child and Adult Care Food Program (CACFP) that did not meet eligibility for the PEBT program. He believes that all Head Start programs will be eligible for October and beyond benefits but DCBS is waiting for further instructions from the USDA.

#### **Update on Training and Child Welfare**

Marta Miranda-Straub, Commissioner,

Department for Community Based Services, Cabinet for Health and Family Services, stated that meetings have been set with the families that testified at the Child Welfare Oversight and Advisory Committee meeting on November 16, 2020. She met with one of the families and is in process of reviewing the family’s situation with DCBS. The number of children in the custody of or committed to CHFS hovered between 9,000 and 10,000 children. She reviewed the DCBS priorities for youth in out-of-home care. DCBS’ focus is on placement stability and ensuring that children in care achieve permanency timely. DCBS continues to focus on recruitment and retention of qualified staff to maintain manageable caseloads. She stated that quality services to children and families is dependent on valued, experienced staff. She shared a graph that displayed the average child protective services (CPS) caseloads from calendar year (CY) 2017 to CY 2020.

Commissioner Miranda-Straub stated that when she joined DCBS, surveys were conducted of both staff and stakeholders. There was a positive response by both staff and stakeholders regarding the use of virtual platforms and electronic means for all types of needs. DCBS found that there was reduced time spent on travel and the inclusion of those who otherwise might not be able to participate. She stated there was an increased efficiency reported among staff working remotely. DCBS has opportunities to decrease the brick and mortar footprint and improve efficiency with the use of virtual platforms. She stated that the 21<sup>st</sup> century DCBS is designed within a culture of safety through the infusion of primary and secondary prevention initiatives. The triple pandemics of COVID-19, racial inequity, and the opioid crisis have created opportunity for meaningful, systemic, and structural agency change. DCBS finalized Phase I, the stabilization phase, within six months. The stabilization plan was been designed by 25 various members of DCBS staff. DCBS is preparing to move into Phase II, the innovation phase, an 18-month plan where DCBS will be assessing all DCBS programs, reviewing for disproportionality and disparity, along with the outcomes and deliverables. DCBS will innovate new business models for programs for ones not performing well. Phase III, the thriving phase, is a three year plan. Everything learned in Phase I and II will be implemented and infused in Phase III.

Commissioner Miranda-Straub stated that the five pillars for DCBS work are: social and economic equity; trauma, resilience and engaged healing; families, youth, and children; health and wellness; and operations implementation and evaluation. She discussed the challenges of working at DCBS such as exposure to multiple traumatic events, burn out, vicarious trauma, and compassion fatigue, which cause a high turnover rate of employees. Front line staff may deal with secondary post-traumatic stress disorder, where the worker may experience the same trauma symptoms as the clients. She stated

that the quality of services, work capacity, and staff retention are diminished. She listed some of the symptoms of secondary post-traumatic stress disorder along with potential solutions. DCBS does not have administrative leave for anyone who is traumatized at work. Solutions include comprehensive self-care, individual and organizational policy process, and strong resilience building.

Commissioner Miranda-Straub stated that DCBS partnered with universities to create The Academy and its curriculum is used for all DCBS staff. Moving forward DCBS is changing The Academy training to DCBS certification with competency-based training focused on skill development. The certification will be a support for new and existing workers to ensure they know how to apply the policy. She stated there will be a certification program for supervisors and leadership. DCBS is partnering with the University of Kentucky Center to create the child welfare trauma training toolkit and will offer new staff trainings in 2021. There will be a new field training specialists program to pair new workers with Field Training Specialists to evaluate and coach the new worker on a daily basis. DCBS is implementing a safety model which is a practice used in child welfare to assist workers and supervisors with making decisions regarding safety and risk throughout multiple points in a case.

In response to questions and comments from Representative Moser, Melanie Taylor, Assistant Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that there is a statewide, 24-hour hotline phone number to report child or adult abuse and neglect. Kentucky is a mandatory reporting state so every citizen is mandated to report abuse or neglect if suspected. There is also a web-based reporting system.

In response to questions and comments from Representative Frazier, Commissioner Miranda-Straub stated that DCBS sent out surveys to community partners, youth who were at the end of their foster care placement, foster families, and adoptive families. DCBS received approximately 180 responses. DCBS has approximately 75 people who work with DCBS in workgroups to review the five pillars to make recommendations to DCBS.

#### **Substance Use Disorders During COVID-19 Update**

Van Ingram, Executive Director, Kentucky Office of Drug Control Policy, Justice and Public Safety Cabinet, stated that the drug epidemic and overdose deaths were an issue before the pandemic, however the problems have worsened. He shared a graph that shows the number of Kentucky resident drug overdose deaths from January 2017 to September 2020. In May 2020, the highest monthly number of drug overdose deaths was recorded at 243 deaths. In 2019, there

were 1,336 overdose deaths in Kentucky. In 2020, there have already been 1,439 overdose deaths in Kentucky. There has been a rise in the number of drug overdose deaths nationally. Mr. Ingram shared a graph that displays the number of emergency medical services (EMS) opioid overdose related encounters in Kentucky. He stated that Kentucky is trending back to 2019 numbers. He presented a graph that displays the numbers of Kentucky hospital opioid overdose related encounters which also saw a spike in May 2020.

Mr. Ingram stated that one strategy in the fight against drug overdose deaths is Narcan distribution. The Kentucky Department for Public Health (DPH) held nine public events in 2020. The Kentucky Office of Drug Control Policy used the syringe service programs to also distribute Narcan to individuals who may benefit from its use. Early on in the pandemic, there was a radio campaign to remind people to call the Kentucky Help Call Center for screening and referral services. The Kentucky Office of Drug Control Policy is working to try to expand the service's evening and weekend hours. He described several major treatment projects where the Kentucky Office of Drug Control Policy partnered with other agencies to maintain.

Mr. Ingram stated that Kentucky Office of Drug Control Policy worked to support recovery housing with different programs and grants. He stated that the Kentucky Opioid Response Effort (KORE) is a prevention program in over 200 Kentucky schools with an evidence-based curriculum called, "I am too good for drugs." He stated that during the pandemic Kentucky Medicaid was quick to drop the prior authorization requirement for substance use disorder treatment so that people who need help could get help to recover. Kentucky Medicaid changed regulations regarding virtual individual and group counseling and the payment structure to allow such treatment.

In response to questions and comments from Representative Moser, Mr. Ingram stated that some of the bridge clinics are exceeding expectations and others are struggling. He stated that the bridge clinics are improving and he is pleased with the progress. He stated that the Kentucky Office of Drug Control Policy is working hard to address the overdose epidemic by focusing on helping people in recovery to stay in recovery.

In response to questions and comments from Representative Frazier, Mr. Ingram stated that he does not have data that ties to the increase in overdoses in May 2020 to the distribution of the stimulus checks. He stated that Kentucky struggled with the amount of fentanyl that is on the streets and many other types of drugs. He stated that the Kentucky Office of Drug Control Policy needs to look more into the details to know what caused the spike in overdose deaths in May 2020.

In response to questions and comments from

Representative Gibbons Prunty, Mr. Ingram stated that the Celebrate Recovery Program is run on its own resources and to his knowledge do not receive assistance from the state.

#### **Discussion of Regular Session 2021 Proposed Legislation**

Bill Request (BR) 410, AN ACT relating to the regulation of tobacco products and vapor products, sponsored by Representative Kimberly Poore Moser. Representative Moser stated that BR 410 relates to the local control of the marketing and sales of tobacco products in Kentucky. She stated BR 410 is a cost-free step for Kentucky to reduce tobacco related illnesses and associated health care expenses. BR 410 would permit cities and counties, if they so choose, to adopt regulations to govern the marketing and sales in the community. BR 410 is not a local mandate but it gives local government a tool to use to improve the health of their community. Kentucky has the highest rate of cancer and cancer deaths in the nation. More than one-third of the cancers are caused by smoking and could be prevented. Smoking also leads to heart disease, strokes, and chronic obstructive pulmonary disease (COPD).

Representative Moser stated that in Kentucky, the annual health care costs directly caused by smoking are approximately \$1.92 billion per year. Approximately \$589.8 million of those costs are covered by Kentucky Medicaid. Kentucky residents' state and federal tax burden from smoking-caused government expenditures is \$1,074 per household each year. The National Youth Tobacco Survey indicated that in 2020, there are about 1.8 million fewer youth in the United States that are e-cigarette users compared to 2019. However, approximately 3.6 million youth in the United States still currently use e-cigarettes. She stated that on average, private employers pay approximately \$5,826 in extra costs for a smoking employee over a nonsmoking employee. Tobacco use is also related to the increased risk of injury and property damage.

Bonnie Hackbarth, Vice President, External Affairs, Foundation for a Healthy Kentucky, stated that tobacco rates differ across counties and cities in Kentucky. She stated that per the provided graphs that smokeless tobacco use is much higher in the eastern and southern parts of Kentucky than the greater Louisville and western regions of the state. There are significant differences in tobacco use rates depending on social and other factors. Tobacco use is much higher among Native Americans, persons with lower education levels, lower household incomes, or persons with a disability or limitation. There is only one measure that cities and counties can adopt to reduce the health risks and costs associated with tobacco use, which are smoke-free laws.

Ms. Hackbarth stated that as of August 1, 2020,



36.2 percent of Kentuckians are protected by smoke-free laws covering all indoor workplaces and public places. She stated that local communities should have the right to adopt measures that the constituents want and the communities are ready to implement. Local measures are preempted by a 1996 law that bars local tobacco control. BR 410 would allow cities and counties to: require health warnings on retail tobacco displays; limit tobacco product advertising in stores near schools and playgrounds; and to create buffer zones between schools and tobacco retailers. BR 410 would not allow cities and counties to raise local excise taxes.

Mayor Les Stapleton, Prestonsburg, stated that the Kentucky constitution allows local government to control local issues. As mayor he hears about local issues such as smoking bans or tobacco marketing issues and knows what his constituents want in his area. The local government also hears issues in public forums to get input from the community. He stated that there are also local council meetings where the community is invited to speak. There are 30 cities and 11 counties that have adopted some type of public smoking ordinance. He stated that local government can govern the local constituents easier and more effective than big government. The Kentucky League of Cities board will be discussing legislation to support. The board supported legislation similar legislation to BR 410. He stated that he is confident that the board will also support BR 410.

#### **Discussion of Regular Session 2021 Prefiled Legislation**

2021 Regular Session (RS) BR 35, AN ACT relating to out-of-network billing, sponsored by Senator Ralph Alvarado. Senator Alvarado stated that BR 35 is a surprise billing bill. He stated that the federal government may resolve the issue for the states. The federal government has proposed solutions that will come with an end of the year bill. He stated there may be a formal agreement posted online. BR 35 is unique to Kentucky and a product of a 2020 workgroup with insurance companies, medical providers, and the hospital association. BR 35 hold patients harmless, if someone does receive a surprise bill it would require insurance to cover a payment to the provider based off of the current median in-network rate or the median in-network rate for 2019, whichever is higher. The insurance company would make the payment and provide a dispute process for the provider with the insurance company. If the amount is above \$675 there is an appeal process and arbitration process if necessary.

2021 RS BR 86, AN ACT relating to Medicaid eligibility for individuals diagnosed with metastatic breast cancer, sponsored by Representative Kim Banta. Representative Banta stated that BR 86 will eliminate the pay down for metastatic breast cancer patients. She stated that over 270,000 people suffer

from breast cancer that also bankrupts families. Vanessa Ashley stated she is a social worker with DCBS and enjoys her job however her income is modest. She borrowed money to finish her degree while raising two children. She has stage four breast cancer, she was initially diagnosed in 2017 with the possibilities of treatment. She had surgery and thought the cancer was removed. She had a double mastectomy and hormone suppression drug treatment. With the help of other medical staff, a biopsy, and a medical scan, it was discovered that the cancer had spread and mutated into triple negative metastatic breast cancer which migrated to her bones. Her triple negative metastatic breast cancer is incurable and the most difficult type to treat. Radiation and chemotherapy are her only options for treatment. The weekly treatments take a lot of out of her.

Due to COVID-19, Ms. Ashley is allowed to work from home. However, she is only 55 and must continue to work to keep her health care benefits. She has been on treatment for almost a year and her body is responding to the treatment but due to the debilitating effects of the treatment she will need to stop working at some point in time. She will then have to begin social security disability benefits. She stated there is a three to five month processing time period with an additional two year waiting period before she can access Medicaid. She needs help with the cure gap because Medicaid is not the best option. She does not have a spouse with medical benefits as a backup plan and is too young for Medicare. Disability is her best option but must bridge the gap for care somehow. Many face her similar problem.

Ms. Ashley stated that she learned of an attempt to pass the Medicare Access to Care Act in the United States Congress. The law would allow breast cancer patients like herself with outside supports to get immediate access to Medicare and to continue treatment without waiting for disability. The waiver of disability waiting period is extended to terminal renal patients and amyotrophic lateral sclerosis (ALS) patients. Congress would add breast cancer to the list to allow continuity of care. The bill did not advance this year. She stated that she needs Medicaid for two years until Medicare eligibility coverage begins. As a tax paying Kentucky citizen, she requests support to waive the spend down provisions and have sponsored waivers to secure her final years.

In response to questions and comments from Representative Moser, Representative Banta stated that the Department for Medicaid Services (DMS) would have to apply for a waiver.

2021 RS BR 163, AN ACT relating to telehealth, sponsored by Representative Deanna Frazier. Representative Frazier stated that BR 163 would extend the temporary emergency orders regarding telehealth delivery during the pandemic. BR 63 would align insurance and Medicaid statutes by requiring

CHFS to establish minimum standards. BR 63 would require reimbursement rates to be equivalent to same rates as in-person visits. BR 63 would allow for audio or telephone only visits due to the lack of broadband. She stated that the expansion of telehealth services has been extremely valuable for patients.

Jon Inman, Chief Policy and External Affairs Officer, Kentucky Primary Care Association (KPCA), stated that KPCA represents federally qualified health centers and rural health clinics in Kentucky. He stated that KPCA supports BR 63 because telehealth has been vital to the KPCA members during the pandemic. He stated that DMS has been very flexible and offered a lot of guidance regarding telehealth to KPCA. He stated that the audio only aspect of the bill is helpful to patients in rural areas and to patients that do not have access to the internet or technology. BR 63 addresses the payment parity issues to the providers because the providers' overhead costs do not go down with telehealth.

Teresa Cooper, Director of Government Affairs, Kentucky Primary Care Association, stated that BR 63 states that the patient should have an annual visit with the practitioner. KPCA would like to see that requirement extended to the practice or network in which the practitioner practices medicine for the sake of on-call or after-hour telehealth visits. The requirement could assist in decreasing patient visits to the emergency room and the coordination with specialists. Representative Moser stated that provision was put under the jurisdiction of the licensure boards so it is not explicitly outlined in BR 63 that the in-person annual visit be a requirement.

2021 RS BR 966, AN ACT relating to addiction treatment, sponsored by Representative Kimberly Poore Moser. Representative Moser stated that BR 966 lifts prior authorizations for medication for addiction treatment. Prior authorizations are used to approve or deny treatment prescribed by a health provider. Prior authorizations force the healthcare provider to contact the insurance company or pharmacy benefit manager to get approval before starting certain treatments. The treatment could be delayed from several hours to a few weeks as insurers review the request. BR 966 seeks to lift the prior authorization requirements by managed care organizations (MCOs) and private insurers to specifically allow medication for addiction treatment to be available for patients when the patient is ready for treatment and the health care provider prescribes the lifesaving medication. She stated that medication for addiction treatment works and helps to keep people out of jail, in jobs, with their families, and saves lives. She stated that there should be no delay in patients getting this life saving treatment from their treating physician.

Kimi Banta, a Kentucky citizen, stated that she is in long-term substance use disorder recovery. She has

been on medically assisted therapy (MAT) for three years. She tried MAT after years of failed attempts to stop her drug use. Her counselors thought that MAT would be a good fit for her because while she was doing everything else suggested for treatment she could not stop the drug use. She stated that she could never stay sober long enough to move through the steps of a 12-step recovery program. Often times she used drugs within six months of her recovery journey. She stated there is a stigma and misinformation regarding MAT but with recovery the fear and shame of using MAT went away. Many abstinence only recovery facilities state abstinence is the only way to recover. Abstinence based programs have worked for many people but there are outliers.

Ms. Banta stated that there is evidence that with the disease of addiction there are neurological changes in the minds of people with substance use disorder. Not every person who struggles with a substance use disorder can recover in the same manner. Patients should be provided MAT as a tool for recovery. She is married, works fulltime, cares for her pets, and pays her bills with help from MAT. She has reintegrated herself into society to which others thought she would never be able to accomplish. MAT is vital to her life and other Kentuckians who have struggled with a drug use disorder. Removing the barrier of prior authorization for MAT would give more people the opportunity to recover and live a fuller life. She stated that with overdose deaths rising in the state, removing prior authorization is more important than ever.

### **Adjournment**

There being no further business, the meeting was adjourned at 3:21 PM.

## **Impeachment Committee (H) Minutes of the 2nd Meeting of 2021**

January 27, 2021

### **Call to Order and Roll Call**

The 2nd meeting of the 2021 Regular Session Impeachment Committee (H) was held on Wednesday, January 27, 2021, at 3:00 PM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

LRC Staff: Chip Smith, and Elishea Schweickart

### **Updates**

Representative Nemes began the meeting by stating that Governor Beshear had responded to the

petition as requested by the committee. Three of the four petitioners had responded to Governor Beshear's response, and the fourth petitioner had requested an extension of time to submit a response, which would be discussed later in the meeting. Representative Massey made a motion to release the Governor's response to the public, seconded by Representative King, and the motion was adopted by voice-vote. Representative Miles made a motion to release the petitioner's response to the public, seconded by Representative Minter, and the motion was adopted by voice-vote.

The petition of impeachment against Representative Robert Goforth has been referred and is in possession of the committee. Also, the committee has hired Kent Westberry as counsel, and he will represent the committee as a whole.

### **Executive Session**

After the committee updates were announced Representative Massey made motion to go into executive session, seconded by Representative King, and the motion was adopted by voice-vote.

Upon return from executive session, Representative Nemes announced that counsel for the fourth petitioner, Randall Daniel, had contacted the Office of the Governor and the committee informing them that Mr. Daniel will be making a motion to withdraw from the petition. The committee will entertain the motion once it is filed. Representative King made a motion to accept the letters and release them to the public, seconded by Representative Brown, and the motion was adopted by voice-vote.

The committee will also be sending another letter to the Governor asking for more information. The Governor will have until 5:00 PM on Monday, February 1, 2021 to respond.

### **Adjournment**

With there being no further business, the meeting was adjourned at 5:48 PM.

## **Impeachment Committee (H) Minutes of the 3rd Meeting of 2021**

February 3, 2021

### **Call to Order and Roll Call**

The 3rd meeting of the 2021 Regular Session Impeachment Committee (H) was held on Wednesday, February 3, 2021, at 4:00 PM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton,

Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

LRC Staff: Chip Smith and Elishea Schweickart

### **Motions**

The committee received a petition of impeachment against Attorney General Daniel Cameron, the Attorney Generals reply, a response to the Attorney General from the petitioner, and a reply from the Office of the Governor regarding a request for more information.

In the Attorney General Impeachment matter, copies of the petitioners' motion to strike, request for discovery, and request for hearing were provided to the committee membership.

The committee received two new petitions seeking impeachment of Governor Beshear. They were designated petition two and petition three. Representative Miles asked how the new petitions will be released as they contain thousands of signatures. Representative Nemes stated that examples will be posted. The complete set of signatures will also be made accessible upon request by scheduled appointment. Representative Massey moved to make all the information announced public. Representative Miles seconded the motion, which was adopted by voice-vote.

A motion to recuse Representative Nemes was denied.

Representative Nemes stated Randall Daniel has not submitted his motion to withdraw as a petitioner to the impeachment petition of Governor Beshear. If a motion is filed by Mr. Daniel the committee will consider it. Until such time, Mr. Daniel will remain a petitioner.

### **Executive Session**

Representative King moved to enter executive session. The motion was seconded by Representative Massey and adopted by voice-vote. The committee entered executive session. Upon return, Representative Nemes announced the committee voted to deny the petitioners' motion to strike, request for discovery, and request for hearing concerning Attorney General Cameron.

The next committee meeting will take place February 4, 2021.

### **Adjournment**

With there being no further business, the meeting was adjourned at 7:52 PM.

## **Impeachment Committee (H) Minutes of the 4th Meeting February 4, 2021**

### **Call to Order and Roll Call**

The 4th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Thursday, February 4, 2021, at 4:45 PM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

LRC Staff: Chip Smith, and Christy Glass

Representative Nemes stated that Mr. Daniel has not submitted his motion to withdraw as a Petitioner to the impeachment of Governor Beshear. If a motion is filed by Mr. Daniel the committee will consider it. Until such time, Mr. Daniel will remain a petitioner.

### **Executive Session**

Representative King moved to enter into executive session. The motion was seconded by Representative Massey and adopted by voice-vote. The committee entered executive session. Upon return, Representative Nemes announced the next committee would take place February 5, 2021, at 9:00 AM.

### **Adjournment**

With there being no further business, the meeting was adjourned at 5:35 PM.

## **Impeachment Committee (H) Minutes of the 5th Meeting**

February 5, 2021

### **Call to Order and Roll Call**

The 5th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Friday, February 5, 2021, at 9:00 AM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

LRC Staff: Chip Smith and Christy Glass

### **Motions**

A motion was made by Representative Massey and seconded by Representative King to enter executive session. The motion was adopted by voice vote.

Upon return, Representative Nemes asked

for a motion to adopt the minutes of the February 4, meeting. A motion was made by Representative Miles and seconded by Representative Massey. The motion was adopted by voice vote.

Representative Nemes announced that the committee has discussed the five (5) Petitions received, and the committee has four (4) announcements to make.

The committee has agreed that the Beshear Two (2) Petition filed by The Kentucky Liberty PAC be dismissed. Representative Nemes read the Order and asked for a motion to make the Order available to the public on LRC's web page. A motion was made by Representative Hatton and Seconded from Representative Minter. The motion was adopted by voice vote.

The committee also agrees that the third Petition filed against Governor Beshear by Take Back Kentucky be dismissed. Representative Nemes read the Order and asked for a motion to make the Order available to the public on LRC's web page. A motion was made by Representative Hatton and seconded by Representative Massey. The motion was adopted by voice vote.

The third announcement Representative Nemes made is that communication from the committee has been sent to Amy Cabbage, counsel for the Governor as well as to the office of the Attorney General, requesting follow-up information. The letters will made available to the public as soon as possible on LRC's webpage.

The next committee meeting will take place at the call of the Chair. The timeline given to respond to the aforementioned letters is Monday, February 8, at 6:00PM.

### **Adjournment**

With there being no further business, the meeting was adjourned at 12:25PM

## **Impeachment Committee (H) Minutes of the 6th Meeting**

February 11, 2021

### **Call to Order and Roll Call**

The 6th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Thursday, February 11, 2021, at 8:45 PM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

Guests: Professor Joshua Douglas and Professor Paul Salamanca.

LRC Staff: Chip Smith and Christy Glass.

### **Announcements and Motions**

Representative Nemes announced that the committee had received a motion to withdraw from Randall Daniel, a request to question expert witness, and an additional petition to impeach Governor Beshear filed by Geoff Young. Representative King made a motion to make those documents received by the committee public, seconded by Representative Brown, and the motion was adopted by voice-vote.

### **Expert Testimony**

Joshua Douglas, Professor of Law at the University of Kentucky, introduced himself to the committee and made note that he is not a member of the Kentucky Bar Association or providing legal counsel, but offering an expert opinion on Kentucky law when it comes to impeaching members of the General Assembly. Professor Douglas stated, "Does impeachment apply to a member of the Kentucky House of Representatives? The answer to that question is relatively easy, it does not." Professor Douglas explained that impeachment under the Kentucky constitution is a mechanism used to remove the Governor and other civil officers, but does not include legislators. Although the Kentucky Constitution does not define the term "civil officer", other various authorities demonstrate that members of the legislature are not included in the term. There are several sections in the Kentucky Constitution that separate civil officers from legislators, including sections 30, 42, 43, 44, 97, 234, and 235. Professor Douglas also noted that the Kentucky Constitution actually provides the mechanism to remove a legislator, which is through expulsion, found in Section 39.

Paul Salamanca, Professor of Law at the University of Kentucky, also introduced himself and noted that he is not providing legal counsel, but offering an expert opinion on Kentucky law when it comes to impeaching members of the General Assembly. Professor Salamanca agreed that a member cannot be impeached. He stated, "Section 68 of the Kentucky Constitution provides that the Governor and all civil officers shall be liable to impeachment for any misdemeanors in office. By its plain language, impeachment is limited to "civil officers," which as I hope to explain does not include members of the General Assembly. The sole means by which a member of the General Assembly may be removed from office is expulsion under Section 39." Professor Salamanca went on to explain that although Section 68 does not define the term civil officer, Section 44 draws a clear contrast between membership in the General Assembly and appointment or election to a civil office. He also explained that at a federal level,



the term “civil officer” has been thought to not apply to members of Congress. Professor Salamanca also pointed out allowing impeachment of a member would enable the House to compel the Senate, but would not give the Senate leverage against the House.

Kentucky has had four impeachments in its history, in 1803, 1888, 1916, and 1991. Of those impeachments, none were of a legislator.

Representative Hatton asked if, as a quick takeaway, impeachment in Kentucky only applies to the executive branch. Professor Salamanca stated that he was unsure if a member of the Judiciary could be impeached.

### **Executive Session**

After testimony, Representative King made a motion to go into executive session, seconded by Representative Brown, and the motion was adopted by voice-vote. On return from executive session, Representative Hatton stated that pursuant to section 57 of the Kentucky Constitution, she would be abstaining from voting on any matters relating to Governor Beshear. Representative Wheatley, an alternate member of the committee, was appointed to vote in her place on matters relating to Governor Beshear.

### **Motions**

Representative Massey then made a motion to dismiss the petition against Representative Goforth, seconded by Representative Hatton, and the motion was carried by voice-vote.

Representative Brown made a motion to dismiss the petition against Governor Beshear filed by Kentucky Liberty PAC, seconded by Representative Massey, and the motion was carried by voice-vote.

Representative Wheatley made a motion to dismiss the petition against Governor Beshear filed by Take Back Kentucky, seconded by Representative Miles, and the motion was carried by voice-vote.

Representative Nemes then ruled that the petition filed by Geoff Young was out of order and would not be considered.

A Motion to Withdraw from petitioner Randall Daniel was received by the committee. Representative Minter made a motion to accept his withdrawal, seconded by Representative King, and the motion was carried by voice-vote.

Representative Massey made a motion to deny the request to question expert witness motion filed by the Representative Goforth petitioners, seconded by Representative Minter, and the motion was carried by voice-vote.

### **Adjournment**

With there being no further business, the meeting was adjourned at 9:56 PM.

## **Impeachment Committee (H) Minutes of the 7th Meeting**

February 22, 2021

### **Call to Order and Roll Call**

The 7th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Monday, February 22, 2021, at 2:00 PM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

Guests:

LRC Staff: Chip Smith and Elishea Schweickart

### **Motions & Announcements**

Representative Massey received a letter from a petitioner requesting that he recuse himself due to Rule 11 of the Committee Rules. Representative Massey explained that the contact he had with the petitioner was about 21RS House Bill 378, not the current impeachment petitions or committee, and he would not recuse because it would be inappropriate. Representative Massey also assured the committee that as soon as he realized he was speaking with a petitioner he stopped all contact. Chair Nemes then explained that, just like with Supreme Court Justices, a recusal request will be decided by the member it is directed toward, and the committee will not take a vote on the matter.

Representative Miles made a motion to enter the recusal letter into the committee records, seconded by Representative Massey, and the motion carried by voice-vote.

### **Executive Session**

Representative Hatton made a motion to enter into executive session, seconded by Representative Massey, and the motion carried by voice-vote. Upon return from executive session, Chair Nemes announced that the committee had discussed the impeachment petitions but had not reached a final resolution.

### **Adjournment**

With there being no further business, the meeting was adjourned at 3:36 PM.

## **Impeachment Committee (H) Minutes of the 8th Meeting**

February 23, 2021

### **Call to Order and Roll Call**

The 8th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Tuesday, February 23, 2021, at 6:00 PM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

Guests:

LRC Staff: Chip Smith and Elishea Schweickart

### **Motions & Announcements**

Chair Nemes announced that some members of the committee were in another meeting and would be joining momentarily, but there was a quorum so they would be going into executive session to discuss the petitions.

### **Executive Session**

Representative Miles made a motion to go into executive session, seconded by Representative Brown, and the motion carried by voice-vote. Upon return from executive session, Chair Nemes announced that the committee had reached conclusions on the motions and petitions. Chair Nemes also noted the Representative Wheatley was called on the roll, because he would be voting in place of Representative Hatton on matters pertaining to Governor Beshear.

Representative Miles made a motion to deny the petitioner’s motion in the case of Representative Goforth, seconded by Representative Brown, and the motion carried by voice-vote.

Representative Hatton made a motion to publicly post the petitioner’s motion in the case of Representative Goforth, seconded by Representative Miles, and the motion carried by voice-vote.

Representative King made a motion to deny the petitioners renewed request for impeachment in the case of Attorney General Daniel Cameron, seconded by Representative Hatton, and the motion carried by voice-vote.

Representative Minter made a motion to publicly post the petitioners renewed request for impeachment in the case of Attorney General Daniel Cameron, seconded by Representative Miles, and the motion carried by voice-vote.

Representative King made a motion to adopt the Committee Report and Recommendation That No Further Action Be Taken Concerning the Impeachment of Attorney General Daniel Cameron, seconded by Representative Hatton, and the motion carried by voice-vote.

Representative Massey made a motion to publicly post the Committee Report and Recommendation That No Further Action Be Taken Concerning the Impeachment of Attorney General Daniel Cameron, seconded by Representative Hatton, and the motion carried by voice-vote.

Representative Minter made a motion to adopt the Committee Report and Recommendation That No Further Action Be Taken Concerning the Impeachment of Governor Andrew Beshear, seconded by Representative Massey, and the motion carried by voice-vote.

Representative Wheatley made a motion to publicly post the Committee Report and Recommendation That No Further Action Be Taken Concerning the Impeachment of Governor Andrew Beshear, seconded by Representative Massey, and the motion carried by voice-vote.

Both reports will be referred to the House Committee on Committees.

Representative Miles made a motion to adopt the order dismissing the impeachment petition against Representative Robert Goforth, seconded by Representative Brown, and the motion carried by voice-vote.

Representative King made a motion to publicly post the order dismissing the impeachment petition against Representative Robert Goforth, seconded by Representative Miles, and the motion carried by voice-vote.

### **Adjournment**

With there being no further business, the meeting was adjourned at 10:38 PM.

## **Impeachment Committee (H) Minutes of the 10th Meeting**

March 5, 2021

### **Call to Order and Roll Call**

The 10th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Friday, March 5, 2021, at adjournment of the House, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti

Minter, Felicia Rabourn, and Buddy Wheatley.

### Guests:

LRC Staff: Chip Smith and Elishea Schweickart

### **Motions and Announcements**

Chair Nemes announced that the committee had received responses relating to costs in the Governor Beshear case, Attorney General Cameron case, and the Representative Goforth case. The information received would be discussed by the committee during executive session.

### **Executive Session**

Representative King made a motion to go into executive session, seconded by Representative Brown, and the motion carried by voice-vote.

Upon return from executive session, Chair Nemes announced that the Office of the Attorney General had replied to the committee stating that no monetary charges were being sought. The committee will send a letter to asking Attorney General Cameron to reconsider with respect to funds that may have been paid by taxpayers.

KRS 63.070 states, in part, that petitioners shall be liable to witnesses and to the accused for the cost of investigation before the committee.

### **Adjournment**

With there being no further business, the meeting was adjourned at 2:40 PM.

## **Impeachment Committee (H) Minutes of the 11th Meeting**

March 12, 2021

### **Call to Order and Roll Call**

The 11th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Friday, March 12, 2021, at 9:15 AM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

### Guests:

LRC Staff: Chip Smith and Elishea Schweickart

### **Motions & Announcements**

Chair Nemes announced the committee would be meeting to discuss information relating to costs in matters of the Governor Beshear petition, the Attorney General Cameron petition, and the Representative

Goforth petition.

Representative King made a motion to enter executive session, seconded by Representative Massey, and the motion carried by voice-vote. The committee immediately entered executive session.

Upon return from executive session, Chair Nemes stated the committee is working to finalize a letter that will be sent to the petitioners regarding costs. He advised that the committee also received a new impeachment petition against Governor Andrew Beshear, filed by Geoffrey Young, and may review that petition in the second part of the committee meeting.

The committee went into recess at 9:56 AM.

The committee returned from recess and Chair Nemes stated the committee was going to finish its review of the costs to be assessed to the petitioners for each dismissed petition. The committee also planned to discuss the new impeachment petition against Governor Beshear. Representative King made a motion to go into executive session, seconded by Representative Massey, and the motion carried by voice-vote. The committee immediately entered executive session.

Upon return from executive session, Chair Nemes announced that the committee had reached conclusions concerning the bills of costs and the newest petition seeking impeachment of Governor Beshear.

Representative King made a motion to dismiss the latest impeachment petition against Governor Beshear, seconded by Representative Minter, and the motion carried by voice-vote. Representative Hatton made a motion to make the petition dismissal available on the public website, seconded by Representative Massey and the motion carried by voice-vote.

Representative Massey made a motion to adopt the bill of costs for the dismissed impeachment petition against Representative Goforth, seconded Representative Hatton, and the motion carried by voice-vote. Representative Minter then made a motion to make the bill of costs public, seconded by Representative Miles, and the motion was adopted by voice-vote.

Representative Miles made a motion to adopt the bill of costs for the impeachment petition against Attorney General Cameron, seconded by Representative Brown, and the motion carried by voice-vote. Representative Minter made a motion to make the bill of costs public, seconded by Representative King, and the motion was adopted by voice-vote.

Representative Wheatley made a motion to adopt the bill of costs for the first impeachment petition against Governor Beshear, seconded Representative Massey, and the motion carried by voice-vote.

Representative Miles made a motion to make the bill of costs public, seconded by Representative Wheatley, and the motion was adopted by voice-vote.

### **Adjournment**

With there being no further business, the meeting was adjourned at 6:16 PM.

## **Impeachment Committee (H) Minutes of the 1st Meeting of the 2021 Interim**

January 13, 2021

### **Call to Order and Roll Call**

The 1st meeting of the 2021 Regular Session Impeachment Committee (H) was held on Wednesday, January 13, 2021, at thirty minutes after adjournment, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr, Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

Guests:

LRC Staff: Chip Smith, and Elishea Schweickart

### **Introduction**

Chairman Nemes began the meeting by explaining that the committee had been formed due to receipt of a petition to impeach Governor Andy Beshear by four Kentucky citizens. He also stated that the committee would fairly examine the petition's allegations. Representative Felicia Rabourn and Representative Buddy Wheatley were introduced as alternate members for the committee. Alternates were selected in case an assigned member is unable to attend. The Chair explained Rep. Rabourn and Rep. Wheatley would be participating in every way other than voting.

The proposed committee rules were handed out to each member of the committee. After discussion, Representative King made a motion to adopt the rules, seconded by Representative Massey, and a roll call vote was requested. The rules were adopted by a vote of 4-3-0. Once the rules were adopted, Representative Miles made the motion to name Elishea Schweickart the clerk for the committee, seconded by Representative Massey, and the motion was adopted by voice-vote.

### **Executive Session**

Representative Massey made a motion to go into executive session, seconded by Representative

King, and the motion was adopted by voice vote. At that time, the committee members went into a closed executive session.

Upon the committees return from executive session, Chairman Nemes stated that the committee did not discuss the merits of the petition, but discussed the timeline and the committee rules. Chairman Nemes also asked that the public keep in mind that committee members will not discuss what happened during the executive session.

Governor Beshear will be invited to make his written response to the petition by Friday, January 22, 2021 at 6 P.M. Once that response is received, the petitioners will be asked to reply to Governor Beshear's response by Tuesday, January 26, 2021 at 6 P.M. All responses may only be made public once the committee meets again and approves. Representative Nemes also made note of KRS 63:070 and asked staff to be mindful of timelines.

### **Adjournment**

The committee adjourned at 6:23 P.M.

## **Interim Joint Committee on Licensing, Occupations, and Administrative Regulations Minutes of the 6th Meeting**

**of the 2020 Interim**  
December 14, 2020

### **Call to Order and Roll Call**

The 6th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Monday, December 14, 2020, at 10:30 AM, in Room 149 of the Capitol Annex. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Tom Buford, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Christian McDaniel, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Tom Burch, Al Gentry, Matthew Koch, Nima Kulkarni, C. Ed Massey, Chad McCoy, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Rachel Roberts, Sal Santoro, John Sims Jr, Susan Westrom, and Buddy Wheatley.

LRC Staff: Tom Hewlett, Jasmine Williams, Melissa McQueen, and Lisa W. Moore

Guests: Joe Heil and Fernando Martinez Amar; Larry Brown, Member, Kentucky Board of Licensed Diabetes Educators; Chris Nolan and Brandy Cantor, MML&K Government Solutions; Allyson Taylor,

Commissioner, and Joshua Newton, General Counsel, Alcoholic Beverage Control; Ashli Watts, President and CEO, Kentucky Chamber of Commerce; Braxton Lynch, Kentucky Thoroughbred Association; Doug Cauthen, Kentucky Equine Education Project; Mike Ziegler, Executive Director of Racing, Churchill Downs, Incorporated; Bill Lear, Trustee, Keeneland Association; Kent Ostrander, Executive Director, Kentucky Family Foundation, and Stan Cave, Attorney, Kentucky Family Foundation.

### **Approval of Minutes from the November 20, 2020, meeting**

Representative Koch motioned to approve the minutes from the November 20, 2020, meeting, and Representative Gentry seconded the motion. The minutes were adopted by voice vote.

Chairman Koenig read a resolution honoring retiring member Representative John Sims, Jr. Upon a motion by Representative Pratt, seconded by Representative Miller, the resolution was adopted by voice vote.

Chairman Schickel read a resolution honoring retiring member Senator Julian Carroll. Upon a motion by Senator Schickel, seconded by Senator Thayer, the resolution was adopted by voice vote.

### **Restaurant Owners Impacted by COVID-19 Restrictions**

Mr. Joe Heil, Northern Kentucky restaurant owner, said he feels the restaurant industry has been unfairly targeted during the COVID-19 pandemic. He feels restaurants have been discriminated against in comparison to retail stores, and other licensed businesses. Restaurants have taken unprecedented measures to ensure customer health and safety. This includes taking employees' temperatures, sanitizing tables in between customers, and requiring patrons to wear masks and social distance within the restaurant.

Mr. Heil feels restaurants have gone above and beyond what other businesses have implemented in order to keep customers safe. The food waste caused by these shutdowns could have fed many people in the state. There has been no communication with the restaurant industry other than what is reported in the daily news, with no advance warnings about impending shutdowns. He said a task force should have been formed to allow the restaurant association a seat at the table to provide input to avoid the massive loss of business. A curfew could have been established that would have prevented Kentucky's restaurants patrons from crossing the border and eating out in other surrounding states. Ohio and Indiana have benefited from receiving Kentuckians' tax dollars during these shutdowns in Kentucky.

Mr. Heil said the restaurant industry is the second largest industry in Kentucky. It is losing many quality employees that will be irreplaceable. The

employees are not just college students, but come from single income families, and are often the sole bread winner for the household. He did not appreciate the Governor inviting these employees to leave the restaurant industry and apply for jobs at large distribution centers, as owners and managers work hard to train these employees. It costs \$4,300 to hire and train a new employee for the team. He said let the market dictate the business, and people who do not feel comfortable dining out are not forced to do so.

Mr. Fernando Martinez Amar, Owner of Havana Rumba in Louisville, Kentucky, told his story about fleeing from Cuba under government control in search of a better life in the United States of America. He was picked up on his raft by the United States Coast Guard and placed in a refugee camp for a year in Guantanamo Bay where he completed an immigration process where he was accepted legally into the United States.

Mr. Amar humbly worked his way up and now owns four successful restaurants in the Louisville area. He feels the restrictions on the restaurant industry are unfair and compared it to the government controlled environment under Fidel Castro in Cuba. He said the United States is the land of the free and difficult solutions must be sought to get through the COVID-19 pandemic. He said there is no data supporting the shutdown of restaurants slowing the spread of the virus.

Mr. Amar said he has restaurant employees that have been waiting on unemployment checks since March of 2020. These people have mortgages and children to feed. Kentucky restaurant shutdowns are only causing hardship to Kentucky restaurant owners and employees. Customers are still enjoying dining out in surrounding states, and this is hurting the Kentucky economy. Some restaurants will never recover and will close their doors forever.

Chairman Schickel said the General Assembly is very angry at the situation and hopes to bring relief to the restaurant industry the very first week of January during the 2021 Session. He said many smaller restaurants will not survive this, and the Governor should not have been granted the authority in 1991 to make emergency executive actions unilaterally.

Senator McDaniel thanked the restaurant owners for their hard work and resilience. He said it is the job of the General Assembly to honor what restaurants mean to the economy and to specific regions of the Commonwealth.

Representative Pratt congratulated Mr. Amar on his success in the restaurant business in Louisville. It is not unreasonable for the restaurant owners to be included in the decision-making process that is so pertinent to the industry.

Representative Moser said the testimony was

compelling, heart breaking, and maddening. She reiterated the General Assembly will be handling the clean-up of this business in January 2021. In the meantime, she has communicated the restaurants' voices to the Department of Public Health Commissioner, Dr. Steven Stack. He is very aware of the restaurant situation and subsequent lack of communication. She also noted the lack of data from the contact tracing that has cost \$80 million is severely lacking. Restaurants have gone far and beyond to follow CDC guidelines and ensure customer and public safety.

Representative Massey said the restaurants owners are not alone, and said the Governor has not communicated with members of the General Assembly either. He will continue to fight for restaurants and their rights, and reported Representative Nemes asked to convey that Mr. Amar as his constituent has his full support as well.

Senator Thayer said the Governor is completely out of touch with Kentucky's economy and he has no clue the cascading effects of his unilateral decisions made without the input of the people's branch of government. He said it is pathetic to be left out of the decision-making process and for Mr. Amar to have to fight Governor Beshear in the same manner as he fought Fidel Castro. He assured the business owners that help was on the way.

Senator Thomas said restaurants reopened as of this day to 50 percent capacity. No one asked for the pandemic and Governor Beshear has dealt with it the best way he knows how. The Governor should be commended for his leadership with COVID-19 and keeping Kentucky's numbers down as compared with surrounding states. He said the health of Kentuckians comes first to the needs of business owners. He also said more information is coming to light every day about the virus and how to treat and deal with it. It is unfair, but he feels the Governor has listened to the restaurant owners.

Representative Miller said the Cuban community has been more vocal in the last ten months than in the previous five years. He commended Mr. Amar on his success and his testimony defending freedom.

#### **Licensed Diabetes Educators**

Larry Brown, Member, Kentucky Board of Licensed Diabetes Educators, said the national board of the Association of Diabetes Educators was changed to the Association of Diabetes Care and Education Specialists. He is requesting that the Kentucky statute is amended to conform to the national change when referencing the organization so the name can be officially changed in the administrative regulations. The biggest concern is that within the next year to three years private insurers, Medicare, and Medicaid, will change their payment portals to reflect this newer credential name leaving Kentucky licensees on the

outside when trying to get reimbursed. Kentucky is a leader in the number of citizens diagnosed with diabetes. The board does not see any issue with the request of the name change and its impact on any other health care practitioners. It also does not have any financial impact on the state board's operating budget. There were no questions from members.

#### **Reorganization of the Kentucky Radon Program Advisory Committee**

Chris Nolan, Consultant, The Kentucky Association of Radon Professionals, said radon is naturally occurring gas that is the second leading cause of lung cancer in Kentucky. It is very prevalent in Kentucky, and accumulates in houses, schools, daycares, and other buildings. Radon is easily mitigated with a system that vents the deadly gas outside of the building. Kentucky's radon program is located within the Department of Health, which has become overwhelmed since the fight of the COVID-19 pandemic.

Mr. Nolan said it is being proposed to move the oversight and regulation of Kentucky's radon program from the Department of Public Health to the Public Protection Cabinet's Department of Professional Licensing. The Public Protection Cabinet oversees the licensing and regulation of dozens of occupations and professions. The state's radon certification and education program would be well suited to operate in the Public Protection Cabinet with an independent board. There were no questions from members.

#### **Direct Shipping Administrative Regulation**

Allyson Taylor, Commissioner, and Joshua Newton, General Counsel, Alcoholic Beverage Control (ABC), explained the staff suggested amendment to 804 KAR 4:415. A copy of the amendment was in each member's folder. Chairman Koenig said while he does not agree with all the changes made by the ABC Department, he does appreciate their hard work and willingness to compromise.

Responding to a question from Chairman Schickel, Chairman Koenig said the amendment only deals with the application to obtain the license and should be incorporated by reference. A staff member noticed the error and this amendment corrects it.

Responding to a question from Senator Thayer regarding the timeline of the implementation of 804 KAR 4:415, Chairman Koenig said he is mostly pleased with the ABC's implementation of the administrative regulation. Senator Thayer said if the regulation had been in place earlier, it could have helped businesses to have this additional revenue stream during the pandemic. Chairman Koenig said he does not agree with all the language in the administrative regulation, but ABC had made some accommodations. He said the legislature has the final say.

A motion was made by Chairman Schickel to



approve the staff amendment to 804 KAR 4:415, and Representative Wheatley seconded the motion. The amendment was adopted by voice vote.

Senator Thomas asked Chairman Koenig to clarify what language he specifically did not agree with in the administrative regulation. Chairman Schickel said he repeatedly hears from his constituents who want the direct shipment of wine sales. He thought this regulation would provide parity and allow direct shipment of wine, but he has since learned that this is not the case. This is the epitome of government bureaucracy and special interest groups not listening to its citizens. He will find out who is responsible for removing the shipment of wine from the regulation, and was pleased that Chairman Koenig assured it would be fixed in the next session.

Chairman Koenig said the original bill allowed producers, wholesalers, and retailers to ship, but in order to get the bill passed, he had to limit it to producers. He said the regulation specified that a fulfillment house cannot be used to direct ship, and products must be direct shipped from a premises. There are many wineries, especially in California, that use fulfillment houses on a regular basis as part of their business model. Thus, they would be excluded from shipping under this bill.

Ms. Taylor said there is a statute that states alcohol can only be direct shipped from a licensed premises, and fulfillment centers are not licensed premises. The ABC supports doing this, but the statute will have to be changed to allow it. Mr. Newton said they have to operate with the statutes that have been established. They would like to get fulfillment centers approved when the statute is amended during session, but it is acceptable to ship wine from a licensed premises.

Responding to a question from Senator Higdon regarding what the staff amendment does, Chairman Koenig said it was a technical, clean-up language amendment.

### **Defining Pari-mutuel Wagering**

Chairman Koenig provided some background information on pari-mutuel wagering to the members. Recently the Kentucky Supreme court made a decision which threatens the future of historical horse racing, which has been legally operating in the Commonwealth for nearly a decade.

Ashli Watts, President and CEO, Kentucky Chamber of Commerce, Braxton Lynch, President, Kentucky Thoroughbred Association (KTA), and Doug Cauthen, Kentucky Equine Education Project (KEEP), provided testimony in support of historical horse racing and the horse racing industry. Mr. Cauthen said horse racing in Kentucky needs to be supported in order to keep Kentucky the horse capital of the world. This can be accomplished by enhancing visibility and the viability of KEEP through education

based initiatives, and educating Kentuckians and elected officials on the importance of the Kentucky horse industry.

Mr. Cauthen said Kentucky legislators should take action to protect Kentucky's signature horse industry in response to a recent Supreme Court ruling by defining pari-mutuel wagering, consistent with how the Kentucky Horse Racing Commission has regulated live racing for decades and historical horse racing for the past ten years. Reinforcing, through the definition of pari-mutuel wagering, that the Kentucky Horse Racing Commission is only authorized to regulate pari-mutuel wagering on horse racing and not on any other form of wagering. Finally, maintaining the status quo for historical horse racing facilities, and codifying existing regulatory limitations that restrict historical horse racing to the licensed premises of a racing association and its single corresponding extension facility.

Mr. Cauthen said historical horse racing directly employs over 1,400 Kentuckians in seven cities across the Commonwealth. He said more than \$52 million has been contributed to the general fund with an additional \$45 million paid annually through direct and payroll benefits. Historical horse racing contributes to higher purses, creating a more competitive racing circuit that attracts more horses, owners and trainers to Kentucky. It helped Kentucky stay competitive when neighboring states started casino gaming, and it helps to keep Kentucky dollars in Kentucky. He believes a threat to historical horse racing is a threat to Kentucky's signature industry, as well as agriculture and tourism.

Ms. Lynch said historical horse racing contributed \$36 million to purses in 2019 and helps Kentucky remain competitive with attractive purse sizes. It helps to recruit and retain more horsemen resulting in larger and stronger field sizes, and greater track attendance. It also makes a difference to small breeders who bring 80 percent of the yearlings to market. Without it, Kentucky will soon experience empty fields and barns, which also impacts farming.

Ms. Watts said the horse industry has a \$5.2 billion economic impact statewide and employs 60,000 Kentuckians directly and indirectly. She said racetracks pay over \$100 million in state and local taxes that benefit Kentucky communities. Racetracks have invested nearly \$1 billion in capital projects over the last decade, with another \$600 million planned. All of this is made possible by the industry's growth from historical horse racing. She said the Kentucky Supreme Court ruling has put this revenue and success at risk. Businesses planning to invest millions of dollars in Kentucky communities and create even more jobs, are operating in uncertainty, which can be a deterrent from locating in the Commonwealth. She asked the General Assembly for assistance to keep the businesses in Kentucky to assist with economic

growth and development.

Mike Ziegler, Executive Director of Racing, Churchill Downs, Incorporated, testified in support of historical horse racing and supporting the horse industry. He asked for action from the General Assembly in the 2021 Legislative Session to create a more certain environment for investment, employment, and growth.

Mr. Bill Lear, Trustee, Keeneland Association, gave some background on the Kentucky Horse Racing Commission and the timeline for the regulations to allow historical horse racing. In 2010, the racing commission adopted a set of regulations allowing pari-mutuel wagering on historical races. The regulations went up to the Kentucky Supreme Court and they were deemed valid. He would like the legislature to uphold that and allow historical horse racing to continue, but not expand in Kentucky.

Representative Koch said the end of historical horse racing would close Turfway Park, and end year round racing in Kentucky. He said this would be a huge blow to Kentucky families and their livelihoods. This would also open up the door for trainers to quit bringing their horses to Kentucky and move on to other tracks that are open year round. This affects jobs of over 60,000 Kentuckians. Historical horse racing has been allowed in Kentucky for over 10 years.

Responding to a question from Representative Wheatley regarding redefining pari-mutuel wagering, Mr. Lear said it is possible to do it without a constitutional amendment. The constitution only prohibits lotteries, except for the state lottery. It does not prohibit other types of gaming and gambling. The irony concerning pari-mutuel wagering is that the statute that allows it has never defined pari-mutuel wagering.

Responding to a question from Representative Miller about the net handle, or the amount of wagers less how much goes back to the bettors per year generated from historical horse racing, Chairman Koenig said well over \$1 billion is wagered, but he will have to get the exact figures.

Representative Meredith said this issue affects the small farms as well. The loss of historical horse racing will hurt hay suppliers and feed stores. It is a business issue, and not just a gaming issue. There have been millions of dollars invested at Kentucky racetracks over the years based on legal interpretations and signals sent from the interpretations. Kentucky needs to be aware of the message it is sending to the broader business community.

Responding to a question from Senator Higdon regarding the amount of money generated from historical horse racing and reporting, Ms. Watts said she would get the facts and figures. Senator Higdon would like to see a report similar to what the Kentucky

Lottery publishes annually. Mr. Lear said the take out money generated from historical horse racing is under 8 percent compared to 20 percent take out from live racing. He said money is given back to the Kentucky Thoroughbred Development Fund (KTDF) which supplements purses, and there is an existing tax rate that is levied. Mr. Ziegler said it is a 1.5 percent gross handle.

Representative Gentry said historical horse racing benefits the entire horse industry. He said that all members need to understand what taxing the gross handle is and how it equates to net revenues other states use when taxing casino gaming. He said it is much more than 1.5 percent in reality. He will help in any way he can to keep historical horse racing.

Senator Thomas said historical horse racing is a job development issue. He said the Red Mile is critical in keeping jobs in Fayette County, and to the success of the thoroughbred industry statewide.

Kent Ostrander, Executive Director and Stan Cave, Attorney, Kentucky Family Foundation, testified in opposition of historical horse racing. They showed the committee a short video of the historical racing machines in action at Kentucky Downs. He noted at the top of the machine there is a small three second cartoon horse race that goes across the screen. The horses running at the top is an option.

Mr. Cave said the Kentucky Supreme Court ruled historical horse racing machines were not pari-mutuel wagering. He said the tax rate on the gross handle is 1.5 percent. By statute, one percent is returned to the racing industry, and one-half of one percent is kept for the general revenue. It was noted the \$52 million that was contributed to the general fund was over a nine-year period.

Mr. Cave said the Family Foundation entered into the court case as a defendant years ago when the case was before the Franklin County Circuit Court. At the urging of the racetracks and the Kentucky Horse Racing Commission, the court barred all questioning about the gaming. The Family Foundation appealed the decision and lost. It then won its appeal with the Court of Appeals. The Kentucky Supreme Courts said the regulations on their face were valid, but not as applied to the gaming systems at issue. A unanimous Supreme Court reversed the Franklin County Circuit Court in 2018 ruling that the gaming systems needed more discovery and evidence about how they actually operated. The Kentucky Supreme Court eventually went on and determined historical horse racing was not pari-mutuel wagering in 2020.

Mr. Cave urged the committee members not to attempt to change the definition of part-mutual into something that it is not. He said slot machine style gambling will never be pari-mutuel wagering under the law. He said the only way to solve the problem is to amend the Constitution of Kentucky.

Senator Thayer sought an Attorney's General Opinion from General Jack Conway in 2009 regarding this issue and that opinion found it to be permissible. He said historical horse racing provides \$15-18 million of dollars to the general fund in Kentucky's budget. This is one of the few growing areas of Kentucky's economy and provides much needed revenue in the budget as more facilities are added. He is concerned about the how the families are affected by job and revenue loss and asked if the Family Foundation supports families.

Mr. Ostrander said the horse industry asked the Family Foundation to help keep casino gaming out of the state. He helped them only after researching casino gaming and looking at data that it hurts families. He noted slot machines are the mother's milk of gambling. Years later, the horse industry reversed course and wants to own casinos. Senator Thayer told the Family Foundation that if jobs leave Kentucky and hurt working families, the blood is on their hands.

Co-Chair Schickel took over the chair as Chairman Koenig had to be at another event. He noted his support for the Family Foundation and historical horse racing.

Senator Nemes said there must be better answers for supporting the horse industry than breaking the law.

With no further business before the committee, the meeting adjourned at 12:40 p.m.

## **Joint Committee on State Government**

### **Minutes of the 6th Meeting of the 2020 Interim**

November 17, 2020

#### **Call to Order and Roll Call**

The sixth meeting of the Interim Joint Committee on State Government was held on Tuesday, November 17, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Kevin D. Bratcher, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representatives Jerry T. Miller, Co-Chair, and Kevin D. Bratcher, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Robby Mills, Michael J. Nemes, and Johnny Ray Turner; Representatives John Blanton, Tom Burch, McKenzie Cantrell, Jeffery Donohue, Jim DuPlessis, Joseph M. Fischer, Kelly Flood, Derrick Graham, Joe Graviss, Richard Heath, Samara Heavrin, Joni L. Jenkins, Matthew Koch, Scott Lewis, Mary Lou Marzian, Patti Minter, Jason Nemes, Jason Petrie, Attica Scott, Steve Sheldon, James Tipton, Ken Upchurch, Russell Webber, and Lisa Willner.

Guests: James Whitehorne, U.S. Census Bureau.

LRC Staff: Roberta Kiser, Alisha Miller, Daniel Carter, and Peggy Sciantarelli.

#### **Approval of Minutes**

The minutes of the September 22 and the October 27 meetings were approved without objection.

#### **U.S. Census Report**

James Whitehorne, Chief of the Redistricting & Voting Rights Data Office, U.S. Census Bureau, gave a report on 2020 census operations and the Redistricting Data Program that is governed by Public Law 94-171. His testimony included a PowerPoint presentation. He extended thanks to LRC staffers Greg Woosley and Scott Hamilton for their assistance with the Redistricting Data Program during the last several years.

Mr. Whitehorne said that collection operations for the 2020 census concluded on October 15. The census resolved 152 million addresses, compared to 132 million during the 2010 census. With the exception of Louisiana, the total response rate for all the states was at or above 99.9 percent. The District of Columbia and Puerto Rico reached at least a 99 percent total response rate.

The final self-response rate for the 2020 census was 67 percent, compared to 66.5 percent in 2010. There were 99 million self-responses—including 79 million Internet, 18 million paper, and 1.83 million phone. Kentucky's 68.2 percent self-response ranked 22<sup>nd</sup> in the country and exceeded its 2010 rate of 65.7 percent. Oldham County, with a self-response rate of 83.3 percent, finished 10<sup>th</sup> in the country among all counties. Twenty-eight states met or exceeded their self-response rates from 2010. Census questionnaire assistance centers operated without interruption from March 12 through October 15, and Internet self-response operated with zero downtime during that period.

The nonresponse follow-up rate accounted for 32.9 percent of total responses; six million addresses self-responded after enumerators left a notice of visit. Challenges affecting the census included repeated hurricanes for the Gulf Coast states, the global pandemic, wildfires and air quality issues, and civil unrest.

To ensure data quality, special teams with expertise within the Census Bureau in the fields of census operations, statistical methodology, acquisition and utilization of administrative records—and in social, economic, and housing subject areas—were assembled to supplement the existing expert teams and provide extra focus on data quality. The nonresponse follow-up for the census resolved 5.6 percent of addresses nationwide through high-quality administrative records—such as Internal Revenue

Service, Medicare, and Medicaid records—which equated to 13.9 percent of the nonresponse follow-up universe. In nonresponse follow-up, 24.1 percent of occupied housing units were enumerated by proxy—slightly higher than during the 2010 census; and 99.77 percent of the nonresponse workload on American Indian/Alaska native lands has been completed.

The census traditionally has two primary methods for evaluating quality. Demographic analysis—comparing census results to others—is a technique used to develop an understanding of the racial composition of the population. The results are expected in December 2020. The post-enumeration survey is a short survey used to evaluate the process of conducting census work. Based on that survey, it is possible to determine the number of people who are counted and the number who should have been counted. The results are expected between November 2021 and February 2022.

The Redistricting Data Program (P.L. 94-171) directs the Census Bureau to establish a program that allows the states to identify the small area geographic tabulations they need to conduct legislative redistricting. Historically those areas have been identified as voting districts, census blocks, and state legislative and congressional districts. The law requires the bureau to deliver the tabulations to the persons embodied with initial responsibility for legislative apportionment or districting of each state no later than one year from census day (April 1, 2021). The entire process has to be conducted in a nonpartisan manner.

The program has five phases. Phases 1 and 2—the Block Boundary Suggestion Project and the Voting District Project—are complete. Phase 3 is delivery of the redistricting data tabulations and geographic support products. Phase 4 is the collection of post-2020 census redistricting plans. Phase 5 provides evaluation of the 2020 Redistricting Data Program, which includes recommendations from the states and design for the 2030 census redistricting data program.

Mr. Whitehorne said the original schedule for Phase 3 delivery of the data products was altered by the pandemic. Prototype geographic support products are now available. They are examples of the geographic and tabulation products that will be created from the 2020 census. The bureau will be able to provide official geographic support products to all states, the District of Columbia, and Puerto Rico starting January 22, 2021, and no later than February 28, 2021. The Phase 3 redistricting data geographic products are comprised of shapefiles, maps, block assignment files, and block-to-block relationship files. The bureau is working to provide the redistricting data as close as possible to the statutory deadline of April 1, 2021. The new planned date is not yet determined. The original plan for delivery of census data for redistricting was weekly delivery from mid-

February to March 31, 2021. Instead there will be a single maximum delivery date for all states. As soon as the date is determined it will be communicated to official liaisons and stakeholders. There will also be public announcements.

As in the 2010 census, the census count will tabulate data based on race; race for the 18-years-and-over population; Hispanic or Latino, and not Hispanic or Latino by race; Hispanic or Latino, and not Hispanic or Latino by race for the 18-years-and-over population; and occupancy status (housing). A new table—group quarters population by group quarters type—was added for the 2020 census. Group quarter types include correctional institutions for adults, juvenile facilities, nursing and skilled nursing facilities, college/university student housing, and military quarters. There will be no demographic breakdown of the group quarters total population.

Mr. Whitehorne discussed another data product that is often used—Citizen Voting Age Population by Race and Ethnicity (CVAP). It is an annual tabulation using the American Community Survey 5-year estimates for 2011-2020 publications and is typically released in the first week of February each year. An internal expert panel published their final methodology report on October 30, 2020. The report was previewed at the Census Scientific Advisory Committee meeting in September.

Mr. Whitehorne spoke at length about disclosure avoidance and its timeline. All 2020 census data products released after apportionment will have formal privacy protections applied through the use of differential privacy. For the P.L. 94-171 redistricting data, this will be through the use of the Top Down Algorithm (TDA). The TDA is being streamlined to focus solely on the P.L. 94-171 redistricting data and the characteristics reported in that file, such as race, age, ethnicity, etc. The Census Bureau, using the 2010 census as the data source, has been releasing interim output from the TDA's as demonstration products. Interim output showing improvements was just released on November 16, 2020, correcting an error from a previous version. Mr. Whitehorne referenced the Census Bureau website for additional information regarding disclosure avoidance.

Mr. Whitehorne concluded his presentation by discussing the Count Question Resolution (CQR) program, which occurs after the data has been published. It allows the highest elected or appointed official in each tribal, state, and local government unit to request that the U.S. Census Bureau review their 2020 census counts for housing and associated population, based on two types of geographic cases—boundary and/or living quarter count. CQR will not revise any redistricting data sent to the states. The program begins on September 1, 2021. On October 1, 2021, the Census Bureau will begin processing CQR cases and will stop accepting cases on June 30, 2023.

The deadline for the Census Bureau to provide results is September 30, 2023.

Representative Bratcher asked how long differential privacy has been used. Mr. Whitehorne said that differential privacy is a fairly new science that began being developed in the early 2000's. This would probably be the first decennial census to apply differential privacy on such a large scale.

Representative Graviss commended the Census Bureau for its visibility and helpfulness. He asked whether the deadline for delivery of data to the states might be extended to July 31 from the statutorily required April 1, 2021, deadline. Mr. Whitehorne said his personal belief is that the bureau rescinded its request for the deadline extension. He does not believe that an extension to July 31 is being pursued by the Census Bureau or the Department of Commerce at this time. When Representative Graviss asked whether broadband access and Section 8 housing can become a shapefile or data set, Mr. Whitehorne said the answer to that question falls outside his area of expertise.

Representative Bratcher said that he realizes it is not realistic to predict what the courts might do, but he questioned whether differential privacy “noise” might have an effect on redistricting. Mr. Whitehorne said there is a tremendous amount of focus being put on making sure that differential privacy is protecting respondents’ data so that it is still accurate. He said he does think that the data will hold up and be of use for redistricting.

Representative Bratcher thanked Mr. Whitehorne for his presentation. There were no further questions, and the meeting was adjourned at 11:17 a.m.

## **Interim Joint Committee on Veterans, Military Affairs, and Public Protection**

### **Minutes of the 6th Meeting of the 2020 Interim**

November 19, 2020

#### **Call to Order and Roll Call**

The 6th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, November 19, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair Designate; Representative Walker Thomas, Co-Chair; Senators Karen Berg, C.B. Embry Jr., Denise Harper Angel, Jimmy Higdon, Dennis Parrett, Wil Schroder, Brandon Smith, Whitney Westerfield, Mike Wilson, and Max Wise; Representatives John Blanton, Myron Dossett, Jim DuPlessis, Chris Fugate, Al Gentry,

Mark Hart, Samara Heavrin, Kathy Hinkle, Matthew Koch, Scott Lewis, C. Ed Massey, Patti Minter, Dean Schamore, Attica Scott, Buddy Wheatley, and Lisa Willner.

Guests: Edwin Vincent, Chairman, Joint Executive Council of Veterans Organizations; Larry Arnett, Legislative Officer, Joint Executive Council of Veterans Organizations; Brigadier General (Ret.) Steve Bullard, Executive Director, Kentucky Commission on Military Affairs; Brigadier General (Ret.) Benjamin Adams, Executive Director, Kentucky Department of Military Affairs; Keith Jackson, Commissioner, Kentucky Department of Veterans Affairs; Executive Director Mark Bowman, Kentucky Department of Veterans Affairs.

LRC Staff: Jessica Zeh, Andrew Salman, and Kelsey Lockhart

After roll call was taken, Co-chair Designate Embry introduced newly elected Representative Scott Sharp from the 100<sup>th</sup> District.

### **Approval of October Minutes**

Representative Lewis moved to approve the October minutes. The motion was seconded by Representative Hart and the minutes were approved.

### **Resolution**

A retirement resolution honoring Senator Robinson for his years of dedication in the General Assembly was presented. Representative Lewis moved to adopt the Resolution. Representative Blanton seconded the motion. The resolution was adopted.

### **Joint Executive Council of Veterans Organizations**

Edwin Vincent, Chairman of the Joint Executive Council of Veterans Organizations (JECVO) testified that he is a retired Air Force veteran and the Senior Vice Commander for the Department of Kentucky Veterans of Foreign Wars (VFW). He will assume command of the organization in 2021 and work towards making Kentucky the most veteran-friendly state.

Larry Arnett, Legislative Officer of JECVO, testified that this committee has supported Kentucky veterans well over the last 30 years. It is because of this support that JECVO was able to establish four veteran nursing homes, five veteran cemeteries, a Vietnam Veteran bonus, and provide support for veterans' services. JECVO stated their top priority for the 2021 legislative session is strong support of the Kentucky Department of Veterans Affairs (KDVA) budget.

JECVO testified that its second legislative priority is to create a property tax exemption for Veteran Service Organizations (VSO) that are wholly

dedicated to advocating on behalf of military veterans. To qualify for this exemption, over fifty percent of the VSO annual net income must be expended on behalf of military veterans and other charitable causes. This includes VFW, Vietnam Veterans of America, AMVETS, the American Legion, Disabled American Veterans, Paralyzed Veterans of America, and Marine Corps League Detachment 729. Representative Koch prefiled BR 153 to address this issue and stated that the committee is familiar with the legislation as similar legislation was filed in the last two regular sessions with unanimous support, however it was not able to progress due to the uncertainty of the revenue stream.

Mr. Arnett stated that 31 states already exempt VSO properties from taxation, four of which are contiguous to Kentucky. Kentucky has 304 VSO posts, with at least one in every county. He approximated a \$25,000 loss of revenue from state taxes and \$275,000 loss of revenue for cities and counties. Despite the significant loss of revenue, BR 153 has support from the Kentucky Association of Counties and the League of Kentucky Cities because the charitable contributions and civic involvement they receive from VSO posts exceeds the loss.

In response to a question from Representative DuPlessis, Mr. Arnett stated that there is a meeting scheduled in December to discuss increasing the number of legislative priorities for JECVO and would consider adding military retirement income tax reduction to their legislative priorities.

### **Kentucky Commission on Military Affairs**

Brigadier General (Ret.) Steve Bullard, Executive Director of the Kentucky Commission on Military Affairs (KCMA), testified that they exist to maximize the state's potential as it relates to the Department of Defense (DOD). The key goals they hope to accomplish are: to protect and grow DOD installations and activities; expand the economic impact of Kentucky's defense-related industry; develop and implement the model for transitioning service members, veterans, and their spouses; establish Kentucky as the most military friendly state and grow the veterans and retiree population; and to communicate strategically and gain advocacy.

To achieve these goals maintaining a positive relationship with defense contractors such as Humana, Lockheed Martin, and Raytheon is critical. Kentucky ranks thirteenth in the nation in the amount of contract spending, fourteenth in the nation in defense spending, and on average allocates \$2.8 billion for personnel salaries.

Brigadier General (Ret.) Bullard testified there were many accomplishments in 2020 for KCMA: it established the new V Corps Headquarters at Fort Knox; applied for U.S. Space Command Headquarters; obtained a two-million DOD grant; and assisted with Constituent Services on the Governor's COVID-19

Hotline for five months.

The KCMA presented its legislative priorities which included strong support for KDMA's budget and expressed its support of BR 153. Additional legislative goals include occupational licensing reciprocity, adding military personnel and families to driver's license exemption, authorization and funding for Bluegrass Station airfield, establishment of Uniform Deployed Parents Custody and Visitation Act, inclusion of the Armed Services Vocational Aptitude Battery (ASVAB) test in schools, prohibition of "Patriot Penalty" for deployed personnel, and consideration of full military retirement income tax reduction.

### **Kentucky Department of Military Affairs**

Brigadier General (Ret.) Benjamin Adams, Executive Director of the Kentucky Department of Military Affairs (KDMA) presented the legislative goals for the 2021 legislative session: move the Kentucky Community Crisis Response Board (KCCRB) under the Military Affairs' Division of Emergency Management; establish the Uniform Deployed Parents Custody and Visitation Act and Kentucky National Guard Adoption Assistance Program; implement the ASVAB test in schools; change the Kentucky Educational Excellence Scholarship (KEES) base amount for military transfer students; pass the state-sponsored group life insurance program for Kentucky National Guard (KYNG) members; and prohibit motor vehicle insurance from penalizing deployed service members.

The KDMA also expressed support for coordinating efforts working towards the Bluegrass Station Industrial Airport and BR 241 to encourage veterans to come to Kentucky. Thanks to the efforts of the KDMA and KYNG, over \$84 million has been spent purchasing PPE and testing to assist with COVID-19 relief across the state.

In response to a question from Representative Koch, Brigadier General (Ret.) Adams thanks the committee for its support for Bluegrass Station Industrial Airport.

In response to a question from Senator Higdon, Brigadier General (Ret.) Adams responded that Bluegrass Station is indeed an incredible place and KDMA would like to have the committee members tour the facility and discuss its future.

### **Kentucky Department of Veterans Affairs**

Keith Jackson, Commissioner of the Kentucky Department of Veterans Affairs (KDVA), testified that through July, KDVA successfully avoided any COVID-19 outbreaks in its four State Veterans Homes. All four have followed recommendations from the Center for Disease Control for the duration of the pandemic, with daily screenings for residents and employees. In-person visitation was greatly



restricted and virtual options were encouraged with their families. Staffing remained relatively stable throughout the pandemic. The number of VA claims presented each month decreased by two thirds its regular amount due to many people working from home to reduce on-site staffing. The federal government provided KDVA with \$2,910,955 from the Cares Act Provider Relief Fund, and KDVA has used \$1,480,400 thus far, which helped alleviate financial stress from the pandemic. KDVA only hired personnel that assisted its COVID-19 response and stopped overtime unless it directly related to a COVID-19 issue.

The KDVA presented its legislative priorities: amend existing sections of KRS Chapter 40 to create more effective management of the KDVA; amend KRS 164.507 and 164.515 to more closely align Kentucky's education benefits with the U.S. Department of Veterans Affairs; create a new section of KRS Chapter 40 to establish a Veteran Suicide Prevention Program within the KDVA; and create a new section of KRS Chapter 2 to designate June 12 as Women Veterans' Appreciation Day in the Commonwealth.

In response to a question from Representative Minter, Commissioner Jackson stated that KDVA visited several potential sites in Bowling Green last month that were presented by the Chamber of Commerce and are discussing the final location for the Bowling Green Veterans Home. Executive Director Mark Bowman stated that they are reviewing the second site that has been presented, however there is not enough room for the facility. They are asking for more acreage, and if that is not possible KDVA will move onto the next potential site.

Senator Smith commented that there is still a need for a veteran's home in the eastern part of the state, and hopes that KDVA will be able to focus on obtaining a facility near Salyersville in the future as well.

### **Referred Administrative Regulations**

In performing its statutory legislative oversight responsibility, the committee reviewed administrative regulation 017 KAR 001:030 Proposed Nurse Loan Repayment Program upon referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

There being no further business, the meeting was adjourned at 11:18 AM.

## **Projects and Bond Oversight Committee Minutes**

December 16, 2020

### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee was held on Wednesday, December 16,

2020, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senators Christian McDaniel, and Robby Mills; Representatives Phillip Pratt and Maria Sorolis.

Guests: Elizabeth Baker, Planning Director, University Budget Office, University of Kentucky; Dr. Robert L. Jackson, President, Murray State University; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

### **Approval of Minutes**

Representative Pratt moved to approve the November 19, 2020, meeting minutes. Senator Girdler seconded the motion, and the committee approved without objection.

### **Information Items**

Ms. Halloran referenced two information items. Pursuant to KRS 45.760(5), the University of Kentucky reported two cash medical equipment purchases totaling just over \$2.8 million for two Markey Cancer Center locations.

Pursuant to KRS 45.812(1), the Fairfield Independent (Boyd County), Pike County, and Pulaski County school districts, none of which needed an additional tax levy to pay debt service, reported upcoming debt issues to finance new projects.

### **Lease and Project Reports from Postsecondary Institutions**

#### **The University of Kentucky**

Senator Girdler moved to roll the four new leases into one roll call vote, seconded by Representative Pratt, and approved without objection.

Ms. Baker submitted four new UK HealthCare leases, all of which include utilities; Markey Cancer Center, 2195 Harrodsburg Road: 10,320 square feet at \$31.71 per square foot for a \$327,247.20 annual cost; Sanders-Brown Center on Aging, 2195 Harrodsburg Road: 15,000 square feet at \$34.59 per square foot for a \$518,850 annual cost; Pediatrics Clinic, 2400 Greatstone Point: 15,000 square feet at \$29.80 per square foot for a \$447,000 annual cost; and Enhanced Care through Advanced Technology Intensive Care Unit (eICU), 2347 Sterlington Road: 5,124 square

foot at \$26.10 per square foot for a \$133,736.40 annual cost. The committee approved the eICU lease for another location in May, after which UK learned that the subject location did not have the necessary IT infrastructure and installation would have been too costly.

Representative Pratt moved to approve the leases, seconded by Senator McDaniel, and approved by unanimous roll call vote.

### **Murray State University**

Dr. Jackson submitted the \$2 million Renovate Lovett Auditorium – Phase 1 project, financed from MSU's deferred maintenance funds. MSU had to close the hundred year old facility in the fall but can use it next fall with completed renovations, HVAC, and other areas [repair/replacement of electrical panels].

Representative Thomas said that he appreciated Dr. Jackson's efforts in Murray.

Senator Mills moved to approve the project, seconded by Senator Girdler, and approved by unanimous roll call vote.

### **Lease Report from the Finance and Administration Cabinet**

Mr. Aubrey submitted one lease renewal under the same terms and conditions; Cabinet for Health and Family Services, Clark County: 10,946 square feet at \$10 per square foot for a \$109,460 annual cost.

Senator Girdler moved to approve the lease renewal, seconded by Representative Pratt, and approved by unanimous roll call vote.

### **Report from the Office of Financial Management**

#### **Kentucky Infrastructure Authority**

Ms. Williams submitted two Clean Water State Revolving Fund (Fund A) and two Infrastructure Revolving Fund Program (Fund B) loan requests. Due to higher than expected bids, the LaGrange Utilities Commission, Oldham County, requested a \$202,500 loan increase to its previously approved \$3,121,200 Fund A loan; resulting in a just over \$3.3 million total loan amount for the Pump Station and Interceptor Sewer Upgrade project. The lift station and interceptor sewer upgrades will address state enforcement action by eliminating a sanitary sewer overflow at a manhole, north side of I-71. For 4,000 gallons, effective next year, the monthly inside city sewer rate will be \$35.46, reflecting a five percent increase. The loan term is twenty years at a 1.75 percent interest rate with estimated \$204,326 annual debt service.

Senator Mills moved to approve the first Fund A loan, seconded by Senator Girdler, and approved by unanimous roll call vote.

The City of Eddyville, Lyon County, requested a \$2,745,064 Fund A loan, which includes the previously approved Fund A planning and design loan [and of which KIA will apply \$1 million in principal forgiveness] for its Wastewater SSES and Rehabilitation - South of Fairview Avenue project; new pump station at the industrial park and rehabilitation of sewer lines and manholes. The city's 2018 rate ordinance includes three percent sewer and water rate increases on July 1 of even numbered years through 2026. For 4,000 gallons, the monthly inside city sewer and water rates are \$39.26 and \$35.33. The loan term is thirty years at a .25 percent interest rate with estimated \$63,904 annual debt service.

Senator McDaniel moved to approve the second Fund A loan, seconded by Senator Mills, and approved by unanimous roll call vote.

The Louisville and Jefferson County Metropolitan Sewer District requested to assume the \$676,262 balance of three outstanding Bullitt County Sanitation District Fund B sewer loans, approved between fiscal years 2010 and 2016, due to MSD's pending acquisition of BCDS's wastewater system. MSD will maintain BCSD's enacted rate schedules.

Senator Mills moved to approve the Fund B loan assumptions, seconded by Senator Girdler, and approved by unanimous roll call vote.

The Hyden-Leslie County Water District requested a \$2.735 million Fund B loan to retire a Kentucky Rural Water Finance Corporation short-term note. The note refinanced debt for a \$4.1 million project; 61.5 miles of waterline, two fifty thousand gallon water tanks, and three pump stations; extending service to 317 customers. The District's last water rate increase was in 2010 and [PSC approved a phased rate increase, bringing for 4,000 gallons, the monthly water rate from \$31.48 to \$54.74]. The loan term is thirty years at a .50 interest rate with estimated \$103,759 annual debt service.

In response to Senator McDaniel, Representative Thomas confirmed that the district met KIA's special conditions specified in its submittal.

Senator McDaniel moved to approve the Fund B loan, seconded by Representative Pratt, and approved by unanimous roll call vote.

## **Office of Financial Management**

### **New Conduit Debt Issue**

Mr. Barrow submitted a new Kentucky Housing Corporation conduit debt issue, KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Jefferson Landing), Series 2021; 204 units in Jefferson County, net proceeds of about \$35 million. KHC conduit debt issues are applied towards the state's private activity volume cap but affect neither the commonwealth's nor KHC's financials as the

developer pays the debt service.

Senator Girdler moved to approve the new debt issue, seconded by Representative Pratt, and approved by unanimous roll call vote.

### **Previous Debt Issues**

Mr. Barrow reported two previous debt issues. The first was the Northern Kentucky University General Receipts Refunding Bonds, 2020 Series A and General Receipts Bonds, 2020 Series B. Respective issuance amounts for the seven-year bond issue were just under \$5.8 million and \$3.5 million with true interest costs of .95 percent and 1.095 percent. Rates are still low, reflected in the high percentage Series A 9.4 percent net present value savings, or \$580,000. The second was the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Overlook at Elkhorn Creek Apartments), Series 2020; 156 units in Georgetown, net proceeds approximately \$21 million.

### **School District Debt Issues with School Facilities Construction Commission Debt Service Participation**

Senator Girdler moved to roll the nine debt issues with SFCC participation into one roll call vote, seconded by Senator Mills, and approved without objection.

Mr. Barrow submitted ten debt issues with SFCC participation; three for new projects and six to refinance debt. The Beechwood Independent (Kenton County), Lewis County, and Paris Independent (Bourbon County) school districts planned debt issuances totaling around \$35.8 million, with SFCC debt service supporting just over \$1 million with district debt service supporting 97 percent, to finance new projects. The Lewis County and Paris Independent (Bourbon County) school districts did not need an additional tax levy for debt service.

The refunding issues were for the following five school districts: Bellevue Independent (Campbell County), Carroll County, Glasgow Independent (Barren County), Southgate Independent (Campbell County), and Wayne County (2); totaling approximately \$7.2 million, with SFCC debt service supporting just under \$4 million (fifty-five percent) and district debt service supporting around \$3.2 million (forty-five percent).

Representative Thomas commented that the number of refundings was consistent with the low interest rates.

In response to Senator McDaniel, Mr. Barrow said that district tax levies enhance coverages, allowing capitalization of future receipts.

Senator Girdler moved to approve the debt issues with SFCC participation, seconded by Representative Pratt, and approved by unanimous roll call vote.

Representative Thomas read a resolution honoring Representative Maria Sorolis for her service to the committee. Representative Sorolis thanked the members, saying it was her pleasure to serve.

Representative Thomas announced the January 20, 2021 next meeting date.

With there being no further business the meeting adjourned at 1:40 p.m.

## **Capital Projects and Bond Oversight Committee Minutes**

January 21, 2021

### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee meeting was held on Thursday, January 21, 2021, at 2:00 PM, in Room 171 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senators Jason Howell and Robin L. Webb; Representatives Chris Freeland and Jason Petrie.

Guests: Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority; Ryan Barrow, Executive Director, Office of Financial Management; and David Carlsen, Chief Financial Officer, Kentucky Higher Education Assistance Authority/Kentucky Higher Education Student Loan Corporation.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

### **Introduction of New Committee Members and House Co-Chair Election**

Representative Thomas introduced new committee members; Senators Jason Howell and Robin Webb and Representatives Chris Freeland, Reginald Meeks, and Jason Petrie. Pursuant to KRS 45.790(1), House committee members elected a co-chair to fill the remaining term. Representative Petrie nominated Representative Freeland and Representative Thomas seconded the nomination. Representative Petrie moved to cease nominations and elect Representative Freeland by acclamation. Representative Thomas seconded the motion, which the House members approved by voice vote.

### **Approval of Minutes**

Senator Girdler moved to approve the December 16, 2020, meeting minutes. Representative Freeland seconded the motion, and the committee approved without objection.

## Information Items

Ms. Halloran referenced five information items. Pursuant to KRS 26A.168(1), KRS 45.793 and KRS 45.818; the Administrative Office of the Courts; the Finance and Administration Cabinet, with the Commonwealth Office of Technology reporting independently; and postsecondary institutions managing their own capital construction under KRS 164.580, transmitted quarterly capital status reports.

Pursuant to KRS 45.812(1), the Kentucky Interlocal School Transportation Association reported its forthcoming annual debt issuance to finance the acquisition of school buses and the Boone, Lewis, and Washington County school districts, none of which needed an additional tax levy to pay debt service, reported upcoming debt issues to finance new projects. The Carter County school district reported an upcoming refunding debt issue.

Pursuant to KRS 48.111(6)(a), the Finance and Administration Cabinet's Division of Real Properties reported an invitation to lease office space in Louisville for the Kentucky Commission on Human Rights.

Pursuant to KRS 56.813(2)(a)3.b. and KRS 56.823(11)(a), the Division of Real Properties reported leasehold improvements under \$10,000 and square footage lease modifications under \$50,000 for the prior quarter.

The School Facilities and Construction Commission reported school district debt issues with SFCC participation that closed in the last quarter.

Representative Thomas complimented committee staff, referencing the staff analysis sheets.

## Report from the Office of Financial Management

### Kentucky Infrastructure Authority

Ms. Williams submitted a Clean Water State Revolving Fund (Fund A) program loan increase and a Drinking Water State Revolving Fund (Fund F) program loan. The City of Hopkinsville, for the benefit of the Hopkinsville Water Environment Authority, requested a \$5 million Fund A loan increase, to the \$9 million previously loaned, for the multi-phased \$48.3 million Hammond-Wood Wastewater Treatment Renovation and Expansion project. KIA plans to lend \$45 million in total from the Fund A program. For 4,000 gallons, the current monthly sewer rate is \$32.70. The loan term is twenty years at a .50 percent interest rate.

Representative Freeland moved to approve the Fund A loan increase, seconded by Senator Girdler, and approved by unanimous roll call vote.

The City of Albany requested a \$2.5 million Fund F loan for the Devall Valley Area Water System Improvements project, which will alleviate area water

shortages; around 30,000 linear feet of replacement waterline (existing waterline is undersized), pump station upgrade, and 500,000 gallon storage tank. For 4,000 gallons, the current monthly water rate is \$29.02. The loan term thirty years at a 0.25 percent interest rate with estimated \$92,799 annual debt service.

Senator Girdler moved to approve the Fund F loan, seconded by Senator Webb, and approved by unanimous roll call vote.

## Office of Financial Management

### New Debt Issue

Mr. Barrow submitted a new debt issue, University of Kentucky General Receipts (Forward Delivery) Refunding Bonds, Series 2022. This estimated \$25.7 million agency fund supported debt issue will forward refund 2014 Series B debt which financed the Expansion of the Gatton College of Business and Economics project. [A forward delivery will allow UK to close the transaction within ninety days of the April 1, 2022 prior debt's earliest redemption date; thereby keeping the transaction tax-exempt]. The municipal markets have been receptive towards forward delivery transactions. Similar to the Eastern Kentucky University transaction approved by committee, UK will receive its \$2.2 million, or 8.1 percent, net present value savings upfront and apply the monies towards identified capital projects around campus.

Representative Freeland moved to approve the new debt issue, seconded by Senator Girdler, and approved by unanimous roll call vote.

### Previous Debt Issues

Mr. Barrow reported three previous debt issues. The first was the Morehead State University General Receipts Refunding Bonds, 2020 Taxable Series A. The \$4.87 million agency fund supported debt issue, 2.29 percent true interest cost [twelve year term], advance refunded [2012 Series A debt, which financed the Renovate West Mignon Residence Hall project, and Series 2013 A debt, which financed the renovation of Mignon Residence Hall]. For economic savings, under the Governmental Leasing Act [KRS 65.940 to 65.956], MSU renegotiated two outstanding bank leases [an energy savings performance contracting agreement lease and a 2020 Kentucky Bank lease consolidating its 2015 information technology network and campus security upgrade financing lease and its 2019 lease that refunded outstanding 2008 Series A debt. The renegotiated 2020 lease also refunded outstanding Series 2011 A debt.] The three transactions resulted in \$1.3 million aggregate net present value savings.

The second was the Kentucky Higher Education Student Loan Corporation Student Loan Asset-Backed Notes, Senior Series 2020-1-A-1A (Fixed

Rate), Senior Series 2020-1-A-1B (Floating Rate), and Subordinate Series 2020-1-B (Floating Rate). KHESLC used the proceeds from the \$422.64 million asset-backed [backed by student loan repayments] transaction to purchase/restructure outstanding Federal Family Education Loan Program debt [loans under the PNC trust and Series 2010-1, 2013-1, and Series 2013-2 floating rate notes]. The transaction was taxable [due to inclusion of out-of-state student loans], issued at an aggregate 1.6 percent true interest cost, with the floating rate components indexed to the one-month London Interbank Offered Rate. [Market floating rate note transactions such as this typically have not involved tax-exempt financing since 2010, although direct purchase floating rate notes transactions, such as KHESLC's DPN 2016, 2017, and 2019 transactions have.] Mr. Carlsen said that while the FFELP program, one of KHESLC's two loan programs, was discontinued in 2010 for new originations, those loans remained on the balance sheets of lenders, such as KHESLC. KHESLC also acquires rehabilitated FFELP loans weekly from the Kentucky Higher Education Assistance Authority, its guarantee agency, with short-term financing. FFELP loans, guaranteed by the federal government, are rehabilitated after a default when the borrower makes nine on-time payments within a ten month period. The restructuring component of this transaction was to allow alternate floating rate benchmarks with the upcoming LIBOR termination [as well as release liquidity]. The purchasing component was long-term financing, typically done annually or biennially, of the weekly FFELP acquisitions.

The third was the Kentucky Asset/Liability Commission Project Notes, 2020 Federal Highway Trust Fund First Refunding Series A (GARVEEs). The \$59.405 million grant anticipation revenue vehicles [any sort of financing instrument for which federal-aid highway funds are used to reimburse the state for debt service payments], issued at a .51 percent true interest cost (final maturity is September 1, 2022), current refunded [issuance is after the September 1, 2020 prior debt's earliest redemption date] the 2010 Federal Highway Trust Fund First Series A notes. With historically low rates, the net present value savings was \$2.9 million, or 4.74 percent, over just two maturities. The Transportation Cabinet can reprogram the savings for transportation projects. Representative Thomas remarked that, over a couple of years, the savings were sizeable.

## School District Debt Issues with School Facilities Construction Commission Debt Service Participation

Representative Petrie moved to roll the five debt issues with SFCC participation into one roll call vote, seconded by Senator Girdler, and approved without objection.

Mr. Barrow submitted five debt issues with

SFCC participation; three for new projects and two to refinance debt. For new projects, the Hopkins County, McLean County, and Todd County school districts planned debt issuances totaling \$28 million, with the SFCC and the districts paying around 17 percent and 83 percent of the debt service. The school districts did not need an additional tax levy for debt service.

Augusta Independent (Bracken County) and Washington County planned refunding debt issuances totaling approximately \$11.8 million, with the SFCC and the districts paying around 12 percent and 88 percent of the debt service.

Representative Petrie moved to approve the five debt issues with SFCC participation, seconded by Representative Freeland, and approved by unanimous roll call vote.

Representative Thomas announced the upcoming February 17 and March 16 meetings, would be upon adjournment of both chambers. He said it was an honor to serve as committee co-chair.

With there being no further business the meeting adjourned at 2:38 p.m.

## **Capital Projects and Bond Oversight Committee Minutes**

February 23, 2021

### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, February 23, 2021, upon adjournment of both chambers, in Room 171 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Chris Freeland, Co-Chair; Senators Jason Howell and Christian McDaniel; and Representative Walker Thomas.

Guests: Jeff Spoelker, Associate Athletic Director for Finance, University of Louisville Athletics; Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

### **Approval of Minutes**

Representative Thomas moved to approve the January 21, 2021, meeting minutes. Senator Howell seconded the motion, and the committee approved without objection.

### **Information Items**

Ms. Halloran referenced four information items. Pursuant to KRS 45.760(5), University of Kentucky HealthCare reported nearly \$3.8 million in restricted funds for medical equipment purchases. Around half of the funds were for Chandler Hospital and the other half for Good Samaritan Hospital. The University of Louisville reported \$545,000 in restricted funds for research equipment purchases at the Kentucky Spinal Cord Injury Research Center and James Graham Brown Cancer Center.

Pursuant to KRS 45.812(1); the Estill, Graves, Jessamine, Knox, Ohio, and Pike County school districts, none of which needed an additional tax levy to pay debt service, reported upcoming debt issues for new projects. The Clark, Harlan, Jefferson, Johnson, Lincoln, and Pulaski County school districts reported forthcoming refunding debt issues.

Pursuant to KRS 48.111(6)(a), the Finance and Administration Cabinet's Division of Real Properties reported an invitation to lease space for the Justice and Public Safety Cabinet, Department of Corrections, District 19, the Louisville Southeast Probation and Parole Office.

Pursuant to the Auditor of Public Accounts' 2005 Model Program Checklist for Postsecondary Education Lease Law Compliance, the Council on Postsecondary Education transmitted lease law compliance reports and the institutions' auditors did not report any findings.

### **Lease Report from the University of Louisville**

Mr. Spoelker submitted the UofL Athletic Association's four-year lease, commencing in August, with Aptitude 4<sup>th</sup> Street for upperclassmen football; fifty-two beds in The Marshall, a new facility adjacent to the Belknap Campus on South Fourth Street. ULAA will submit this lease for its board approval in April. The rent will increase by three percent each year from the initial \$506,000. The Marshall was selected through a RFP for its location, amenities, and ability to guarantee rooms.

Senator Howell moved to approve the new lease contingent upon necessary board approvals, seconded by Representative Thomas, and approved by unanimous roll call vote.

### **Report from the Office of Financial Management**

#### **Kentucky Infrastructure Authority**

Representative Freeland moved to roll the seven KIA submittals into one roll call vote, seconded by Senator Howell, and approved without objection.

Ms. Williams submitted five Clean Water State Revolving Fund (Fund A) Program loans, two of which were increases; an Infrastructure Revolving Fund (Fund B) Program loan increase; and a Drinking

Water State Revolving Fund (Fund F) Program loan increase. Due to higher than expected bids, the City of Georgetown, Scott County, requested a \$7,857,216 Fund A loan increase to its previously approved \$13,542,784 Fund A loan; resulting in a \$21.4 million Fund A loan amount for the \$24.2 million Georgetown/Scott County South Sewer Extension project, eliminating two package treatment plants thereby removing major point sources of pollution to Cane Run Creek and its watershed. Last fall, the city received seven bids, the lowest of which was twenty-seven percent over the engineer's estimate. Concrete and crushed stone increased three to five percent, impacting project components such as manholes, backfill, and the new lift station. Utilities requested bids for other large projects around the same time, affecting contractor availability. The loan term is thirty years at a 0.50 percent interest rate.

In response to Senator McDaniel, Ms. Williams said that materials cost increases and a labor shortage contributed to higher construction expenses throughout the state. Senator McDaniel commented on concrete, rebar, and gravel increases; expecting KIA loan increase requests to continue. Ms. Williams verified that the Public Service Commission approved the Hyden-Leslie County Water District rate increases and stated that she would provide water loss data to the committee.

Due to higher than expected bids, the City of Richmond, Madison County, requested a \$3 million Fund A loan increase to its previously approved \$10.142 million Fund A loan; resulting in a \$13.142 million Fund A loan amount for the \$13,524,021 Richmond-Silver Creek Outfall Sewer, Phase I project. The road boring subcontract, for which there were only two bids, was over a million dollars. The loan term is twenty years at a 0.50 percent interest rate.

The City of Jackson, Breathitt County, requested a \$1.017 million Fund A loan for its Jackson Sewer Rehabilitation project; East Main Street sewer repairs, Quicksand Road gravity sewer relocation due to a failing river bank, and a sewer system evaluation study. The loan term is thirty years at a 0.50 percent interest rate with estimated \$19,291 annual debt service.

The Farmdale Sanitation District, Franklin County, requested a \$300,000 Fund A loan for its Farmdale Sanitation District - Rehabilitation project; rehabilitation of the existing sanitary sewer collection systems in multiple areas. The loan term is twenty years at a one percent interest rate.

The City of Whitesburg, Letcher County, requested a \$1.8 million Fund A loan for its Sewer Lift Station Rehabilitation project; rehabilitation of the system's eighteen aging lift stations, including new pumps and appurtenances. The loan term is thirty years at a 0.25 percent interest rate with estimated



\$32,958 annual debt service.

The Hyden-Leslie County Water District requested a \$100,000 director level (200 KAR 17:010) Fund B loan increase to its previously approved \$2.735 million Fund B loan, resulting in a just over \$2.835 million Fund B loan amount to retire a Kentucky Rural Water Finance Corporation short-term note. The note refinanced debt for a \$4.1 million project; 61.5 miles of waterline, two fifty thousand gallon water tanks, and three pump stations; extending service to 317 customers. The loan term is thirty years with a 0.50 percent interest rate.

Due to a highway relocation project and construction issues such as adverse soil conditions and incorrectly marked utilities, some of which required hand excavation; the City of Stanford, Lincoln County, requested a \$268,293 Fund F loan increase to its previously approved \$2.69 million Fund F loan; resulting in a just over \$2.9 million Fund F loan amount for the \$4,368,793 Water System Upgrades project. The loan term is twenty years at a 0.25 percent interest rate. Senator Girdler thanked KIA for its loan to the city, which is in his district.

Senator Howell moved to approve the seven KIA submittals, seconded by Representative Thomas, and approved by unanimous roll call vote.

#### **School District Debt Issues with School Facilities Construction Commission Debt Service Participation**

Representative Thomas moved to roll the thirteen debt issues with SFCC participation into one roll call vote, seconded by Senator Howell, and approved without objection.

Mr. Barrow submitted thirteen debt issues with SFCC participation; seven for new projects and six to refinance debt. For new projects; the Breathitt County, Green County, Mason County, Owensboro Independent (Daviess County), Powell County, Shelby County and Union County school districts planned debt issuances totaling approximately \$108.3 million, with the SFCC and the districts paying just under five percent and seventy percent of the debt service and urgent needs funding supporting the remaining twenty-five percent (of Green County and Mason County's \$22.8 million and \$27.9 million projects, urgent needs funding financed around \$7 million and \$20 million). The school districts did not need an additional tax levy for debt service. Mr. Barrow noted that the Shelby County and Union County projects were previously reported or submitted. The Shelby County project was submitted with SFCC participation, utilizing its 2018 offer of assistance, rather than reported with solely district funding. The Union County project was resubmitted due to design approval delays [SFCC guidelines are one year for resubmittal].

The Edmonson County, Franklin County, Jackson Independent (Breathitt County), Jessamine County, Johnson County, and Perry County school districts planned refunding debt issues totaling about \$36 million, with the SFCC and districts paying around 18 percent and 82 percent of the debt service. In response to Senator McDaniel, Mr. Barrow said that school districts did not execute refundings in which they received upfront savings, although it may be economically feasible for larger transactions.

Representative Thomas moved to approve the thirteen debt issues with SFCC participation, seconded by Senator Howell, and approved by unanimous roll call vote.

Senator Girdler said he appreciated Senator McDaniel's and Representative Rudy's [former committee member] questions.

Senator Girdler said the upcoming March 16 meeting would be upon adjournment of both chambers.

With there being no further business the meeting adjourned at 5:15 p.m.

### **Capital Projects and Bond Oversight Committee Minutes**

March 15, 2021

#### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee meeting was held on Monday, March 15, 2021, at 10:30 AM, in Room 125 of the Capitol Annex. Representative Chris Freeland, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Chris Freeland, Co-Chair; Senators Jason Howell and Robin L. Webb; Representatives Jason Petrie and Walker Thomas.

Guests: Michael Hales, Interim Vice President for Administration and Finance/Chief Financial Officer, Northern Kentucky University; Janice Tomes, Deputy State Budget Director, Office of the State Budget Director; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; and Jenny Wells Lathrem, Committee Assistant.

#### **Approval of Minutes**

Senator Howell moved to approve the February

23, 2021, meeting minutes. Representative Thomas seconded the motion and the committee approved without objection.

#### **Information Items**

Ms. Halloran referenced three information items. Pursuant to KRS 45.760(5), the University of Kentucky reported a \$447,500 restricted funds vaccination clinic vehicle and refrigerated lab trailer purchase for its mobile pop-up testing and vaccination clinics. Pursuant to KRS 45.812(1), the Fayette, Johnson, and Marshall County school districts, none of which needed an additional tax levy to pay debt service, reported upcoming debt issues for new projects. Pursuant to KRS 45A.180(2), UK reported its intent to use the construction management-at-Risk project delivery method for the Delta Gamma Renovation/Addition.

#### **Report from Northern Kentucky University**

Mr. Hales submitted the NKU General Receipts Bonds, Series 2021 A taxable Kentucky Employees Retirement System cessation agency bond issue. With last year's passage of House Bill 1, NKU either could have remained in the KERS non-hazardous system or exited the system; paying off the employee liability in either installments or a lump-sum utilizing the hard freeze [moving all employees out of the system] or soft freeze [allowing employees participating prior to January 1, 2014 to remain in the system] option. Remaining in the KERS non-hazardous system would have increased NKU's annual pension contributions by over \$14 million; therefore, NKU worked with financial advisors and an actuarial firm to analyze the hard freeze and soft freeze lump-sum payment options and NKU's Board of Regents approved the soft freeze exit on December 2. In February, Moody's maintained NKU's underlying A1 rating (stable outlook). The submission shows an estimated \$278.19 million April issuance; however, recent passage of House Bill 8 will lower the employee liability and thereby the issuance amount [by \$73 million]. Senate Bill 214 provided the debt issuance's specific statutory authority and the State Property and Buildings Commission plans to review the transaction very soon. After the bond closing, NKU will pay its liability, as estimated by KERS, exiting the non-hazardous plan as of July 1. NKU will receive KERS's final calculation by January of next year. At that point, NKU will pay the difference between KERS's estimated and final calculation to conclude the process.

In response to Senator Howell, Mr. Hales said that a half a percentage (fifty basis points) rate increase could result in NKU paying an over \$15 million net present value amount (discounted through the term of the thirty-year debt issue).

Representative Thomas moved to approve the new debt issue, seconded by Senator Howell, and approved by unanimous roll call vote.

## **Report from the Finance and Administration Cabinet**

Ms. Tones submitted a capital equipment purchase; the Transportation Cabinet's (Department of Highways) \$825,000, \$275,000 each, acquisition of LiDAR Hardware and Software for three vans from Federal Highway Administration funds. The light detection and ranging system equipment uses lasers and sensors to create a 3D model of the scanned environment, providing critical data to fulfill Federal Highway Administration requirements as well as assist KYTC with project development, highway safety, and asset management.

Representative Thomas moved to approve the equipment purchase, seconded by Senator Howell, and approved by unanimous roll call vote.

## **Lease Report from the Finance and Administration Cabinet**

Mr. Aubrey reported a lease modification to amortize leasehold improvements under \$50,000 for the Transportation Cabinet, Department of Vehicle Regulation, Jefferson County. KYTC agreed to pay up to twenty-four percent, the electrical and interior painting, of the \$143,975 fit-up cost. Of the two estimates submitted, KYTC recommended accepting the low bids from John Waters and Bradley Boroughs; \$34,755 total to be amortized through the lease term which ends June 30, 2028.

## **Report from the Office of Financial Management**

### **Kentucky Infrastructure Authority**

Senator Girdler moved to roll the five KIA loans into one roll call vote, seconded by Senator Howell, and approved without objection.

Ms. Williams submitted four Clean Water State Revolving Fund (Fund A) loans and one Drinking Water State Revolving Fund (Fund F) loan. The City of Mount Sterling, Montgomery County, requested a \$11.825 million Fund A loan for its \$12.5 million Wastewater Capacity Upgrade project; increasing the capacity at Hinkston Creek Wastewater Treatment Plant from three million to six million gallons per day. This loan will be combined with a previously approved planning and design loan, bringing the total loan balance to \$12.35 million. \$150,000 in local funds will cover the remaining project costs. For 4,000 gallons, the current inside city monthly sewer rate is \$26.15. The loan term is twenty years at a one percent interest rate with estimated \$707,000 annual debt service.

The City of Providence, Webster County, requested a \$700,000 planning and design Fund A loan for its \$7.23 million Sanitary Sewer Upgrades project; wastewater treatment plant and collection system improvements addressing state enforcement

action. For 4,000 gallons, the current monthly sewer rate is \$20.67. The loan term is five years at a 2.50 percent interest rate.

The Louisville and Jefferson County Metropolitan Sewer District requested an \$8.27 million Fund A loan for its Rosa Terrace, Sanders, Wathen, and Sonne Pump Station project; replacing the Rosa Terrace and Sonne Avenue pump stations with sewer lines and rehabilitating the Wathen Lane and Sanders Lane pump stations. For 4,000 gallons, the current monthly sewer rate is \$51.45. The loan term is twenty years at a two percent interest rate with estimated \$520,300 annual debt service.

The City of Frankfort, Franklin County, requested a \$1.5 million Fund A loan for its Miami Trail Pump Station Replacement project; replacing the pump station with sewer lines, conveying the flow to the Chinook Pump Station. For 4,000 gallons, the current monthly sewer rate is \$42.72. The loan term is twenty years at a two percent interest rate with estimated \$94,400 annual debt service.

The City of Scottsville, Allen County, requested a \$696,500 [of which KIA will apply \$348,250 in principal forgiveness] Fund F loan for its AMR and Smart Meter Water Replacement project; replacing traditional water meters with automatic meter reading or advanced metering infrastructure/smart meter radio-read water meters. For 4,000 gallons, the current monthly water rate is \$33.15. The loan term is twenty years at a 0.25 percent interest rate with estimated \$18,700 debt service.

Senator Girdler moved to approve the five KIA loans, seconded by Representative Thomas, and approved by unanimous roll call vote.

### **Office of Financial Management**

#### **New Debt Issues**

Mr. Barrow submitted three new debt issues. The first was the Kentucky Public Transportation Infrastructure Authority First Tier Toll Revenue Refunding Bonds, Taxable 2021 Series A, which did not need committee approval. Mr. Barrow presented the initial first tier and subordinate debt, which along with a Transportation Infrastructure Finance and Innovation Act loan financed the Abraham Lincoln Bridge, to the committee in 2013. The estimated \$207.775 million transaction will refund all or a portion of the outstanding first tier revenue bonds at an estimated all-in true interest cost of just under five percent for an estimated \$17.6 million in net present savings, 9.709 percent. KPTIA may also add the outstanding TIFIA debt to the transaction.

Representative Thomas moved to roll the two Kentucky Housing Corporation conduit debt issues into one roll call vote, seconded by Senator Howell, and approved without objection. KHC conduit debt

issues are applied towards the state's private activity volume cap but affect neither the commonwealth's nor KHC's financials as the developer pays the debt service

Mr. Barrow submitted the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (The Alcove at Russell), Series 2021; estimated \$30 million transaction for a projected \$43.6 million project, 202 units in Lexington, and the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Cambridge Square), Series 2021; estimated \$33 million transaction for a projected \$76.6 million project, 200 units in Covington.

Representative Thomas moved to approve the two KHC conduit debt issues, seconded by Senator Howell, and approved by unanimous roll call vote.

## **School District Debt Issues with School Facilities Construction Commission Debt Service Participation**

Representative Thomas moved to roll the six debt issues with SFCC participation into one roll call vote, seconded by Senator Howell, and approved without objection.

Mr. Barrow submitted six debt issues with SFCC participation; two for new projects and four to refinance debt. For new projects, the Christian County and Glasgow Independent (Barren County) school districts, which did not need an additional tax levy for debt service, planned issuances totaling \$15.765 million; district and SFCC debt service supporting just over \$13.76 million, 87 percent, and \$2 million. For refundings, the Ashland Independent (Boyd County) (two issues), Fort Thomas Independent (Campbell County), and Jefferson County school districts planned issuances totaling \$20.905 million, district and SFCC debt service supporting around \$11 million (two districts), 53 percent, and \$9 million. Three of the four issues are taxable.

Representative Thomas moved to approve the six debt issues with SFCC participation, seconded by Senator Howell, and approved by unanimous roll call vote.

Representative Freeland announced the upcoming April 20, 2021 and May 11, 2021 meetings, both at 1:00 p.m.

With there being no further business the meeting adjourned at 11:00 a.m.

## **Administrative Regulation Review Subcommittee**

### **Minutes of the December Meeting**

December 3, 2020

#### **Call to Order and Roll Call**

The December meeting of the Administrative Regulation Review Subcommittee was held on

Thursday, December 3, 2020, at 1:00 PM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Julie Raque Adams, Alice Forgy Kerr, and Reginald Thomas; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Alan Harrison, UK Feed and Milk Programs; Sharron Burton, Personnel Cabinet; Justin McNeil, Kentucky Retirement Systems; Eden Davis, Larry Hadley, Board of Pharmacy; Carson Kerr, Jonathan Shrewsbury, Board of Optometric Examiners; Christopher Hunt, Mason McNulty, Board of Barbering; Jessica Estes, Morgan Ransdell, Board of Nursing; David Trimble, Board of Chiropractic Examiners; Bryan Morrow, Board of Licensure for Pastoral Counselors; Leah Boggs, Kevin Winstead, Office of Claims and Appeals; DJ Wasson, Department of Insurance; Marc Guilfoil, Chad Thompson, Jennifer Wolsing, Horse Racing Commission; Julie Brooks, Donna Little, Kelli Rodman; Department of Public Health; Patti Clark, Stephanie Craycraft, Justin Dearing, Phyllis Millsbaugh, Department for Behavioral Health, Developmental and Intellectual Disabilities; Rachel Ratliff, Department for Community Based Services; Joel Thornbury, Shannon Stiglitz, Kentucky Pharmacists Association; Robert Heleringer, Attorney.

LRC Staff: Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Nichols.

The Administrative Regulation Review Subcommittee met on Thursday, December 3, 2020, and submits this report:

Administrative Regulations Reviewed by this Subcommittee:

UNIVERSITY OF KENTUCKY: Agriculture Experiment Station: Milk and Cream

12 KAR 5:010. Licenses. G. Alan Harrison, director, Milk Program, represented the Agriculture Experiment Station.

In response to a question by Co-Chair West, Mr. Harrison stated that many of the amendments to these administrative regulations were related to administrative regulation sunset prevention. These administrative regulations had not been revised in over twenty (20) years. References were updated, and changes were made to ensure that dairy producers were properly paid. In addition these administrative regulations governed milk testers and sampler-weighers. Coronavirus (COVID-19) had caused the agency to reduce inspections.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 5:020. Testing.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 5:030. Test samples.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 5:040. Sampling and weighing.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 5:050. Inspections.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to clarify standards for the grading scale for sampler-weigher evaluations. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 5:060. Purchases from farm bulk tanks.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 5:070. Uniform standards for payment.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and

Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Office of the Secretary: Personnel Cabinet, Classified

101 KAR 2:210 & E. 2021 Plan Year Handbook for the Public Employee Health Insurance Program. Sharron Burton, deputy commissioner, represented the cabinet.

In response to a question by Co-Chair West, Ms. Burton stated that the Kentucky Public Employee Health Insurance Program Benefit Selection Guide was not ready for publishing each year until August or September, which did not leave enough time for the administrative regulation to become effective by January 1 of each year; therefore, the agency usually filed this as an emergency and ordinary administrative regulation each year. Additionally, the guide needed to be distributed to employees in October, which further limited the time for amending this administrative regulation.

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:149. Quasi-governmental employer cessation window. Justin McNeil, staff attorney, represented the systems.

In response to a question by Co-Chair Hale, Mr. McNeil stated that the agency amendment represented a technical correction.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 4 to correct the date for the employer cessation window to April 1, 2020. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:050. Licenses and Permits; Fees. Eden Davis, general counsel, and Larry Hadley, executive director, represented the board.

201 KAR 2:105. Requirements for wholesalers, medical gas wholesalers, wholesale distributors, and virtual wholesale distributors.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 through 3, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to: (a) add a definition for “component”, “illegitimate product”, and “product”; and (b) clarify the definition for “suspect product”; (3) to amend Section 5(3) and

(4) to clarify that these requirements shall be for a company that handles prescription drugs and drug-related devices exempt from the Drug Supply Chain Security Act (DSCSA); and (4) to amend Section 5(3)(b) to require records to be readily retrievable within forty-eight (48) hours.

201 KAR 2:106. Licensed or permitted facility closures.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:225. Special limited pharmacy permit – medical gas.

In response to a question by Representative Marzian, Mr. Hadley stated that this administrative regulation applied primarily to prescription oxygen for patients who used oxygen at home. It was possible that dental offices might also use oxygen.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 4 and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:240. Special limited pharmacy permit - Charitable.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:320. Requirements for manufacturers and virtual manufacturers.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to: (a) add a definition for “illegitimate product”, and “product”; and (b) clarify the definition of “suspect product”; (2) to amend Section 5(3) and (4) to clarify that these requirements shall be for a company that handles prescription drugs and drug-related devices exempt from the Drug Supply Chain Security Act (DSCSA); (3) to amend Section 5(3)(b) to require records to be readily retrievable within forty-eight (48) hours; and (4) to amend the TITLE; the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 5, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the

agency, the amendments were approved.

#### Board of Optometric Examiners

201 KAR 5:140. Dispensing. Carson Kerr, executive director, and Dr. Jonathan Shrewsbury, president, represented the board. Joel Thornbury, president, Kentucky Pharmacists Association, and Shannon Stiglitz, senior vice president of government affairs, Kentucky Retail Federation, for which the Kentucky Pharmacists Association is an affiliate.

In response to questions by Co-Chair Hale, Mr. Kerr stated that this administrative regulation codified provisions for optometrists to dispense medication that an optometrist is statutorily authorized to prescribe. This administrative regulation did not expand the scope of practice for optometrists or authorize the dispensing of controlled substances. KRS Chapter 217 and KRS 320.240 authorized this administrative regulation. The board received public comments, responded to those comments, and did not amend this administrative regulation in response to those comments. Dr. Shrewsbury stated that this administrative regulation did not change the board’s scope of practice.

In response to a question by Co-Chair Hale, Mr. Thornbury stated that the Board of Optometric Examiners was attempting to dispense medications. KRS 217.015 defined who a practitioner was. KRS 320.240 did not establish that optometrists may dispense medications; it uses “prescribe” and “administer.” Removing the pharmacists from this process was dangerous. Some patients saw multiple optometrists. The triage process was not always as thorough as that of the patient’s pharmacist. Pharmacies were required to be inspected. This administrative regulation would result in the storage of medications at optometrists’ offices, which would need to be inspected.

Ms. Stiglitz stated that KRS Chapter 320 did not reference “dispensing.” Advanced Practice Registered Nurses and physicians’ assistants sought specific statutory authority beyond what was in KRS Chapter 217 at the time to authorize dispensing of non-controlled medications under certain conditions. The Board of Optometric Examiners should seek similar specific authority from the General Assembly. It seemed that the General Assembly had encouraged well-regulated dispensing in Kentucky. By the board’s reasoning, any mid-level profession could assert authority if the action was not expressly prohibited by statute. A recent Supreme Court decision regarding horse racing opined that agencies were prohibited from claiming authority beyond the agency’s enabling statutes. This decision was intended for all state agencies.

In response to questions by Representative Marzian, Ms. Stiglitz clarified that a mid-level professional could not dispense without prescriptive

authority.

In response to a question by Co-Chair West, Mr. Kerr stated that the most common types of medications optometrists would be dispensing were eye drops and eye gels. Dr. Shrewsbury stated that optometrists had had the authority to dispense for a long time. The current problem related to wholesale medication companies that, because of coronavirus (COVID-19) and cost issues, were often unable to supply pharmacies with optometric medications in a timely fashion. KRS Chapters 217 and 320 already authorized optometrists to dispense, and this administrative regulation would actually limit dispensing by clarifying provisions.

In response to a question by Senator Thomas, Ms. Stiglitz stated that, while optometrists had statutory authority to prescribe and administer medications, “dispensing” was specifically defined by statute as a distinct act from prescribing or administering. Including dispensing with prescribing and administering would nullify the pharmacy statutes.

In response to a question by Representative Frazier, Mr. Kerr and Dr. Shrewsbury stated that the board would provide this subcommittee with information regarding how other states managed this issue. Ms. Stiglitz stated that many other states had specific, limited statutory authority for the provisions for optometrists dispensing medication. Ms. Stiglitz asked if the board would be willing to defer consideration of this administrative regulation to the January 2021 meeting of this subcommittee.

In response to questions by Representative Marzian, Mr. Kerr stated that deferral of this administrative regulation would require repromulgation by the agency. This was an emergent or urgent care situation, especially in rural areas. The decision in the *Family Trust Foundation of Kentucky, Incorporated v. Commonwealth of Kentucky Horse Racing Commission* determined that KRS 320.240(7) established the sole authority to determine what constituted the practice of optometry. Mr. Thornbury stated that, as a rural practitioner, patients’ health was paramount. Pharmacists would locate needed medications and served as a check and balance to protect patient health.

Co-Chair West stated that, if this administrative regulation proceeded to the second committee or committees, there would be another chance for further discussion with stakeholders. The Interim Joint Committee or Standing Committees on Health, Welfare, and Family Services were authorized to make amendments if necessary and might be better equipped to address the specific stakeholder concerns regarding this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend the RELATES



TO and the NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Board of Barbering

201 KAR 14:035. Public identification of and access to barber shops and schools. Christopher Hunt, attorney, and Mason McNulty, administrator, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 14:070. Shop license applications.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 14:095. Accredited school.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 14:100. School advertising.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 14:105. Barbering school enrollment and postgraduate requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 14:130. School fees for services.

A motion was made and seconded to approve the

following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 14:135. School attendance hours.

In response to a question by Co-Chair West, Mr. Hunt stated that the board had received requests to allow additional hours of attendance per week in order for students to finish the program more quickly. Additional hours were not added to the total required.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 14:140. School license.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Board of Nursing

201 KAR 20:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs. Dr. Jessica Estes, executive director, and Morgan Ransdell, general counsel, represented the board.

#### 201 KAR 20:390. Nursing Incentive Scholarship Fund.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 6, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Board of Chiropractic Examiners

201 KAR 21:001. Definitions for 201 KAR Chapter 021. David Trimble, counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 21:015. Code of ethical conduct and

standards of practice.

In response to questions by Co-Chair West, Mr. Trimble stated that once information was received by the board regarding a settlement over \$10,000, the matter would be remanded to the board's Complaint Committee to determine if more investigation was warranted. The matter would be kept confidential and would not become public unless the matter became a disciplinary issue, which would be addressed in a hearing in accordance with KRS Chapter 13B. Additionally, these matters were already reported to a federal data bank. The board did not believe that this would have a chilling effect on settlements.

Senator Thomas stated that there were civil settlements that remained confidential. If these settlements were not publicly disclosed, there would not seem to be concern of a chilling effect.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 21:025. Board, officers, duties, and compensation.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 21:045. Specialties.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 21:051. Board hearings.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 21:052. Appeal of denial of license.

201 KAR 21:053. Appeal of revocation of probation.

201 KAR 21:055. Colleges and universities; accreditation, approval.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements

of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:061. Repeal of 201 KAR 021:060.

201 KAR 21:065. Professional advertising; seventy-two (72) hour right of restriction.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:075. Peer review committee procedures and fees.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:085. Preceptorship Program.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Pastoral Counselors

201 KAR 38:070. Renewal of licenses and continuing education. Bryan Morrow, attorney, represented the board.

PUBLIC PROTECTION CABINET: Office of the Secretary: Tax Appeals

802 KAR 1:010 & E. Tax appeal procedures. Leah Boggs, executive advisor, and Kevin Winstead, general counsel, represented the office.

In response to a question by Co-Chair Hale, Mr. Winstead stated that these administrative regulations were necessary to implement the reorganization Executive Order that abolished the Kentucky Claims Commission and established the Office of Claims and Appeals in its place and established three (3) separate boards attached to the office. This would streamline processes and address a backlog of about 150 existing tax appeals cases.

In response to questions by Co-Chair West, Mr. Winstead stated these administrative regulations were filed on an emergency basis because the three (3) boards needed provisions in place to be able to function. Waiting on ordinary administrative regulations would leave the boards unable to move forward on the tax appeal backlog and would create additional backlog.

These boards all addressed topics that directly related to public health, safety, or welfare. Ms. Boggs stated that the office had statutory authority to promulgate administrative regulations. The Executive Order established the new office and boards. Legislative action to ratify the Executive Order would be taken up during the next Regular Session of the General Assembly of Kentucky. Mr. Winstead stated that this was the normal reorganization process.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 5 and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Negligence Claims

802 KAR 2:010 & E. Negligence claims before the Board of Claims.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 6, 7, 10, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Crime Victims Claims

802 KAR 3:010 & E. Crime victims compensation.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:030. Adjuster licensing restrictions. DJ Wasson, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1)

cross reference the disclosure form in 806 KAR 3:210 that may be used to provide the disclosure required under KRS 304.9-135(2)(c); and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 9:370. Preneed funeral agent license.

In response to questions by Co-Chair Hale, Ms. Wasson stated that this administrative regulation increased a limited agent license for pre-need insurance policies sold to pay for funeral expenses. The \$25,000 limit was the standard for a pre-need policy. The limit would prevent agents from selling full life insurance policies or annuities for other purposes without a standard license.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 3, and 4 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Trade Practices and Frauds

806 KAR 12:170. Life insurance disclosures.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Insurance Premium Finance Companies

806 KAR 30:010. Application for license procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE, the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs, and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add a Section 5 for material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 30:070. Books and records subject to inspection.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Liability Self-insurance Groups

806 KAR 46:040. Forms for application and

financial statements.

#### Workers' Compensation Self-insured Groups

806 KAR 52:010. Forms for application, security deposits and financial statements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Vital Statistics

901 KAR 5:120. Abortion reporting. Julie Brooks, regulation coordinator, represented the department.

In response to questions by Representative Marzian, Ms. Brooks stated that the cost of \$48,000 was for reports and came through the Office of Vital Statistics.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 5 and the material incorporated by reference to require additional information in accordance with KRS 213.101 and KRS Chapter 311. Without objection, and with agreement of the agency, the amendments were approved.

#### Communicable Diseases

902 KAR 2:220 & E. School notification standards related to COVID-19.

#### Local Health Departments

902 KAR 8:160 & E. Local health department operations requirements.

A motion was made and seconded to approve the following amendment: to amend Section 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

902 KAR 8:170 & E. Local health department financial management requirements.

In response to a question by Co-Chair West, Ms. Brooks stated that this administrative regulation clarified the distinction between personal service contracts and other types of contracting. A personal service contract was used in situations in which positions could not be filled through a standard, open register.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 2, 7, and 9 to comply

with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Sanitation

902 KAR 10:030. Registered environmental health specialists and sanitarians. Patti Clark, program manager; Justin Dearing, program administrator; and Phyllis Millspaugh, assistant director, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 3, 4, 6 through 8, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Milk and Milk Products

902 KAR 50:040. Hauler requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; AND NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 5 to require all Grade A bulk tank raw milk to be collected at least every seventy-two (72) hours rather than every forty-eight (48) hours. Without objection, and with agreement of the agency, the amendments were approved.

#### Department for Behavioral Health, Developmental and Intellectual Disabilities: Substance Abuse

908 KAR 1:381. Repeal of 908 KAR 001:380.

908 KAR 1:400. Licensing and standards for substance use and misuse prevention.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 7, and 12 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to reference the administrative regulation for licensing for Alcohol and Other Drug Prevention agencies (AODP), 908 KAR 1:370. Without objection, and with agreement of the agency, the amendments were approved.

#### Child Welfare

922 KAR 1:450 & E. Eligibility confirmation for tuition waiver. Mary Carpenter, assistant director, and Rachel Ratliff, regulation coordinator, represented the department.

922 KAR 1:520 & E. Supplements to per diem

rates.

Other Business: Staff read a resolution adjourning this subcommittee in honor of Representative Tommy Turner upon his retirement from the General Assembly. A motion was made and seconded to approve the resolution. Without objection, the resolution was approved. Co-Chair Hale stated that Representative Turner was more than a colleague; he was a great friend and an advocate for sportsmen throughout the Commonwealth. He would be missed.

The following administrative regulations were deferred or removed from the December 3, 2020, subcommittee agenda:

#### BOARDS AND COMMISSIONS: Board of Architects

201 KAR 19:215. Accredited schools and colleges.

201 KAR 19:220. Application for examination.

201 KAR 19:225. Examinations required; general provisions.

201 KAR 19:230. Reexamination; reconsideration.

201 KAR 19:235. Reciprocity; registration without examination.

201 KAR 19:240. Resident licensed in another state; reciprocity.

201 KAR 19:245. Duplicate certificates.

201 KAR 19:250. Temporary licensing not permitted.

201 KAR 19:255. Fees.

201 KAR 19:260. Professional practice standards; violations, penalties.

201 KAR 19:265. Individual seals; office titles.

201 KAR 19:270. Plans and specifications standards.

201 KAR 19:275. Use of title "architect".

201 KAR 19:410. Accredited schools and colleges for certified interior designers.

201 KAR 19:415. Application for certification as an interior designer.

201 KAR 19:420. Qualifications for certification.

201 KAR 19:425. Limited period of certification by prior experience.

201 KAR 19:430. Certification by persons credentialed in other jurisdictions.

201 KAR 19:435. Certification renewal.

201 KAR 19:440. Fees for certification of interior designers.

201 KAR 19:445. Continuing education.

201 KAR 19:450. Signature of documents by certified interior designers; use of title.

201 KAR 19:455. Unprofessional conduct.

Board of Licensure of Marriage and Family Therapists

201 KAR 32:035. Supervision of marriage and family therapist associates.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 2:231. Repeal of 601 KAR 002:030.

601 KAR 2:232 & E. Kentucky Ignition Interlock Program.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Education: General Administration

702 KAR 1:190E. District employee emergency leave.

Facilities Management

702 KAR 4:090. Property disposal.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:091. Workers' compensation hospital fee schedule.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:025. Licensing process.

806 KAR 9:360. Pharmacy benefit manager license.

Trade Practices and Frauds

806 KAR 12:120. Suitability in annuity transactions.

806 KAR 12:150. Annuity disclosures.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:001. Definitions for 810 KAR Chapter 001.

810 KAR 1:011. Pari-mutuel wagering.

810 KAR 1:120. Exotic wagering.

Harness Racing

811 KAR 1:005. Definitions.

811 KAR 1:125. Pari-mutuel wagering.

811 KAR 1:250. Exotic wagering.

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:010. Definitions.

811 KAR 2:060. Pari-mutuel wagering.

811 KAR 2:120. Kentucky Horse Breeders' Incentive Fund.

811 KAR 2:160. Exotic wagering.

Horse Racing Commission: Licensing

810 KAR 3:020. Licensing of racing participants. Marc Guilfoil, executive director; Chad Thompson, deputy general counsel; and Jennifer Wolsing, general counsel, represented the commission. . Robert Heleringer, attorney and former Kentucky Representative, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair Hale, Ms. Wolsing stated that this administrative regulation established financial responsibility requirements, which protected businesses in the horse racing industry from insolvent or recalcitrant debtors. The original version of these provisions required that there be an unsatisfied, unappealable, and final judgment to ensure that there was no dispute regarding whether or not a debt was owed. A court determination concluded that the previous version of this administrative regulation did not include debts arising from non-licensed businesses in the horse racing industry. The commission believed that there was no reason to exclude non-licensed businesses related to the horse racing industry. In the past nine (9) years, almost half of the financial responsibility complaints received by the commission pertained to non-licensed businesses, such as feed and supply businesses, boarding services, and transportation entities. After the November meeting of this subcommittee, the commission developed an agency amendment to address the concerns expressed at that meeting. The agency amendment proposed to use standards from New York for consistency with other racing states, which took a broad view related to financial responsibility. The proposed agency amendment also eliminated concerns that the commission could revoke or suspend a license if the licensee was making payments toward the debt pursuant to an agreed payment plan. This proposal would not lead to a litigation glut because New York did not encounter a glut using the same language.

In response to a question by Co-Chair Hale, Mr. Heleringer stated that he was opposed to this administrative regulation, which represented a huge expansion of authority. While this administrative regulation pertained to a former client, Mr. Heleringer

was not appearing on behalf of any client. The proposed agency amendment further expanded the list of entities to which a licensee might owe a debt that would indicate financial irresponsibility to virtually anyone anywhere. A person who was already in debt needed gainful employment to pay outstanding debts, and these requirements could deny employment due to lack of licensure. The requirements were not specific enough. A yard sale dispute could even become part of this matter. The important licensees, such as wealthy well-known owners, would not be included as financially irresponsible even though many of them had financial disputes. This was retaliation against a former client. This would turn the commission into a collection agency. This proposed agency amendment was worse than the previous administrative regulation. The debts that were considered financial irresponsibility should only include debts between licensees.

Co-Chair Hale clarified that this subcommittee did not reject this administrative regulation at the November meeting. This administrative regulation was deferred, with agreement from the agency, at that meeting.

Senator Thomas stated that he informally checked with the Kentucky Bar Association, who stated that the bar could take disciplinary action in a matter of financial irresponsibility between licensees after a judgment if restitution was still not taking place. Disciplinary action could include disbarment. This type of situation, like matters addressed by this administrative regulation, did seem like financial irresponsibility. The proposed agency amendment seemed appropriate, especially given that the language was the same as that used in New York.

In response to a question by Senator Thomas, Mr. Heleringer stated that the example of Kentucky Bar Association was commensurate with the current version of this administrative regulation, which addressed financial matters between licensees. The proposed agency amendment would include non-licensed entities. If the commission wished to include entities such as breeders, those could be included specifically in the body of this administrative regulation. Specificity was needed.

Senator Adams stated that, while she typically supported administrative regulations from the commission, this seemed punitive and the result of a specific situation. It seemed like overreach. Senator Adams requested to be recorded as voting in opposition to this administrative regulation. In response, Ms. Wolsing stated that the commission, previous to the court determination, considered financial responsibility requirements to relate to non-licensed, horse-racing related entities. The commission intended to include those non-licensed, horse-racing related entities as part of this updated administrative regulation.

In response to questions by Co-Chair West, Ms. Wolsing stated that the commission, in the past nine (9) years, had received a total of seventy-nine (79) verified financial responsibility complaints, over forty-eight (48) percent of which related to non-licensed entities. The commission averaged ten (10) to twelve (12) financial irresponsibility complaints per year. Prior to the court determination, the commission interpreted this administrative regulation to apply to licensed and non-licensed occupations. This updated administrative regulation would clarify the commission's original intent. Co-Chair West stated that administrative regulations should be more specific, not less. This seemed overly broad. Ms. Wolsing responded that this administrative regulation established that this is based on a final, unappealable judgment; therefore, things like yard sales would not be included.

In response to a question by Co-Chair Hale, Mr. Thompson stated that there was no retaliatory intent with regard to this administrative regulation; however, this proposed revision was in response to that decision in order to clarify the matter. For two (2) years there were no payments made regarding the judgement in question. Payments only began after the case was domesticated. That type of situation seemed to signify bad faith of the person seeking licensure.

In response to a question by Representative Marzian, Ms. Wolsing stated that the commission preferred not to include specifically in the administrative regulation the types of non-licensed entities that might be related to the horse-racing industry because the court decision indicated that this administrative regulation could not be used against all unlicensed occupations. Additionally, the commission was afraid that some entities would be inadvertently left off the list.

In response to a question by Senator Adams and Representative Marzian, Ms. Wolsing stated that this administrative regulation applied to entities with a final, unappealable judgement that was brought to the attention of the commission. Generally, a non-horse-racing-related entity would not be bringing a case to the commission.

In response to a question by Co-Chair Hale, Mr. Heleringer stated that his client consented to the agreed order to make monthly payments and was making those payments when the court made its determination. There was no driving need for this change until the court determination was made. This administrative regulation was overly broad and would result in the commission becoming a collection agency. The commission would be open to a glut of litigation. Banks, credit card agencies, and similar entities would be aware of this change and would use it as an enforcement mechanism. This would not be applied to, for example, influential and famous horse breeders. Instead, less powerful licenses would be

impacted and might lose employment if licensure was revoked or suspended.

In response to a question by Senator Adams, Ms. Wolsing agreed to defer consideration of this administrative regulation to the January 2021 meeting of this subcommittee. A motion was made and seconded to defer consideration of this administrative regulation to the January 2021 meeting of this subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Department for Public Health: Communicable Diseases

902 KAR 2:210E. Covering the face in response to a declared national or state public health emergency.

Food and Cosmetics

902 KAR 45:180. Permits and fees for food manufacturing plants, food storage warehouses, salvage processors and distributors, cosmetic manufacturers, and certificate of free sale.

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:035 & E. Certification process.

921 KAR 3:042. Supplemental Nutrition Assistance Program Employment and Training Program.

Child Welfare

922 KAR 1:500. Educational and training vouchers.

Daycare

922 KAR 2:405E. Enhanced requirements for certified and licensed child care and limited duration child care programs as a result of a declared state of emergency.

The subcommittee adjourned at 3 p.m. The next meeting of this subcommittee is tentatively scheduled for January 12, 2021, at 1 p.m.

## **Administrative Regulation Review Subcommittee**

### **Minutes of the January Meeting**

January 13, 2021

#### **Call to Order and Roll Call**

The January meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, January 13, 2021, at 8:00 AM, in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Julie Raque Adams, Alice Forgy Kerr, and David Yates; Representatives Randy Bridges, Deanna Frazier, and Mary Lou Marzian.

Guests: Leanne Diakov, Board of Medical Licensure; Larry Brandstetter, Cordelia Harbut, Stephanie McCrery, Ann-Tyler Morgan, Board of Architects; Todd Allen, Robin Chandler, David Cook, David Couch, Matthew Courtney, Kelly Foster, Denise Hartsfield, Lisa Moore, Marty Park, Micki Ray, Matt Ross, Department of Education; DJ Wasson, Department of Insurance; Jamie Eads, Marc Guilfoil, Chad Thompson, Jennifer Wolsing, Horse Racing Commission; Max Fuller, Benjamin Siegel, Department of Housing, Buildings, and Construction; Julie Brooks, Department for Public Health; Lee Guice, Lisa Lee, Jonathan Scott, Department for Medicaid Services; Victoria Elridge, Amy Metzger, Marnie Mountjoy, Phyllis Sosa, Tonia Wells, Department for Aging and Independent Living; Laura Begin, Donna Little, Paula Saenz; Department for Community Based Services; Robert Heleringer, Attorney.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Carrie Nichols, and Christy Young.

The Administrative Regulation Review Subcommittee met on Wednesday, January 13, 2021, and submits this report:

**The subcommittee determined that the following administrative regulation was deficient pursuant to KRS 13A.030(2)(a):**

**PUBLIC PROTECTION CABINET:** Horse Racing Commission: Licensing

810 KAR 3:020. Licensing of racing participants. Jamie Eads, deputy executive director; Marc Guilfoil, executive director; Chad Thompson, deputy general counsel; and Jennifer Wolsing, general counsel, represented the commission. Robert Heleringer, attorney and former Kentucky Representative, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation protected the horse-racing industry from insolvent or recalcitrant debtors, especially regarding cases of complaints brought to the attention of the commission after unappealable final judgments. A prior court determination concluded that this administrative regulation only applied to licensee debts payable to other commission-licensed entities. Almost 50 percent of complaints regarding financial irresponsibility were complaints regarding debts payable to nonlicensed entities. Prior to the court's determination, the commission interpreted financial responsibility provisions in this administrative regulation as



applying to licensees with debts payable to licensed or nonlicensed, horse-racing industry related entities. This administrative regulation represented a rewrite of provisions to clarify that provisions applied to licensed and nonlicensed, horse-racing industry related entities. The proposed agency amendment to this administrative regulation should remedy past concerns of the subcommittee by specifically listing the nonlicensed entities to be included as those to whom a licensee could be indebted and included in a complaint to the commission.

In response to a question by Co-Chair West, Mr. Heleringer stated that he was opposed to this administrative regulation, which represented a huge expansion of the commission's authority. While this administrative regulation pertained to a former client, Mr. Heleringer was not appearing on behalf of any client. The proposed agency amendment did not remedy concerns that this administrative regulation vastly expanded the commission's scope of enforcement beyond what was statutorily authorized. This was an attempt to circumvent the court's determination. Because the list in the proposed agency amendment included the words, "such as," the list was not exhaustive and represented only examples. Financial disputes between the commission's licensees were the only matters that were appropriate for considerations of financial responsibility.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation did not represent an expansion of the commission's authority. If a licensee had a debt with a nonlicensed, horse-racing industry related entity, that debt should be able to be included in matters pertaining to financial irresponsibility, and the commission should be able to take appropriate action. The list of entities in the proposed agency amendment was limited to those entities listed or similar entities in the horse-racing industry. The commission was not retaliating and was cleaning up this administrative regulation to support the agency's original intent.

In response to a question by Co-Chair West, Mr. Heleringer stated that, while the commission had stated that it was not retaliating, this administrative regulation would provide for the possibility of retribution to his former client. The commission should seek legislation that specifically established this authority. This administrative regulation would put the commission in the collections business and might result in significant litigation.

Co-Chair Hale stated that this subcommittee had considered this administrative regulation at three subcommittee meetings, but none of the agency's proposed amendments had alleviated concerns.

Representative Bridges stated that this administrative regulation gave very broad authority to the commission. The nonlicensed entities listed were

only examples; therefore, the list was not exhaustive or specific.

Co-Chair West stated that there were multiple red flags related to this administrative regulation. Did this administrative regulation reflect legislative intent? Was this matter legislative or regulatory? Did this constitute special legislation? Were these requirements aimed at one individual? This seemed to constitute a major change to the commission's authority. This might also be an expansion of the court process in that a debtor, after a final judgment, could face additional action (a second penalty). Will this administrative regulation be applied equally to large and small breeders?

In response to a question by Co-Chair West, Mr. Heleringer stated that he agreed with Co-Chair West's concerns. These provisions could still apply even if payments were being made toward a final judgment. This could result in a loss of occupational income for someone who already had unpaid debt obligations. This was an attempt to circumvent the court's determination. There was the potential for selective enforcement of these provisions. Expressed statutory authority was necessary.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation was not special legislation and was not a mechanism for retaliation. The commission had never failed to act upon a verified case of financial irresponsibility, regardless of the influence of the licensee. This was not selective enforcement, and there was no provision for selective enforcement in this administrative regulation. This was not an expansion of the court process. This was a clarification of the procedures the commission had followed for years. The commission did not expect an increase in litigation as a result of this administrative regulation. Mr. Thompson stated that there was no retaliatory intention toward Mr. Heleringer's former client, but that this represented a clarification of procedures resulting from the court's determination in that case. In that case, the debtor was actively subverting the restitution process, which would be an appropriate matter for action by the commission. In that case, Mr. Heleringer's former client was not acting in good faith and had attempted to gain licensure through his wife's application for a license after he was denied. In response, Mr. Heleringer stated that was a misrepresentation of the situation, which further supported the assertion that this was retaliatory on the part of the commission. In response, Mr. Thompson stated that there was no retaliatory intent.

In response to a question by Co-Chair West, Mr. Guilfoil stated that he had previously served as a steward in the horse-racing industry and had addressed these sorts of issues in that capacity. This administrative regulation represented a codification

of those procedures at the commission level. Most matters of this type were successfully addressed at the steward level. There was no retaliatory intent pertaining to this administrative regulation.

In response to a question by Co-Chair West, Mr. Heleringer agreed that most debts between licensees were handled by the stewards without full action of the commission. This new version of this administrative regulation was more than a codification of steward procedures but was a significant expansion, which would involve more than disputes between commission licensees.

Senator Yates stated that sometimes powerful entities found ways to use administrative regulations to their advantage. There might be unintended consequences of these provisions. For example, could a mortgage company use this as a way to seek payment? It was necessary to protect the industry, but this administrative regulation might represent an expansion that would give undue advantage to the powerful. The commission should attempt to more narrowly tailor these provisions.

Co-Chair West made a motion, seconded by Representative Frazier, to find this administrative regulation deficient. A roll call vote was conducted, and it was determined that this administrative regulation was found deficient.

As a procedural precaution, Co-Chair West withdrew his motion, and Representative Frazier withdrew her second to find this administrative regulation deficient. Co-Chair West made a motion, seconded by Co-Chair Hale, to find this administrative regulation deficient. A roll call vote was conducted. With five present members voting in support of the motion and two members appearing in their districts via videoconference voting in support of the motion, the motion was approved. This administrative regulation was found deficient.

*Compiler's Note: Pursuant to KRS 13A.335(3) (a), a new Section 25 was added to this administrative regulation to reflect the finding of deficiency.*

#### **Administrative Regulations Reviewed by this Subcommittee:**

BOARDS AND COMMISSIONS: Board of Medical Licensure

201 KAR 9:081. Disciplinary proceedings. Leanne Diakov, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were

approved.

#### Board of Architects

201 KAR 19:215. Accredited schools and colleges. Larry Brandstetter, board member; Cordelia Harbut, executive director; Stephanie McCrery, president; and Anne-Tyler Morgan, attorney, represented the board.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 19:220. Application for examination.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:225. Examinations required; general provisions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:230. Reexamination; reconsideration.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:235. Reciprocity; registration without examination.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to add Section 4 to establish material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:240. Resident licensed in another state; reciprocity.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 19:245. Duplicate certificates.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:250. Temporary licensing not permitted.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 19:255. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to delete fees relating to the failure to notify the board of a change in information and for duplicate documents; (2) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 2 to: (a) clarify methods of payment to include payments by debit and credit card; and (b) delete the requirement for a check to be certified; and (4) to add Section 4 to establish material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:260. Professional practice standards; violations, penalties.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5 to comply with the drafting requirements of KRS Chapter 13A; and (2) to add Section 7 to establish provisions for advertising through the Internet or other electronic means. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 19:265. Individual seals; office titles.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY

paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:270. Plans and specifications standards.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 19:275. Use of title "architect".

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:410. Accredited schools and colleges for certified interior designers.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:415. Application for certification as an interior designer.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 19:420. Qualifications for certification.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:425. Limited period of certification by prior experience.

A motion was made and seconded to approve

the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:430. Certification by persons credentialed in other jurisdictions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:435. Certification renewal.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add Section 3 to establish material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:440. Fees for certification of interior designers.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:445. Continuing education.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 4 and 6 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 6 to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:450. Signature of documents by certified interior designers; use of title.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:455. Unprofessional conduct.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Education: Office of Chief State School Officer

701 KAR 5:150. Nontraditional instruction program. Todd Allen, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

General Administration

702 KAR 1:190E. District employee emergency leave.

In response to questions by Co-Chair Hale, Mr. Allen stated that this emergency administrative regulation provided school districts with the option for paid emergency leave related to the coronavirus (COVID-19) pandemic. Senate Bill 177 from the 2020 Regular Session of the General Assembly had these same provisions, but those provisions had expired. School districts were consulted, and the department received one public comment, which was in support of this emergency administrative regulation.

Facilities Management

702 KAR 4:090. Property disposal.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Instruction

704 KAR 3:035. Annual professional development plan.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

704 KAR 3:305. Minimum requirements for high school graduation.

A motion was made and seconded to approve the

following amendments: to amend Sections 3, 4, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

704 KAR 3:325. Effective Instructional Leadership Act.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Academic Standards

704 KAR 8:100. Kentucky Academic Standards for Library Media Elective.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 2:095. Accounting and reporting requirements for collecting local government premium tax. DJ Wasson, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Surplus Lines

806 KAR 10:030. Surplus lines reporting and tax payment structure.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Trade Practices and Frauds

806 KAR 12:010. Advertising.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 20 to comply with the drafting

and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 12:020. Fair disclosure to consumers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 12:150. Annuity disclosures.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 12:180. Military sales practices.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Rates and Rating Organizations

806 KAR 13:020. Excess rates; consent form.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Health Maintenance Organizations

806 KAR 38:100. Risk-based capital for health organizations.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 and 8 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Insurance Fraud

806 KAR 47:010. Fraud prevention.

A motion was made and seconded to approve

the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Licensing: Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:120. Kentucky Horse Breeders' Incentive Fund. Jamie Eads, deputy executive director; Marc Guilfoil, executive director; Chad Thompson, deputy general counsel; and Jennifer Wolsing, general counsel, represented the commission.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation was initially being amended to make technical corrections to prevent sunset of these provisions. After notification, meetings with stakeholders, and an informal public hearing with a Statement of Consideration, the commission developed the proposed agency amendments, which primarily provided for independent certification of the number of horses of a given breed. If a Kentucky affiliate was unable to find an independent third party, commission staff were able to perform the certification at a fee of \$120 per hour. Additionally, for a horse to be included in the certification, the horse had to be the offspring of a DNA-verified sire or dam, with a three generation pedigree on either side of parentage.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition for "show horse"; (2) to amend Section 2 to require: (a) Kentucky affiliates to have an IRS 501(c) designation; (b) one (1) member of the advisory committee to have established knowledge of gaited horses; (c) re-registration of Kentucky affiliates; (d) a Kentucky affiliate who is the national breed organization to obtain certification by an independent third party, or by the commission at a fee of \$120 per hour; (e) certified horses to have parentage verified by DNA; and (f) certification data to be provided to the commission electronically; (3) to amend Section 3 to require: (a) the commission to notify the Kentucky affiliate of the total dollars allocated to that affiliate; (b) a Kentucky affiliate to notify the commission of the names of incentive winners, the horses registered to that affiliate, and the date of each registration; (c) the commission to generate claim forms within 30 days of notification; (d) a Kentucky affiliate to provide the forms to its incentive winners and to certify that the required notification has occurred; (4) to amend Section 4 to require the semiannual report to include a list of all horses registered, current board members, and current contact information; and (5) to amend Section 6 to allow the commission to bar registration for violations from one to twenty years

based on the severity and repetition of violations. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Electrical

815 KAR 35:015. Certification of electrical inspections. Benjamin Siegel, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Food and Cosmetics

902 KAR 45:180. Permits and fees for food manufacturing plants, food storage warehouses, salvage processors and distributors, cosmetic manufacturers, and certificate of free sale. Julie Brooks, regulation coordinator, represented the department.

In response to a question by Co-Chair West, Ms. Brooks stated that the proposed agency amendment to this administrative regulation restored the fee structure based on a facility's square footage and the risk level of the food being processed or stored.

Co-Chair West thanked the department for working with stakeholders to come to a consensus regarding this administrative regulation. In response, Co-Chair Hale agreed with Co-Chair West and stated that this was the way the system was intended to work.

A motion was made and seconded to approve the following amendments: to amend Section 3 to revise the fee structure so that fees are based on the facility's square footage and the risk level of the food being processed or stored. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Payments and Services

907 KAR 3:250. Programs of All-Inclusive Care for the Elderly (PACE). Lisa Lee, commissioner; Lee Guice, director of policy and operations; and Jonathan Scott, regulatory and legislative advisor, represented the department.

Department for Aging and Independent Living: Aging Services

910 KAR 1:151. Repeal of 910 KAR 001:150 and 910 KAR 001:160. Victoria Elridge, commissioner; Amy Metzger, division director; Marnie Mountjoy, assistant director; Phyllis Sosa, staff assistant; and

Tonia Wells, division director, represented the department.

#### Guardianship

910 KAR 2:060. Guardianship Trust Fund.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, and 6 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:020. Financial requirements. Laura Begin, regulation coordinator; Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs; and Paula Saenz, branch manager, represented the department.

In response to questions by Senator Yates and Co-Chair West, Ms. Begin stated that provisions for SNAP benefits to be terminated after lottery or gambling winnings were included in order to conform with federal guidelines. Ms. Begin stated that SNAP benefits were prohibited from use in purchasing lottery chances. Senator Yates stated his concerns that many with limited means were spending excessive amounts on lottery chances. It was important to educate citizens about this matter.

921 KAR 3:030. Application process.

A motion was made and seconded to approve the following amendments: to amend Section 9 and material incorporated by reference to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

921 KAR 3:042. Supplemental Nutrition Assistance Program Employment and Training Program.

#### Child Welfare

922 KAR 1:500. Educational and training vouchers.

Other Business: Co-Chair West welcomed new subcommittee members, Senator David Yates and Representative Randy Bridges.

The following administrative regulations were deferred or removed from the January 13, 2021, subcommittee agenda:

TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 2:231. Repeal of 601 KAR 002:030.

601 KAR 2:232 & E. Kentucky Ignition

Interlock Program.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:091. Workers' compensation hospital fee schedule.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:025. Licensing process.

806 KAR 9:360. Pharmacy benefit manager license.

Trade Practices and Frauds

806 KAR 12:120. Suitability in annuity transactions.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:001. Definitions for 810 KAR Chapter 001.

810 KAR 1:011. Pari-mutuel wagering.

810 KAR 1:120. Exotic wagering.

Harness Racing

811 KAR 1:005. Definitions.

811 KAR 1:125. Pari-mutuel wagering.

811 KAR 1:250. Exotic wagering.

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:010. Definitions.

811 KAR 2:060. Pari-mutuel wagering.

811 KAR 2:160. Exotic wagering.

Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:150. Inspections and tests. Benjamin Siegel, general counsel, represented the department.

In response to questions by Representative Frazier, Mr. Siegel stated that remote inspections applied mostly to water heaters and a few rough-in inspections. Remote inspections were only conducted at the request of a master plumber after consideration and approval by the department. These provisions were not intended to expire after the coronavirus (COVID-19) pandemic. The department would not authorize a remote inspection if there was a possibility of fraud or a cross-connection between water and sewer lines.

Representative Frazier stated that she had concerns about this administrative regulation because, even for a water heater inspection, there seemed to be the potential for fraud. Representative Frazier made a motion to find this administrative regulation deficient.

In response to a question by Co-Chair West, Representative Frazier withdrew her motion to find this administrative regulation deficient.

In response to a question by Co-Chair West, Mr. Siegel agreed to defer consideration of this administrative regulation to the February 2021 meeting of this subcommittee. A motion was made and seconded to defer consideration of this administrative regulation to the February 2021 meeting of this subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Health Services and Facilities

902 KAR 20:160 & E. Chemical dependency treatment services and facility specifications.

902 KAR 20:440 & E. Facilities specifications, operation and services; residential crisis stabilization units.

Department for Public Health: Food and Cosmetics

902 KAR 45:190. Hemp-derived cannabidiol products and labeling requirements.

Department for Medicaid Services: Behavioral Health

907 KAR 15:070 & E. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

907 KAR 15:080 & E. Coverage provisions and requirements regarding chemical dependency treatment center services.

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:035 & E. Certification process. Laura Begin, regulation coordinator; Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs; and Paula Saenz, branch manager, represented the department.

In response to questions by Co-Chair West, Ms. Begin stated that this administrative regulation lengthened the certification period for SNAP benefits, especially during the coronavirus (COVID-19) pandemic. Certification errors might have caused SNAP benefits to be terminated inappropriately during a time of food scarcity. This administrative regulation made a conforming amendment to delete



a cross-reference citation related to the administrative regulation that allowed a noncustodial parent who owed child support to continue to receive SNAP benefits. That administrative regulation had been found deficient by the Interim Joint Committee on Health, Welfare, and Family Services on September 23, 2020. The intent of the legislature was that noncustodial parents who owed child support were to stop receiving SNAP benefits; however, that administrative regulation, although it had been found deficient, was still effective. This administrative regulation included a citation deletion related to the one found deficient, but was filed prior to the finding of deficiency.

In response to questions by Co-Chair Hale, Ms. Begin stated that she did not readily have information regarding how many new Kentuckians became eligible for SNAP during the coronavirus (COVID-19) pandemic; however, she would provide the subcommittee with that information. Ms. Little stated that this administrative regulation included a deleted cross-reference citation related to the administrative regulation that was found deficient. This administrative regulation was filed prior to the finding of deficiency. Subcommittee staff previously stated that this cross reference could not be corrected via the technical amendment process because it would constitute a substantive change; therefore, this administration had been filed through the standard process to make this correction.

In response to a question by Co-Chair West, Ms. Little stated that the department agreed to defer consideration of this administrative regulation to the February 2021 meeting of the subcommittee.

A motion was made and seconded to approve the following amendments: to amend Section 8 and material incorporated by reference to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made and seconded to defer consideration of this administrative regulation to the February 2021 meeting. Without objection, and with agreement of the agency, this administrative regulation was deferred.

Department for Community Based Services: Daycare

922 KAR 2:120. Child-care center health and safety standards.

The subcommittee adjourned at 10:15 a.m. The next meeting of this subcommittee is tentatively scheduled for February 8, 2021, at 10 a.m.

## Administrative Regulation Review Subcommittee

### Minutes of the March Meeting

March 8, 2021

#### Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 8, 2021, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Julie Raque Adams, Alice Forgy Kerr, and David Yates; Representatives Randy Bridges, Deanna Frazier, and Mary Lou Marzian.

Guests: Eden Davis, Larry Hadley, Board of Pharmacy; Keith Poynter, Board of Physical Therapy; Nicole Bearse, Jay Miller, Board of Social Work; John Hardesty, Tom Veit, Real Estate Appraisers Board; Leah Cooper Boggs, Kevin Winstead, Board of Licensed Diabetes Educators; Brian Clark, Steven Fields, Department of Fish and Wildlife Resources; Dr. Katie Flynn, Clint Quarles, Department of Agriculture; Melissa Duff, Division for Air Quality; Amy Barker, Kiernyn Fannin, Department of Corrections; Kenny Bishop, Matthew Cole, Mary Cook, Virginia Day, Jon Johnson, Godwin Onodu, Larisa Plecha, Robin Snook, Department of Transportation; Todd Allen, Thomas Clouse, Elisa Hanley, Micki Ray, Matt Ross, Department of Education; Robin Maples, Chuck Stribling, Occupation Safety and Health; Dale Hamblin, Robert Swisher, Department of Workers' Claims; DJ Wasson, Department of Insurance; Jeb Pinney, Public Service Commission; Marc A. Guilfoil, Dr. Bruce Howard, Jennifer Wolsing, Horse Racing Commission; David Moore, Rick Rand, Benjamin Siegel, Department of Housing, Buildings, and Construction; Sarah Cooper, Donna Little, Medical Review Panels; Angela Billings, Julie Brooks, Department for Public Health; Kara Daniel, Adam Mather, Office of Inspector General; Veronica Judy-Cecil, Leslie Hoffman, Jonathan Scott, Department for Medicaid Services; Michele Blevins, Justin Dearing, Department for Behavioral Health, Developmental and Intellectual Disabilities; Laura Begin, Dr. Sarah Vanover, Department for Community Based Services and Brian Tharpe, Commercial Plumbing Coordinator.

LRC Staff: Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Carrie Nichols, and Christy Young.

The Administrative Regulation Review

Subcommittee met on Monday, March 8, 2021, and submits this report:

Administrative Regulations Reviewed by this Subcommittee:

**BOARDS AND COMMISSIONS:** Board of Pharmacy

201 KAR 2:410E. Ordering and administering vaccinations. Eden Davis, general counsel, and Larry Hadley, executive director, represented the board.

In response to a question by Co-Chair West, Ms. Davis stated that federal requirements for pharmacist-administered vaccinations were revised several times. A recent federal revision occurred after this emergency administrative regulation was filed and in effect. The new process established by Senate Bill 2 from the 2021 Regular Session of the General Assembly allowed this emergency administrative regulation to be amended, rather than withdrawn and refiled, in order to comply with the federal changes.

Without objection, and with agreement of the agency, the following amendments were approved by the Joint House and Senate Standing Committee meeting on Health and Welfare, February 22, 2021: (1) to delete the provision that pharmacy technicians must be certified; (2) to re-vise immunization training requirements to broaden the pool of vaccinators; (3) to clarify that pharmacy interns and technicians may administer vaccinations under the general supervision of a pharmacist; and (4) to make conforming amendments.

Board of Physical Therapy

201 KAR 22:170. Physical Therapy Compact Commission. Martin Poynter, general counsel, represented the board.

In response to a question by Co-Chair West, Mr. Poynter stated that this administrative regulation was making non-substantive, technical corrections. There were no public comments.

Board of Social Work

201 KAR 23:070. Qualifying education and clinical practice experience under supervision. Justin Miller, chair, and Nicole Bearse, counsel, represented the board.

In response to questions by Co-Chair Hale, Mr. Miller stated that, pertaining to the reduction in clinical supervision hours, Kentucky had unusually high clinical supervision hour requirements compared to other states. Additionally, there did not seem to be a correlation between quality of service and clinical supervision hours. The reduction in clinical supervision hours created a more efficient process for moving members into independent practice in order to meet the statewide shortages. Self-evaluation

of the supervision process was added to allow the supervisor and the supervisee to assess the value of the supervision hours in order to promote quality, not just quantity of the supervision hours, for the purpose of promoting good clinical practice.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4 and 12 to clarify that the training and refresher courses shall be board approved; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 4, 5, 8 through 10, and 13; and material incorporated by reference to comply with the drafting and for-matting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Kentucky Real Estate Appraisers Board

201 KAR 30:040. Professional standards of practice and conduct. John Hardesty, general counsel, and Tom Veit, board administrator, represented the board.

In response to a question by Representative Frazier, Mr. Hardesty stated that this administrative regulation did not relate to any legislation currently being considered by the General Assembly.

A motion was made and seconded to approve the following amendments: to amend Section 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:190. Certification and licensing requirements.

#### Board of Licensed Diabetes Educators

201 KAR 45:130. Continuing education. Leah Boggs, executive advisor, represented the board.

TOURISM, ARTS, AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:221 & E. Waterfowl seasons and limits. Brian Clark, deputy commissioner; Steven Fields, staff attorney; and Chris Garland, wildlife division director, represented the department.

In response to a question by Co-Chair West, Mr. Garland stated that a scaup was a diving bluebill duck associated with deep water.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Agriculture Tax Credits

302 KAR 4:010. Renewable Chemical Production Program. Dr. Katie Flynn, state veterinarian, and Clint Quarles, attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 and 5 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Livestock, Poultry, and Fish

302 KAR 22:150. Cervids.

In response to questions by Representative Frazier, Mr. Quarles stated that this administrative regulation was amended to address situations in which a cervid escaped captivity. Management of an escaped cervid was based on the amount of time of escape and a determination by the state veterinarian. A deceased cervid would be tested for Chronic Wasting Disease. Movement of cervids required a permit; therefore, cervids were essentially always quarantined. Dr. Flynn stated that cervid herds were certified, routine surveillance was conducted for Chronic Wasting Disease and other diseases, and biosecurity management practices were used. Indiana was the primary state from which Kentucky received cervids; however, states that complied with Kentucky standards could apply to send cervids under very stringent requirements. The movement of cervids into Kentucky was under seal so that cervids could not come in.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3 through 7, 9, 14, 16, 19, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: New Source Performance Standards

401 KAR 60:005. 40 C.F.R. Part 60 standards of performance for new stationary sources. Melissa Duff, director, represented the department.

In response to a question by Co-Chair West, Ms. Duff stated that these administrative regulations did not change air quality standards. Sources were already federally required to comply with these standards.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 to comply with the drafting

requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### General Standards of Performance

401 KAR 63:002. 40 C.F.R. Part 63 national emission standards for hazardous pollutants.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:080 & E. Department of Corrections manuals. Amy Barker, assistant general counsel, and Kiernyn Fannin, division director, represented the department.

In response to questions by Co-Chair West, Ms. Barker stated that this administrative regulation was filed as an emergency because it impacted public health through requirements pertaining to the placement of inmates. Additionally, the emergency was related to a new prison that was opening.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Motor Carriers

601 KAR 1:113. Transportation Network Company. Kenny Bishop, legislative director; Matthew Cole, commissioner; Mary Cook, assistant director; Virginia Day, section supervisor; Jon Johnson, assistant general counsel; Godwin Onodu, division director; Larisa Plecha, staff attorney; and Robin Snook, branch manager, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4, 8, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Certification of Title

601 KAR 23:030. Motor vehicle speed title process exceptions.

In response to questions by Co-Chair West, Mr. Onodu stated that the speed title process was being amended to establish an exception to the forty-eight (48) hour requirement for the department to process a title. The exception would cover situations in which, for example, a title application was submitted late on a Friday or before a holiday, which made it very difficult for the department to comply with the deadline. Under

the exception, a speed title would be processed the next workday after a weekend or holiday.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Department of Education: Pupil Transportation

702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training. Todd Allen, general counsel, and Micki Ray, policy advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 8 and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Academic Standards

704 KAR 8:110. Kentucky Academic Standards for World Language.

In response to a question by Representative Marzian, Ms. Ray stated that these standards were the minimum World Language requirements for a course for grades K through 12.

A motion was made and seconded to approve the following amendment: to amend the STATUTORY AUTHORITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

**LABOR CABINET:** Department of Workplace Standards: Occupational Safety and Health

803 KAR 2:010. Board procedures. Robin Maples, occupational safety and health standards specialist, and Chuck Stribling, occupational safety and health standards coordinator, represented the department.

In response to a question by Co-Chair West, Mr. Stribling stated that these procedures governed the process to be followed by the Standards Board. The amendments were technical and non-substantive.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Workers' Claims

803 KAR 25:300. Mediation Program. Dale Hamblin, assistant general counsel, and Robert Swisher, commissioner, represented the department.

In response to questions by Co-Chair Hale, Mr. Hamblin stated that changes to this administrative regulation were in accordance with KRS 342.276, which authorized a formal process for parties involved in workers' compensation litigation to request that claims be referred for mediation in order to expedite the process. Once a claim was filed and assigned to an administrative law judge, parties could opt for mediation to attempt resolution of the claim. This was an adjunct to the existing litigation claims process. This change provided an opportunity to attempt a faster mediated settlement, rather than pursuing the claim through the entire traditional claims process.

In response to a question by Co-Chair West, Mr. Hamblin stated that this change was made as a direct result of KRS 342.276 and was not a cabinet-initiated procedure change.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET:** Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:360. Pharmacy benefit manager license. DJ Wasson, deputy commissioner, represented the department.

In response to a question by Co-Chair West, Ms. Wasson stated that this administrative regulation was the result of legislation. Amendments were clarifications to the program.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph, Sections 1 through 4, and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**ENERGY AND ENVIRONMENT CABINET:** Public Service Commission: Utilities

807 KAR 5:056. Fuel adjustment clause. Jeb Pinney, acting general counsel, represented the commission.

In response to questions by Co-Chair West, Mr. Pinney stated that ongoing litigation related to this program involved a constitutional challenge pertaining to Section 3(5) of this administrative

regulation. This case was considered by the Eastern District for the U.S. Courts and was brought by an Illinois coal company. The company asserted that removing coal severance taxes of any jurisdiction from considerations pertaining to the fuel adjustment clause violated the Dormant Commerce Clause of the U.S. Constitution by creating an unfair advantage in that some states, including Illinois, did not have coal severance taxation. Prior to the inclusion of Section 3(5) of this administrative regulation, the commission did not consider coal severance taxes in making determinations regarding the fuel adjustment clause. The fuel adjustment clause allowed electricity-generating utilities to consider cost recovery on a monthly basis. If fuel costs were above a certain limit, then the electric utility could issue a charge on customers' bills. If fuel costs were below a certain limit, then the electric utility could issue a credit on customers' bills. The commission traditionally had considered related costs other than just fuel itself, such as transportation. In 2019, in response to a joint resolution from the General Assembly, the commission amended several provisions of the fuel adjustment clause, including Section 3(5) of this administrative regulation, to incentivize coal use in electricity-generating utilities. After initial concerns were raised about the constitutionality of the coal severance tax usage in determining the reasonableness of fuel costs for purposes of the fuel adjustment clause, the commission sought an opinion from the Kentucky Attorney General. The Attorney General's opinion was that the situation was constitutional. The Illinois coal company proceeded to file a challenge in March 2020. The commission prevailed against a motion for temporary injunction; however, as the case proceeded, the commission determined that a settlement might be the best option due to the possible costs if the plaintiff were successful. The settlement included removing the language in Section 3(5) of this administrative regulation. Without that language, coal severance taxes would be a non-differentiated part of overall fuel costs under consideration to determine the reasonable-ness of costs for purposes of the fuel adjustment clause. The commission retained plenary authority in considering the reasonableness of costs.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET:** Horse Racing Commission: General

810 KAR 2:020. Thoroughbred and flat racing officials. Marc Guilfoil, executive director; Dr. Bruce Howard, equine medical director; and Jennifer Wolsing, general counsel, represented the commission.

Flat and Steeplechase Racing

810 KAR 4:010. Horses.

A motion was made and seconded to approve the following amendment: to amend Section 3(3)(b) to permit verification by a successor to the Thoroughbred Racing Protective Bureau. Without objection, and with agreement of the agency, the amendment was approved.

810 KAR 4:030. Entries, subscriptions, and declarations.

Medication Guidelines

810 KAR 8:060. Post-race sampling and testing procedures.

Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:150. Inspections and tests. David Moore, division director; Rick Rand, commissioner; and Benjamin Siegel, general counsel, represented the department. Brian Tharpe, commercial plumbing coordinator, Kentucky Association of Master Contractors, appeared in support of this administrative regulation.

Co-Chair Hale and Representative Frazier thanked the department for making further amendments to this administrative regulation. Mr. Siegel thanked Representative Frazier for her helpful recommendations for amendment.

In response to a question by Co-Chair West, Mr. Tharpe stated that the Kentucky Association of Master Contractors supported this administrative regulation.

Without objection, and with agreement of the agency, the following amendments were approved by this subcommittee at the January 13, 2021 meeting: to amend Section 3 to: (1) comply with the drafting requirements of KRS Chapter 13A; and (2) clarify due process procedures.

A motion was made and seconded to approve the following amendments: to amend Section 3 to: (1) disallow photographs (video only) for virtual inspections; (2) clarify that medical gas installations and installations that require multiple visits from inspectors are examples of work that is too complex for virtual inspection; (3) clarify that inspections in areas of inconsistent or unreliable cellular or internet connectivity, poor video quality, and technical issues that would prevent clear inspection, are examples of situations that are not feasible or practical for virtual inspection; and (4) clarify that underground plumbing installations that require more than one (1) inspection and final installations on new construction are examples of situations that would not provide adequate inspection if done virtually. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Secretary: Medical Review Panels

900 KAR 11:011. Repeal of 900 KAR 011:010. Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs, represented the cabinet.

Department for Public Health: Sanitation

902 KAR 10:010. Public restrooms. Angela Billings, section supervisor, and Julie Brooks, regulation coordinator, represented the department.

In response to a question by Co-Chair West, Ms. Brooks stated that most of the administrative regulations in this package had not been updated since the 1990s. Many of the changes were for compliance with KRS Chapter 13A. Ms. Billings stated that 902 KAR 10:010 authorized local health departments to inspect public restrooms for which there was no active permit. There were no associated fees. 902 KAR 10:110 had not been updated since 1992; therefore, the existing permitting fee was inadequate. 902 KAR 10:140 represented a certified septic system installer program that had been nationally recognized and duplicated by other states. Other administrative regulations in this package updated inspection provisions.

902 KAR 10:110. Issuance of on-site sewage disposal system permits.

902 KAR 10:131. Repeal of 902 KAR 010:060 and 902 KAR 010:130.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to cross reference 902 KAR 10:110 and 902 KAR 10:170, into which some of the provisions are relocated from the administrative regulations being repealed. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 10:140. On-site sewage disposal system installer certification program standards.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 10:150. Domestic septage disposal site approval procedures.

In response to a question by Co-Chair West, Ms. Billings stated that this administrative regulation limited a farmer to spreading up to 2,000 gallons of septage from that farm alone and not including other

septage from, for example, other farms without first obtaining a permit.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 10:160. Domestic septage disposal site operation.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 6, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 10:170. Septic tank servicing.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Inspector General: Health Services and Facilities

902 KAR 20:160 & E. Chemical dependency treatment services and facility specifications. Adam Mather, inspector general, and Kara Daniel, deputy inspector general, represented the office.

In response to a question by Representative Frazier, Mr. Mather stated that an emergency administrative regulation was required because the opioid epidemic had been exacerbated by the coronavirus (COVID-19) pandemic. Additionally, federal funding would be impacted if there were a delay of implementation.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 20:440 & E. Facilities specifications, operation and services; residential crisis stabilization units.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement, the amendment was approved.

Department for Public Health: Food and Cosmetics

902 KAR 45:160. Kentucky food and cosmetic processing, packaging, storage, and distribution operations. Julie Brooks, regulation coordinator, represented the department.

In response to a question by Co-Chair Hale, Ms. Brooks stated that this administrative regulation did not affect fees.

902 KAR 45:190. Hemp-derived cannabidiol products and labeling requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 2 to: (a) add two (2) definitions; and (b) clarify one (1) definition; and (3) to amend Section 3 to delete a redundant labeling font requirement. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Behavioral Health

907 KAR 15:070 & E. Coverage provisions and requirements regarding services provided by residential crisis stabilization units. Veronica Judy – Cecil, senior deputy commissioner; Leslie Hoffman, chief behavioral health officer; and Jonathan Scott, regulatory and legislative advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:080 & E. Coverage provisions and requirements regarding chemical dependency treatment center services.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Mental Health

908 KAR 2:270. Community behavioral health training. Michele Blevins, assistant director, and Justin Dearing, regulation coordinator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to: (1) delete language that repeated statutory provisions; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:010. Definitions. Laura Begin, regulation coordinator, and Dr. Sarah Vanover, division director, represented the department.

In response to questions by Co-Chair West, Ms. Begin stated that these changes were necessary for compliance with federal requirements. Unused SNAP benefits would be removed from future benefit eligibility, and the unused duration was being reduced from twelve (12) to nine (9) months. The department was required to give ample notification that benefits were being re-moved. Undocumented immigrants were not eligible to receive benefits unless the person were sponsored.

In response to a question by Representative Yates, Ms. Begin stated that benefits were not removed due to lack of housing; however, lack of housing might cause the department notification to the recipient to be delayed.

921 KAR 3:045. Issuance procedures.

Daycare

922 KAR 2:120. Child-care center health and safety standards.

922 KAR 2:230. Director's Credential.

922 KAR 2:240. Kentucky Early Care and Education Trainer's Credential and training approval.

922 KAR 2:250. Commonwealth Child Care Credential.

The following administrative regulations were deferred or removed from the March 8, 2021, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:380. Board authorized protocols.

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

DEPARTMENT OF AGRICULTURE: Regulation and Inspection; Motor Fuel

302 KAR 79:011. Motor fuel quality testing and inspection program.

302 KAR 79:012. Motor fuel quality standards and specifications.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Existing Source Standards

401 KAR 61:036. Emission guidelines and compliance times for municipal solid waste (MSW) landfills.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 2:231. Repeal of 601 KAR 002:030.

601 KAR 2:232 & E. Kentucky Ignition Interlock Program.

LABOR CABINET: Department of Workplace Standards: Occupational Safety and Health

803 KAR 2:021. Identification, classification and regulation of potential occupational carcinogens.

803 KAR 2:050. Scope.

803 KAR 2:080. Advance notice of inspections.

803 KAR 2:090. Complaint inspections.

803 KAR 2:096. Repeal of 803 KAR 002:095 and 803 KAR 002:430.

803 KAR 2:100. Imminent danger.

803 KAR 2:115. Penalties.

803 KAR 2:240. Time for filing discrimination complaint.

803 KAR 2:314. Machinery and machine guarding.

803 KAR 2:413. Helicopters, hoists, elevators, and conveyers.

803 KAR 2:420. Blasting and use of explosives.

Department of Workers' Claims

803 KAR 25:091. Workers' compensation hospital fee schedule.

803 KAR 25:092. Workers' compensation pharmacy fee schedule.

803 KAR 25:170. Filing of claims information with the Office of Workers' Claims.

803 KAR 25:175. Filing of insurance coverage and notice of policy change or termination.

803 KAR 25:185. Procedure for E-mail notification of cancellation or removal of location of specific workers' compensation coverage.

PUBLIC PROTECTION CABINET:



Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:025. Licensing process.

Trade Practices and Frauds

806 KAR 12:120. Suitability in annuity transactions.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Radon

902 KAR 95:040. Radon Contractor Registration Program.

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:035. Certification process.

Daycare

922 KAR 2:410E. Enhanced requirements for certified and licensed child care and limited duration child care programs as result of a declared state of emergency.

The subcommittee adjourned at 11:40 a.m. The next meeting of this subcommittee is tentatively scheduled for April 13, 2021, at 1 p.m.

## Education Assessment and Accountability Review Subcommittee Minutes

November 12, 2020

### Call to Order and Roll Call

The November meeting of the Education Assessment and Accountability Review Subcommittee was held on Thursday, November 12, 2020, at 3:00 p.m., in Room 171 of the Capitol Annex. Representative Brandon Reed, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Brandon Reed, Co-Chair; Senators Alice Forgy Kerr, Gerald A. Neal, and Mike Wilson; Representatives Tina Bojanowski, and Steve Riley.

LRC Staff: Joshua Collins, Committee Analyst, and Maurya Allen, Committee Assistant.

### Approval of Minutes – June 11, 2020 and July 7, 2020

Senator Wilson made a motion, seconded by Senator Wise to approve the minutes of the June 11, 2020 and July 7, 2020 meetings. The motion passed by voice vote.

### OEA Research Report – Overview of Facilities

### Needs and Funding in Kentucky

Dr. Bart Liguori, OEA Research Division Manager, Chris Riley, OEA Research Analyst, and Sabrina Cummins, OEA Research Analyst were in attendance to present the report of facilities needs which examines the process for completing facility upgrades and how facilities are prioritized for funding. The report also includes an in-depth analysis of increased facility need reported by districts in the last 10 years.

The report showed that about half of all facility funding is distributed on an equal per-pupil basis. Districts receive additional funds when they express greater need on their district facility plans (DFPs) or institute a local ‘nickel’ tax to collect additional revenue for facilities in their communities. These funding methods are based on assumptions made by state and local decision makers. Standardized, objective data is important to inform these funding decisions. District need, as reported on DFPs, is currently the only comprehensive source of data and is fallible because it is difficult to compare and changes over time. At the state level, district reported need has been increasing, but expenditures have been decreasing. In the last eight years, most districts have transferred facilities funds to their general funds to cover other operating expenses.

As directed by the General Assembly, the Kentucky Department of Education (KDE) developed the Kentucky Facility Inventory and Classification System (KFICS) to provide standardized, objective data. However, the system is not fully implemented and there is currently no deadline for full implementation. In response to the committee’s questions regarding how facility projects are prioritized, the report found districts must identify their critical needs, such as ADA compliance or life safety upgrades, when applying for funds. It is crucial to note, however, that schools do not need to strictly observe those priorities when initiating projects. A fully updated KFICS would be helpful to inform decisions by making critical data more readily available. The data used in this study was primarily provided by KDE, although some data from the National Center for Education Statistics was used in order to compare Kentucky to surrounding states regarding spending for construction and debt service. OEA was unable to collect superintendent responses regarding school facilities and funding due to constraints from the COVID-19 pandemic.

Facility funding from local and state sources totaled \$639 million during the 2019 school year. The Facilities Support Program of Kentucky (FSPK) is the primary funding mechanism in the state. It combines funds from local taxes collected to support facilities and state equalization which compensates less wealthy districts, resulting in the previously mentioned equal per-pupil funding. There are six districts which

exceed the property wealth threshold to qualify for state equalization: Jefferson, Fayette, Campbell, Livingston, Lyon, and Anchorage Independent. These districts take in slightly more local revenue than others from state and local FSPK combined.

Capital outlay for facilities funding was first authorized in 1954. Districts receive \$100 per pupil in capital outlay funding and this amount has not changed since the inception of the program. Capital outlay and FSPK comprise almost half of all facilities funding, and because they are nearly equal in all districts, they are not the focus of the study. The School Facilities Construction Commission (SFCC), as can be seen in the report, makes offers of assistance to districts based upon facilities needs as reported on DFPs. These offers are paid on behalf of districts for construction bonds over a period of 20 years. All districts that levy the SFPK local tax are eligible to participate in the SFCC program. After SFPK local taxes, the next greatest source of funding are taxes collected through ‘local nickels.’ These are based on eligibility criteria or the political will of local voters. In most cases, these additional local nickel taxes are also equalized through state funding. The recallable nickel is the only nickel tax districts can pass at this time. Eligibility for the growth nickel tax has been capped since 2009. For the 2019 school year, there were 109 districts that levied at least one additional nickel tax. There were 30 districts that levied two additional nickels, and five that levied three.

The prevalence of facility funding from additional nickel taxes has increased from 2008 to 2019, which has led to per-pupil funding inequality. Average per-pupil funding by source and district wealth was illustrated using graphs, as was a comparison between Kentucky’s reported construction expenditures compared to neighboring states. In summary, local and state facility funding has kept pace with inflation. However, reported expenditures for construction and existing structures has decreased for Kentucky, neighboring states, and nationally. Growth in facility funding has been driven primarily by additional nickel taxes, but this has widened the gap between districts. As the share of additional nickels increases, the share from FSPK, capital outlay, and SFCC will continue to decrease.

District Facility Plans (DFPs) are meant to function as master plans that include an inventory of facility projects listed in priority order. They are used to guide spending of all restricted building funds and for calculating district facilities need used in SFCC funding. The plans are required to be updated every four years, or eight years with a waiver. DFPs are developed by local planning committees comprised of local stakeholders and are assisted by an architect/engineer. This committee reviews the condition of buildings, educational needs, demographic trends, and equity concerns. The meetings of these committees

are subject to the open meetings act and the plan must be approved by the local board of education, reviewed by KDE, and approved by the Kentucky Board of Education (KBE).

A chart was presented illustrating DFP priority rankings. The highest ranking priorities (1a-1f) are needs for new construction based on student capacity, new construction to address inadequate spaces, major renovations, KERA Strands (preschool, SBDM, FRYSC, and technology), life safety, and handicapped accessibility. These are to be addressed in the biennium in which the plan is adopted, but this does not always occur. Priorities 2a-2f are the same as priorities 1a-1f, however, they can be completed any time after the biennium in which the plan was adopted. Priority 3 is for non-educational additions such as gyms and cafeterias, priority 4 is for management support areas such as bus garages, and priority 5 is for discretionary additions such as those too new to be replaced or extracurricular facilities. Ms. Cummins reminded the committee that this is not a four-year plan, it simply must be reviewed every four years. Projects on the DFP can be completed at any time, sometimes as many as 10 or 20 years after they were initially adopted.

Projects in priorities 1 through 4 are used in the current SFCC funding calculation. SFCC funds can only be used on priority projects based on their priority order. All projects within a category (such as priority 1a-1f) are considered equivalent and can be addressed in whichever order the district chooses. Unlike SFCC funding, construction expenditures from restricted funds can be used in any priority order for priorities 1 through 4. If all of those priorities are completed, districts can then use restricted funds on priority 5 projects. Funds from a district's general fund can be spent on any project listed on the DFP or for projects not included on the DFP. The plan is required to include the most critical needs of the district, but districts are not required to address critical needs before other projects.

Ms. Cummins noted there were some data concerns when OEA reviewed the DFPs. First, there were 71 districts who had their facility needs understated, and four districts had their needs overstated. These errors effect the districts' SFCC offers of assistance. Additionally, the latest unmet need for the state included 10 districts that have more local available revenue than facility needs and resulted in the KDE overstating state unmet need by \$66 million. Concerns were also noted when analyzing the Building and Grounds Form (BG-5) regarding compliance with use of restricted funds and timely submission of closeout forms.

A summary chart of all DFP need for the 2020 school year was used to illustrate the total need for priorities 1 through 4 for the state with a total combined need of almost \$8.4 billion. About two-

thirds of the need is associated with major renovations, especially for projects to occur after the biennium. New construction comprised 21 percent of need, divided roughly equally between the current biennium and subsequent bienniums. One and a half percent of the need was associated with life safety projects as required by building codes and less than one percent of need was associated with handicapped accessibility. It is likely that much of the cost associated with life safety and handicapped accessibility is within major renovation costs in priorities 1c and 2c, thereby making these need estimates misleading. Many districts have included some priority 4 projects on their DFP for over a decade with the projects yet to be completed. A series of graphs was used to compare district per-pupil needs and costs based on data from DFPs.

Hypothetical scenarios were used to illustrate how the total need recorded on a DFP can be misleading in terms of critical need and how DFP need varies widely across districts. District-reported need is increasing, but funding has not increased to match. This has created a growing gap between what districts receive in revenue and what they need to spend. While facility revenue has been keeping up with inflation, spending has decreased substantially. Through budget language and statute, the General Assembly has authorized the use of capital funds requests to move restricted revenue from facilities into general funds. Between 2013 and 2019, 164 districts utilized capital funds request at least once. While overall facility needs for all districts has nearly doubled over the last ten years, districts have moved approximately \$347 million restricted for facilities into general funds.

The final section of the report focused on the KFICS, its statutory goals, and funding. KRS 157.420(9) requires KDE to "standardize the process for evaluating the overall quality and condition of all school buildings across the state" and to produce a "consistent categorization of buildings for local planning purposes and for the distribution of state general fund moneys designated for capital construction." The statute specifies several indicators related to building condition, educational suitability, and life safety. In 2016, the General Assembly appropriated \$2 million to KDE to develop "a maintainable and updateable process to assess the physical quality of and condition of K-12 public school buildings." Since that time, an additional \$600,000 has been allocated toward this goal. KDE has contracted with Ameresco to develop software to assess building conditions and to train district staff, local architects, and engineers on using KFICS. Data can be entered and updated on-site using mobile devices. The number of school entered into KFICS has grown each, however, implementation is lagging. KDE set a goal of having most schools entered into the system last year, but as of September 2020, less than

half of schools are in KFICS. While many districts have entered the majority of their schools, 67 districts have entered no schools into the system. Due to the incomplete nature of the KFICS data, it is invalid as a tool for state level decision making.

KFICS could potentially standardize data, but there is currently no deadline for all districts to be included and no penalty for districts not entering data. A statute passed in 2016 required KBE to develop a regulation to implement the KFICS, and the 2017 report to LRC by KDE set a goal of aligning and incorporating KFICS into the DFP process. Unfortunately, the KBE has not promulgated the required regulation and the Kentucky Facilities Planning Manual has not been updated since 2008. As a result, the DFP and KFICS processes are operating as parallel processes. To fully align with the DFP process, KFICS would need to incorporated data on future construction, while currently the KFICS only encompasses current costs and contracts.

In conclusion, Ms. Cummins briefly summarized the findings of the report and the OEA recommendations of actionable items for the General Assembly, such as establishing a deadline for data entry into KFICS for all school buildings; for KBE, such as promulgation of administrative regulations for KFICS; and for KDE, such as ensuring DFPs accurately reflect total costs of districts' facilities needs. Further details and recommendation can be found in the OEA research report published by the LRC (Research Report No. 467).

Responding to a question from Representative Bojanowski, Ms. Cummins said there is only one FSPK nickel tax for Jefferson County Public Schools (JCPS). Because JCPS does not qualify for state equalization, they choose not to issue additional nickel taxes. They can, however, shift funds from their general fund to cover facilities funding needs. In contrast, Oldham County has issued additional nickel taxes to increase funds.

Senator Wise said he has spoken with many superintendents who find the DFP process confusing, frustrating, and politically charged. He will also be interested in seeing the effects of the COVID-19 pandemic on school facilities funding and facilities needs assessments from schools. Future school buildings may look and function completely differently as a result of the pandemic, with a focus more on technology and remote instruction.

Responding to a question from Chair Reed, Ms. Cummins said the overstated need of \$66 million did not correlate with any funds being moved to or from individual district general funds.

Representative Bojanowski made a motion to accept the report. Senator Wise seconded the motion, which passed by voice vote. Representative Riley

made a motion to accept the District Data Profiles report and the OEA Annual report from the July 7, 2020 meeting, seconded by Senator Wilson. The motion passed by voice vote.

Chair Reed introduced the proposed 2021 OEA Research Agenda for members to review. Dr. Bart Liguori stated the two studies proposed will focus on the Non-Traditional Instruction (NTI) Program in Kentucky and the Support Education Excellence in Kentucky (SEEK) Program, respectively. Additionally, there will be a 2020 District Data Profiles report. The ongoing effects of the COVID-19 pandemic were taken into account when determining which research projects were most feasible for 2021. These are projects which can be undertaken without the need to survey district staff or perform site visits to districts. Studying NTI while it is currently being utilized very differently than it was designed may be a challenge, however, it is critical to understand its use and potential impact on accountability measures.

There were no questions from the members. Senator Wise made a motion to approve the 2021 OEA Research Agenda, seconded by Representative Bojanowski. There were 6 Yes votes, 0 No votes, and 0 Pass votes.

With no further business to come before the committee, the meeting adjourned at 3:50 p.m.

## **Government Contract Review Committee**

### **Committee Minutes**

December 15, 2020

#### **Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, December 15, 2020, at 9:00 AM, in Room 149 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Senators Julian M. Carroll and Phillip Wheeler; Representatives Chris Fugate and Mark Hart.

Guests: No guest.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Representative Fugate to approve Minutes of the November 2020, meeting of the committee. Representative Hart seconded the motion, which passed without objection.

#### **DISCUSSION OF CONTRACTS:**

The committee discussed the intent and flow of dollars for two contracts that the Public Service Commission submitted; Browne Bortz & Coddington,

Inc., 2000003969 in the amount \$49,270.00 and Harvey Economics Company, 2000003970 in the amount of \$92,690.00. There was an agreement that additional questions needed to be answered by the Public Service Commission prior to approval. A motion was made by Representative Fugate to defer the contracts to the January meeting. Representative Hart seconded the motion, which passed.

A motion was made by Representative Hart to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Representative Hart to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Representative Hart to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Representative Hart to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

#### **THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

##### **BOARD OF ACCOUNTANCY**

Heartland CPA's and Advisors, PLLC, 2100000457.

##### **CHFS - OFFICE OF THE SECRETARY**

Susan Gormley Tipton, 2100000900; Thomas J. Hellmann Attorney-At-Law, PLLC, 2100000901; Tilford Dobbins & Schmidt, PLLC, 2100000902.

##### **DEPARTMENT OF CRIMINAL JUSTICE TRAINING**

Powerphone, Inc., 2100000924.

##### **DEPARTMENT OF HIGHWAYS**

Integrated Engineering, 2100001141; Aecom Technical Services, Inc., 2100001157; Palmer Engineering County, 2100001171; Town Branch Tree Experts, Inc., 2100001180.

##### **KENTUCKY LOTTERY CORPORATION**

Barker & Herbert Analytical Laboratories, Inc., 21-20-015.

##### **KENTUCKY RETIREMENT SYSTEMS**

Umberg Zipser, LLP, 2100000975; Calcaterra Pollack, LLP, 2100001025.

##### **KENTUCKY STATE FAIR BOARD**

Global Spectrum L.P., 2100000838.

##### **KENTUCKY STATE POLICE**

Timmy J. Jewell, 2100000976; James Arther Nolte, 2100001022; Gerald A. Fieger Jr., 2100001083; Michael Brandon Ford, 2100001114.

##### **KY COMMUNITY TECHNICAL COLLEGE SYSTEM**

Horizon Group International, 833.

##### **KY HOUSING CORPORATION**

Millennium Learning Concepts, LLC, 2021-44.

##### **LEGISLATIVE RESEARCH COMMISSION**

Ms. Kristin Putnam, 21/22-03.

##### **NORTHERN KENTUCKY UNIVERSITY**

MPI Consulting, Inc., 2021-132; Underscore Branding, LLP, 2021-133; CMTA, 2021-135; SJN Data Center, LLC d/b/a Encore Technologies, 2022-128.

##### **UNIVERSITY OF KENTUCKY**

AON Risk Services Central, K21-193; Heidrick & Struggles, K21-195.

##### **UNIVERSITY OF LOUISVILLE**

Rebecca Leitman Veidlinger, Esq., PLLC, 21-067; Grand River Solutions, 21-068; Embry Merritt Shaffar Womack, PLLC, 21-069; Patricia Fitzgerald, 21-070; World BioHaz Tech (Council Rock Consulting, Inc.), 21-071; Isaacson, Miller, 21-074.

##### **WORKERS' COMPENSATION FUNDING COMMISSION**

Conning, Inc., 2100001111.

##### **THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

##### **ATTORNEY GENERAL**

Kinthead & Stilz, PLLC, 2000002431; Multi, 2100000444.

##### **DEPARTMENT FOR PUBLIC HEALTH**

Multi, 2000003220.

DEPARTMENT OF CORRECTIONS

Wellpath, LLC, 2000003760.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Baptist Health Medical Group, Inc., 2000002949.

DEPARTMENT OF HIGHWAYS

American Engineers, Inc., 1200000220; Stantec Consulting Services, Inc., 1200002237; Stantec Consulting Services, Inc., 1300001683; Burgess & Niple, Inc., 1300002497; URS Corporation, 1600000934; Stantec Consulting Services, Inc., 1700000635; John Daniel Lyons, 1700001177; DLZ Kentucky, Inc., 1800000267; Strand Associates, Inc., 1800000402; Garver, LLC, 1800000736; Aecom Technical Services, Inc., 1800000898; DLZ Kentucky, Inc., 1900002085; Haworth Meyer Boleyn, Inc., 1900003159; Vaughn & Melton Consulting Engineers, Inc., 1900005014; Vaughn & Melton Consulting Engineers, Inc., 1900005015; QK4, Inc., 2000000295; Haworth Meyer Boleyn, Inc., 2000002554.

FACILITIES & SUPPORT SERVICES

Third Rock Consultants, LLC, 1200003126; Omni Architects, 1400000794; Kohrs Lonnemann Heil Engineers, PSC, 1600000312; Paladin, Inc., 1700002128; American Engineers, Inc., 1800001352; EOP Architects, PSC, 1900002963.

KENTUCKY RETIREMENT SYSTEMS

Manatt Phelps Phillips, 2000002117.

KENTUCKY STATE FAIR BOARD

MCM CPAS & Advisors, LLP, 2000003756.

MOREHEAD STATE UNIVERSITY

Dean Dorton Allen Ford, PLLC, 21-001.

MURRAY STATE UNIVERSITY

Multi, 006-21.

UNIVERSITY OF KENTUCKY

K. Norman Berry Associates, PLLC, A201070; Omni Architects, A201140; Lord, Aeck, & Sargent, Inc., A201220.

WESTERN KENTUCKY UNIVERSITY

Multi, 202003.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Kentucky Research Foundation, 2100000942; CE Mendez Foundation, Inc., 2100000979; Intentional Beginnings, Inc., 2100000990.

**CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING**

National Foundation To End Hunger, Inc., 2100001015.

**COUNCIL ON POSTSECONDARY EDUCATION**

Kentucky Department of Education, 2100001061.

**DEPARTMENT FOR LOCAL GOVERNMENT**

City of Earlington, 2100000613; Boone County Fiscal Court, 2100000775; Floyd County Fiscal Court, 2100000848; Troublesome Creek Environmental Authority, 2100000916; Robertson County Fiscal Court, 2100000921; City of Crestwood, 2100000938; City of Ludlow, 2100000945; City of Frankfort, 2100000956; Woodford County, 2100000959; City of Sturgis, 2100000960; City of Elkton, 2100000963; City of Springfield, 2100000964; City of Salem, 2100000977; City of Carrollton, 2100000985; City of Flatwoods, 2100000989; City of Whitesburg, 2100000993; Magoffin County Fiscal Court, 2100001003; City of Calhoun, 2100001005; Magoffin County Fiscal Court, 2100001006; Breckinridge County, 2100001011; City of Vanceburg, 2100001018; City of Bellefonte, 2100001024; Perry County Treasurer, 2100001028; Corydon City Treasurer, 2100001029; Larue County Fiscal Court, 2100001033; Henderson County Fiscal Court, 2100001037; City of Monticello, 2100001040; City of Hardinsburg, 2100001041; Lincoln County, 2100001045; City of Greensburg, 2100001046; City of Science Hill, 2100001047; Leslie County, 2100001048; Leslie County, 2100001049; Leslie County, 2100001050; Leslie County, 2100001051; Leslie County, 2100001052; City of Russell Springs, 2100001054; City of Woodlawn Park, 2100001066; City of Cold Spring, 2100001068; City of Ryland Heights, 2100001069; Letcher County Fiscal Court, 2100001077; Letcher County Fiscal Court, 2100001078; Murray-Calloway Industrial Authority, 2100001081; City of Adairville, 2100001090; City of Watterson Park, 2100001092; City of Shively, 2100001096; City of Beechwood Village, 2100001097; Garrard County Treasurer, 2100001101; Newport Millennium Housing Corporation III, 2100001102; Cumberland County Fiscal Court, 2100001139; Monroe County Fiscal Court, 2100001155.

**DEPARTMENT FOR MEDICAID SERVICES**

National Associates of States United for Aging & Disabilities, 2000004368.

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 2100000892.

DEPARTMENT OF AGRICULTURE

Organic Association of Kentucky, 2100000996; University of Kentucky Research Foundation, 2100001001; University of Kentucky Research Foundation, 2100001002.

DEPARTMENT OF EDUCATION

Department for Medicaid Services, 2100000951.

DEPARTMENT OF MILITARY AFFAIRS

City of Ravenna, 2100000790.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

University of Kentucky Research Foundation, 2100000742; Kentucky Division of Forestry, 2100001088.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS**

Bluegrass Prevention Center, 1700001128.

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Louisville, 2000001502; Voices of Hope - Lexington, Inc., 2000001738; Pennyroyal Regional Mental Health Mental Retardation Board, 2000002126; Green River Regional MHMR Board, Inc., 2000002127; Lifeskills, Inc., 2000002128; Communicare, Inc., 2000002129; Seven Counties Services, Inc., 2000002130; Kentucky Partnership for Families and Children, Inc., 2000002721.

**CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING**

Multi, 2000002839; Multi, 2000002888; Multi, 2000003442; Multi, 2000004400.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

Kentucky Housing Corporation, 2000001485; Goodwill Industries of Kentucky, Inc., 2000001524; Big Sandy Area Development District, 2000001574; Central Kentucky CAC, Inc., 2000001630.

**DEPARTMENT FOR LOCAL GOVERNMENT**

City of Jenkins, 2100000818.

**DEPARTMENT FOR PUBLIC HEALTH**

University of Kentucky Research Foundation, 2000002905.

#### DEPARTMENT OF EDUCATION

Bullitt County Board of Education, 2000002496; University of Kentucky Research Foundation, 2000002520; Science Hill Independent School District, 2000002697.

A motion was made by Senator Wheeler to adjourn the meeting at 9:29 AM. Senator Carroll seconded the motion, which passed.

## **Government Contract Review Committee**

### **Committee Minutes**

January 12, 2021

#### **Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, January 12, 2021, at 8:30 AM, in Room 149 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Matthew Koch, Co-Chair; Senators Paul Hornback, Adrienne Southworth, and David Yates; Representatives Mark Hart, and Patti Minter.

Guests: Karen Wilson, Linda Bridwell, Quang Nguyen, Benjamin Adams, Charles Jones, Rebecca Dittert, Randall Royer, Laura Hagan, Terri Harmon, Carly Cockley, William Fogel, Craig Collins, Barry Swanson, Bart Hardin, Shannon Rickett, Tom Hoy, Michael Materna, Neil Davis, Sally Molsberger, Eric Pelfrey, Brad Bottoms, Larry Krueger, Mike Bezold, Chris Kuntz, Jennifer Linton, Derek Polly, Rob Lewis, Greg Wolf, Stacy Woodrum, Jared Dearing, Rachel Poynter, Billie Johnson, Matt Stephens, Cookie Crews, Hilarye Dailey, Tom Stratton, Robert Putt, Andrew Bledsoe, Katherine Marks, Stephanie Craycraft, Jennifer Moore, Jan Chamesse, Ellen Barnard, Lisa Lee, and Lee Guise.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

#### ELECTION OF SENATE AND HOUSE MEMBER CO-CHAIRS:

Ms. Kim Eisner opened the floor for nominations from a House member for the position of co-chair.

Representative Hart made a motion to nominate Representative Koch as co-chair. Representative Koch seconded the motion.

Representative Hart made a motion that nominations for the co-chair cease and that Representative Koch be elected by acclamation. Representative Koch seconded the motion.

Representative Koch was elected by acclamation.

Ms. Kim Eisner opened the floor for nominations from a Senate member for the position of co-chair.

Senator Hornback made a motion to nominate Senator Meredith as co-chair. Senator Southworth seconded the motion.

Senator Meredith made a motion that nominations for the co-chair cease and that Senator Meredith be elected by acclamation. Senator Southworth seconded the motion. Senator Meredith was elected by acclamation.

A motion was made by Representative Minter to approve Minutes of the December 2020, meeting of the committee. Representative Hart seconded the motion, which passed without objection.

#### DECEMBER DEFERRED ITEM: KENTUCKY PUBLIC SERVICE COMMISSION

Brown Bortz & Coddington, Inc., 2000003969; Harvey Economics Company, 2000003970. Karen Wilson, Linda Bridwell, and Quang Nguyen discussed the contracts with the committee. A motion was made by Representative Koch to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

A motion was made by Representative Hart to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Representative Hart to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Representative Hart to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Representative Hart to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

#### THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Sources of Strength, Inc., 2100000958.

BOARD OF DENTISTRY

Scanlan Associates, LLC, 2100001064.

BOARD OF EXAMINERS OF SOCIAL WORK

Goldberg Simpson, LLC, 2100001023.

#### COUNCIL ON POSTSECONDARY EDUCATION

Student Success Academy, LLC, 2100001169.

#### DEPARTMENT FOR INCOME SUPPORT

Barry S. Stoler MD, 2100001019; David Coffey, 2100001030; Paul Wayne McLaughlin, 2100001191.

#### DEPARTMENT FOR PUBLIC HEALTH

Multi, 2100001595.

#### DEPARTMENT OF HIGHWAYS

American Engineers, Inc., 2100001189; The Raleigh Company, 2100001422; Baumgardner and Associates PSC, 2100001426; Intequal, Inc., 2100001430; Matthew L. Chapman, 2100001431; J. Michael Jones and Associates, 2100001432; Thoroughbred Real Estate Services, LLC, 2100001433; Baumgardner and Associates PSC, 2100001434; Kentucky Field Service Realty, 2100001435; Appco Appraisal Service, Inc., 2100001436; Tammy L. Barnes, 2100001437; Bluegrass Valuation Group, LLC, 2100001438; Bold Pursuits, LLC, 2100001439; The Raleigh Company, 2100001440; Bluegrass Valuation Group, LLC, 2100001442; Baumgardner and Associates PSC, 2100001443; Thurston Freeman, 2100001445; Stantec Consulting Services, Inc., 2100001623.

#### EASTERN KENTUCKY UNIVERSITY

Wild Health, Inc., 582-2021.

#### EMPLOYMENT SERVICES

Campbell Woods, PLLC, 2000003966.

#### EXECUTIVE BRANCH ETHICS COMMISSION

Tilford Dobbins & Schmidt, PLLC (Kathleen Schoen), 2100001133.

#### KENTUCKY STATE POLICE

Casey N. Tooley, 2100001192; Jody Paul Sims, 2100001197; Marc H. Carter, 2100001270.

#### KY COMMUNITY TECHNICAL COLLEGE SYSTEM

Northern Kentucky Services for the Deaf Inc., 834.

#### KY PUBLIC SERVICE COMMISSION

Browne Bortz & Coddington, Inc., 2100001363; Wells Engineering, PSC, 2100001588.

#### MURRAY STATE UNIVERSITY

Northern Kentucky Services for the Deaf, Inc., 019-21.

#### TRANSPORTATION - OFFICE OF THE SECRETARY

Balance Dynamics Motorcycle Training Center, Inc., 2100001215; Kentuckiana Motorsports, LLC, 2100001332; Kentucky Driving School, 2100001333; Wildcat Motorsports, LLC, 2100001337.

#### UNIVERSITY OF KENTUCKY

Kaufman Hall & Associates, K21-197; Moran Technology Consulting, K21-200.

#### UNIVERSITY OF LOUISVILLE

OPM Services, 21-082.

#### THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Reach of Louisville, Inc., 2000001388.



BOARD OF MEDICAL LICENSURE

Multi, 2000001945.

DEPARTMENT FOR PUBLIC HEALTH

Multi, 2000003220.

DEPARTMENT OF HIGHWAYS

HNTB Corporation, 0700004077; Stantec Consulting Services, Inc., 1200001543; Palmer Engineering Company, 1200003574; HMB Professional Engineers, Inc., 1300000207; Palmer Engineering Company, 1300001866; EA Partners, PLC, 1300002066; T H E Engineers, Inc., 1300002985; American Engineers, Inc., 1500002770; Burgess and Niple, Inc., 1600000845; HMB Professional Engineers, Inc., 1700000309; HMB Professional Engineers, Inc., 1800000421; QK4, Inc., 1800000826; Palmer Engineering County, 1800000900; Palmer Engineering Company, 1900002527; Stantec Consulting Services, Inc., 1900003011; Burgess and Niple, Inc., 1900003425; WSP USA, Inc., 2000000983.

ECON DEV - OFFICE OF THE SECRETARY

Louisville Entrepreneurship Acceleration Partnership, Inc., 2000003607.

FACILITIES & SUPPORT SERVICES

Sustainable Streams, LLC, 1600000034; Third Rock Consultants, LLC, 1600000239; Nomi, Inc., 2000002477; Omni Architects, 2000002637.

UNIVERSITY OF KENTUCKY

THP Limited, Inc., A181150; Staggs & Fisher Consulting Engineers, A191140.

UNIVERSITY OF LOUISVILLE

Multi, 21-007.

WESTERN KENTUCKY UNIVERSITY

Multi, 202003.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Kentucky Research Foundation, 2100000941; Western Kentucky University, 2100000991.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

Center for Employment Opportunities, Inc., 2100000781; Center for Human Entrepreneurship Solutions Group, 2100001060.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

Bullitt County Board of Education, 2000002796; Campbell County Board of Education, 2000002827.

**DEPARTMENT FOR INCOME SUPPORT**

University of Louisville Research Foundation, 2100000919.

**DEPARTMENT FOR LOCAL GOVERNMENT**

Salyersville Water Works, 2100000427; Floyd County Fiscal Court, 2100000917; Daviess County Fiscal Court, 2100000953; Union County Fiscal Court, 2100000969; City of Augusta, 2100000992; City of Madisonville, 2100001044; Casey County

Fiscal Court, 2100001056; The Methodist Home of Kentucky, Inc., 2100001082; City of Bellemeade, 2100001099; City of Jeffersonville, 2100001116; City of Carlisle, 2100001119; City of Hurstbourne, 2100001123; Muhlenberg County Fiscal Court, 2100001151; City of Perryville, 2100001156; City of Salyersville, 2100001159; City of Livermore, 2100001160; City of Albany, 2100001161; City of McKee, 2100001167; City of Indian Hills, 2100001173; City of Olive Hill, 2100001176; City of Edmonton, 2100001178; City of Hurstborne Acres, 2100001179; Knott County Fiscal Court, 2100001184; City of Lyndon, 2100001186; City of Orchard Grass Hills, 2100001196; City of Evarts, 2100001201; City of Florence Kentucky, 2100001203; City of Leitchfield, 2100001206; City of Cave City, 2100001208; City of Henderson, 2100001209; City of Hartford, 2100001210; City of Bellevue, 2100001212; City of Hardinsburg, 2100001214; Madison County Fiscal Court, 2100001216; City of Springfield, 2100001217; Ballard County, 2100001218; Mason County, 2100001220; City of Covington, 2100001222; City of Alexandria, 2100001224; City of Russell Springs, 2100001225; Muhlenberg County Fiscal Court, 2100001226; City of Crescent Springs, 2100001227; Menifee County Fiscal Court, 2100001229; City of Ashland, 2100001231; Woodford County, 2100001232; City of Crestview Hills, 2100001233; City of Villa Hills, 2100001234; City of Central City, 2100001235; City of Madisonville, 2100001236; City of Stanford, 2100001237; Breathitt County Fiscal Court, 2100001238; City of Lakeside Park, 2100001239; City of Wilder, 2100001240; Edmonson County Fiscal Court, 2100001241; Calloway County Treasurer, 2100001242; Henderson County Fiscal Court, 2100001243; Marion County, 2100001244; Daviess County, 2100001245; City of Barbourville, 2100001246; Kentucky Mountain Regional Recreation Authority, 2100001247; City of Greenup, 2100001248; City of Hopkinsville, 2100001250; Hardin County Fiscal Court, 2100001252; City of Williamstown, 2100001253; City of Wilmore, 2100001255; City of Lawrenceburg, 2100001256; City of Benton, 2100001258; Pulaski County Treasurer, 2100001259; City of Grayson, 2100001261; McCracken County Fiscal Court, 2100001263; City of Paducah, 2100001264; Menifee County Fiscal Court, 2100001265; Wayne County Treasurer, 2100001266; Rowan County Fiscal Court, 2100001267; Livingston County Fiscal Court, 2100001269; City of Crofton, 2100001271; City of Hazard, 2100001272; Lexington Fayette Urban County Government, 2100001273; Carroll County Fiscal Court, 2100001274; Knott County, 2100001275; Webster County Fiscal Court, 2100001276; City of Vine Grove, 2100001277; City of Elizabethtown, 2100001278; City of Bowling Green, 2100001279; City of Owensboro, 2100001280; City of Millersburg, 2100001281; Carter County

Treasurer, 2100001282; City of Somerset, 2100001283; Russell County Treasurer, 2100001284; Hickman County Fiscal Court, 2100001285; Clinton County Fiscal Court, 2100001292; City of Shelbyville, 2100001293; Hancock County, 2100001294; City of Calvert City, 2100001295; City of Cadiz, 2100001296; City of Scottsville, 2100001297; Allen County Fiscal Court, 2100001301; Knox County Fiscal Court, 2100001302; City of Saint Matthews, 2100001303; City of Shepherdsville, 2100001304; City of Glasgow, 2100001306; City of Versailles, 2100001307; Scott County Fiscal Court, 2100001308; Bracken County Fiscal Court, 2100001310; Crittenden County Treasurer, 2100001311; City of Mount Vernon, 2100001313; City of Maysville, 2100001314; City of Murray, 2100001317; City of Highland Heights, 2100001318; Simpson County Treasurer, 2100001319; City of Princeton, 2100001320; City of Morehead, 2100001321; City of Williamsburg, 2100001322; Mclean County Fiscal Court, 2100001323; City of West Liberty, 2100001324; Caldwell County, 2100001325; City of Corbin, 2100001338; City of Cold Spring, 2100001339; City of Middlesboro, 2100001340; City of Berea, 2100001341; City of Jeffersontown, 2100001342; City of Franklin, 2100001343; City of London, 2100001344; Clark County Fiscal Court, 2100001345; City of Morganfield, 2100001346; City of Fort Wright, 2100001347; Hart County Treasurer, 2100001348; Garrard County, 2100001349; Jessamine County, 2100001352; City of Flemingsburg, 2100001354; City of Winchester, 2100001355; City of Providence, 2100001356; City of Lagrange, 2100001357; City of Fort Thomas, 2100001358; City of Horse Cave, 2100001359; Carlisle County, 2100001360; Lawrence County, 2100001361; Campbell County Fiscal Court, 2100001366; Wolfe County, 2100001367; City of Radcliff, 2100001368; Oldham County, 2100001369; Powell County Fiscal Court, 2100001370; City of Russellville, 2100001371; City of Bardstown, 2100001372; Kenton County Fiscal Court, 2100001373; Bourbon County Treasurer, 2100001374; Nicholas County Fiscal Court, 2100001375; City of Pikeville, 2100001376; Grant County, 2100001377; City of Mount Washington, 2100001378; City of Southgate, 2100001380; Rockcastle County Fiscal Court, 2100001381; Gallatin County, 2100001382; City of Graymoor, 2100001384; Lyon County Fiscal Court, 2100001386; City of Lebanon, 2100001387; Clay County, 2100001388; City of Brandenburg, 2100001389; City of Dayton, 2100001390; Logan County Treasurer, 2100001391; City of Richmond, 2100001392; Franklin County Fiscal Court, 2100001394; Ohio County Treasurer, 2100001395; Laurel County Treasurer, 2100001396; City of Mount Sterling, 2100001397; Montgomery County Treasurer, 2100001398; Cumberland County Fiscal Court, 2100001399; Casey County Fiscal Court, 2100001400; Perry County, 2100001401; City of

Greenville, 2100001402; City of Beaver Dam, 2100001404; Harrison County Treasurer, 2100001405; Shelby County Fiscal Court, 2100001406; Pendleton County Treasurer, 2100001408; City of Prospect, 2100001410; Magoffin County Fiscal Court, 2100001412; City of Georgetown, 2100001413; Boone County Fiscal Court, 2100001414; City of Monticello, 2100001415; City of Hodgenville, 2100001416; City of Middletown, 2100001417; City of Tompkinsville, 2100001420; City of Mayfield, 2100001423; Metcalfe County, 2100001424; City of Frankfort, 2100001425; City of Plantation, 2100001428; Meade County, 2100001429; Lewis County, 2100001446; City of Simpsonville, 2100001448; City of Cynthiana, 2100001449; City of Ludlow, 2100001451; City of Indian Hills, 2100001453; City of Nicholasville, 2100001454; Lincoln County, 2100001455; Leslie County Treasurer, 2100001456; City of Prestonsburg, 2100001457; City of Paris, 2100001458; Owen County Treasurer, 2100001459; Nelson County, 2100001460; Pike County Treasurer, 2100001461; City of Columbia, 2100001462; Floyd County Fiscal Court, 2100001463; Hopkins County Treasurer, 2100001464; City of Russell, 2100001465; City of Independence, 2100001467; City of Flatwoods, 2100001470; Washington County Fiscal Court, 2100001472; City of Crittenden, 2100001473; Fleming County Treasurer, 2100001474; Monroe County Fiscal Court, 2100001476; City of Walton, 2100001479; Fulton County Fiscal Court, 2100001480; Boyd County, 2100001481; Butler County Fiscal Court, 2100001482; City of Union, 2100001483; Barren County Fiscal Court, 2100001486; Bullitt County Fiscal Court, 2100001489; Graves County, 2100001492; Owsley County Treasurer, 2100001494; Bell County Treasurer, 2100001497; Lee County Treasurer, 2100001498; Anderson County Treasurer, 2100001501; Union County Fiscal Court, 2100001503; Elliott County, 2100001504; City of Eminence, 2100001508; Spencer County, 2100001514; Boyle County Fiscal Court, 2100001515; Warren County Treasurer, 2100001517; Trimble County Treasurer, 2100001518; Todd County Treasurer, 2100001519; Grayson County Fiscal Court, 2100001522; City of Harrodsburg, 2100001523; City of Carrollton, 2100001524; Larue County Fiscal Court, 2100001525; City of Fort Mitchell, 2100001526; City of Anchorage, 2100001528; City of Erlanger, 2100001529; City of Danville, 2100001532; Marshall County Fiscal Court, 2100001534; City of Marion, 2100001535; City of Louisa, 2100001538; City of Dawson Springs, 2100001542; City of Morgantown, 2100001543; Letcher County Fiscal Court, 2100001549; Christian County Treasurer, 2100001552; City of Newport, 2100001553; Breckinridge County, 2100001556; City of Paintsville, 2100001558; Harlan County Fiscal Court, 2100001562; Taylor County Fiscal

Court, 2100001566; Bath County Fiscal Court, 2100001567; Adair County, 2100001573; City of Elsmere, 2100001574; City of Shively, 2100001578; Estill County, 2100001579; Morgan County Fiscal Court, 2100001581; City of Eddyville, 2100001582; City of Taylor Mill, 2100001592; Trigg County Fiscal Court, 2100001594; City of Stanton, 2100001624.

#### DEPARTMENT FOR NATURAL RESOURCES

University of Kentucky Research Foundation, 2100001130.

#### DEPARTMENT OF AGRICULTURE

Multi, 2100000965; Carroll County Fair Association Foundation, Inc., 2100001143; Trimble County Fair Board Association, Inc., 2100001146.

#### DEPARTMENT OF EDUCATION

Green River Regional Educational, 2100001127.

#### KENTUCKY FISH AND WILDLIFE RESOURCES

Marina At Rowena, LLC, 2000003755.

#### OFFICE OF KY NATURE PRESERVES

Wilderness Louisville, Inc., 2000003492.

#### **THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

#### BD OF LICENSURE AND CERT FOR DIETITIANS AND NUTRITIONISTS

Public Protection Cabinet, 2000002178.

#### BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Hospital Research & Education Foundation, 2000001758; Kenton County Fiscal Court, 2000001878; Department of Corrections, 2000001975; Lifeskills, Inc., 2000002017; Comprehend, Inc., 2000002027; Kentucky River Community Care, Inc., 2000002031; New Vista of the Bluegrass, Inc., 2000002035; Western Kentucky Regional Mental Health & Retardation Advisory Board, 2000002125; Pathways, Inc., 2000002133; Mountain Comprehensive Care Center, 2000002134; Kentucky River Community Care, Inc., 2000002135; Cumberland River Behavioral Health, Inc., 2000002136; St. Elizabeth Medical Center, 2000002209; Transitions, Inc. d/b/a Womens Residential, 2000002705; Chrysalis House, Inc., 2000002774.

#### BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS

Public Protection Cabinet, 2000002157.

#### BOARD OF LICENSED DIABETES EDUCATORS

Public Protection Cabinet, 2000002105.

#### CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 2000002717; Multi, 2000003467; Multi, 2000003474.

#### COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

Patient Services, Inc., 2000002624; University of Louisville Research Foundation, 2000003596.

#### DEPARTMENT FOR COMMUNITY BASED SERVICES

Jobs for Kentucky's Graduates, 2000001513; Childrens Advocacy Centers of Kentucky, 2000001530; Community Action Kentucky, Inc., 2000001658; Kentucky Coalition Against Domestic Violence, Inc., 2000001802; Kentucky Association of Sexual Assault Programs, 2000001992; Family Scholar House, Inc., 2000003496.

#### DEPARTMENT FOR LOCAL GOVERNMENT

Bell County Fiscal Court, 1600000948; Breathitt County Fiscal Court, 1700001206; City of Millersburg, 1800000863; City of Bonnieville, 1800001021; City of Booneville, 1800001542; City of Newport, 1900002262; City of Winchester, 1900002774; Bourbon County, 1900003448; Johnson County Fiscal Court, 1900003632; City of Brooksville, 1900003707; Estill County Fiscal Court, 1900003725; Hickman County Fiscal Court, 1900003974; Barren County, 1900004881; City of Cynthiana, 2000001312; Union County Fiscal Court, 2100001503.

#### DEPARTMENT FOR MEDICAID SERVICES

Department of Education, 2000002193.

#### DEPARTMENT FOR PUBLIC HEALTH

Norton Healthcare, 2000001498; Multi, 2000002243; Kentucky Hospital Research & Education Foundation, 2000002308; University of Louisville Hospital, 2100000278; University of Kentucky, 2100000282; University of Kentucky, 2100000282.

#### DEPARTMENT OF AGRICULTURE

Multi, 1900003210; Multi, 1900003210.

#### DEPARTMENT OF EDUCATION

Henderson County Board of Education, 2000002503; Warren County Board of Education, 2000002506; Jefferson County Board of Education, 2000003358; Attorney General, 2100000863.

#### DEPARTMENT OF MILITARY AFFAIRS

Office of Vocational Rehabilitation, 2100000716.

#### HORSE RACING COMMISSION

University of Kentucky Research Foundation, 2000003384.

#### KENTUCKY FISH AND WILDLIFE RESOURCES

University of Kentucky, 2000002980.

#### TRANSPORTATION - OFFICE OF THE SECRETARY

Kentucky Transportation Center, 2000002757.

#### **THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

#### DEPARTMENT OF MILITARY AFFAIRS

Lexington Urgent Care, 2100001128. Benjamin Adams, Charles Jones, and Rebecca Dittert discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

**KY COMMUNITY TECHNICAL COLLEGE SYSTEM**

Statwax, LLC, 832. A motion was made by Senator Southworth to defer the contract to the February meeting of the committee. Representative Hart seconded the motion, which passed.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

Blue & Company, LLC, 2100001177; DTN, LLC, 2100001633. Randall Royer, Laura Hagan, Terri Harmon, and Carly Cockley discussed the contracts with the committee. A motion was made by Senator Southworth to consider the contracts as reviewed. Representative Minter seconded the motion, which passed.

**UNIVERSITY OF KENTUCKY**

Sanger & Eby, K21-196; FTI Consulting, Inc., K21-198; Steptoe & Johnson, K21-199. Craig Collins, Barry Swanson, and Bart Hardin discussed the contracts with the committee. A motion was made by Representative Minter to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

**UNIVERSITY OF LOUISVILLE**

Husch Blackwell, LLP, 21-076. Shannon Rickett and Tom Hoy discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Yates seconded the motion, which passed.

**UNIVERSITY OF LOUISVILLE**

JRA, Inc., 21-084. Michael Materna, Neil Davis, and Sally Molsberger discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed with Senator Southworth voting to pass.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**DEPARTMENT OF HIGHWAYS**

American Engineers, Inc., 1400000378; Integrated Engineering, 1900003492; Leslie M. Haney & Albert W. Gross Partner, 1900003654; Michael Baker International, Inc., 1900004337. Eric Pelfrey, Brad Bottoms, Larry Krueger, Chris Kuntz, and Mike Bezold discussed the contracts with the committee. A motion was made by Senator Southworth to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

**FACILITIES & SUPPORT SERVICES**

Tetra Tech, Inc., 1500002550; Stantec Consulting Services, Inc., 1900004505; Sustainable Streams, LLC, 2000000076. Jennifer Linton, Derek Polly, and Rob Lewis discussed the contracts with the committee. A motion was made by Senator Southworth to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

Wyatt Tarrant and Combs, 2000001718. Laura

Hagan and William Fogel discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

**UNIVERSITY OF KENTUCKY**

Kaufman, Hall & Associates, LLC, K21-126; Huron Consulting Services, LLC, K21-127; Blue & Company, LLC, K21-131; Deloitte Consulting, LLP, K21-149. Craig Collins, Barry Swanson, and Bart Hardin discussed the contracts with the committee. A motion was made by Representative Koch to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

Senator Meredith proposed that the University of Kentucky provide a report annually at the September committee meeting that shows the overall spending of the University of Kentucky's Fiscal Year contracts. In the report the committee would like to see the original amounts of each contract and the intent; if the contract has been amended, the amount of amendment, and its intent; and how much has actually been spent on each contract. A motion was made by Senator Southworth to request the report be submitted at the September committee meeting. Senator Yates seconded this motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

**ATTORNEY GENERAL**

City of Graymoor, 2100001444. Greg Wolf and Stacy Woodrum discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

**BOARD OF ELECTIONS**

Lexington Fayette County Treasurer, 2100000971. Jared Dearing and Rachel Poynter discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Representative Minter seconded the motion, which passed with Representative Hart voting no and Senator Southworth voting to pass.

**DEPARTMENT FOR LOCAL GOVERNMENT**

City of Park Hills, 2100001053. Billie Johnson and Matt Stephens discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

**DEPARTMENT OF CORRECTIONS**

University of Louisville Research Foundation, 2100001185. Cookie Crews and Hilarye Dailey discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

**OFFICE OF HEALTH DATA AND ANALYTICS**

University of Kentucky Research Foundation, 2100001118. Tom Stratton, Robert Putt, and Andrew Bledsoe discussed the contract with the committee. A

motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Kentucky Pharmacy Education and Research Foundation, Inc., 2000001865. Katherine Marks, Jennifer Moore, and Stephanie Craycraft discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Senator Yates seconded the motion, which passed.

**DEPARTMENT FOR PUBLIC HEALTH**

Kentucky Cancerlink, Inc., 2000001973. Jan Chames and Ellen Barnard discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

**MEDICAID SERVICES BENEFITS**

Kentucky Transportation Cabinet, 2000001547. Lisa Lee and Lee Guise discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

**EXEMPTION REQUESTS:**

**DEPARTMENT OF AGRICULTURE:**

The Department of Agriculture requested an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the current biennium in order to execute the Kentucky Proud Buy Local Program and the Kentucky Proud Promotional Grant Program. A motion was made by Representative Hart to grant the request to December 31, 2022. Representative Koch seconded the motion, which passed without objection.

**DEPARTMENT OF MILITARY AFFAIRS:**

The Department of Military Affairs requested an exemption from the committee's routine review process for federally funded Emergency Management Performance Grant (EMPG) agreements and federally funded Chemical Stockpile Emergency agreements. A motion was made by Representative Hart to grant the request to December 31, 2021. Representative Koch seconded the motion, which passed without objection.

**ENERGY AND ENVIRONMENT CABINET**

The Energy and Environment Cabinet, Division of Forestry requested an exemption from Committee Policy #99-4 which prohibits contracts and agreements from extending beyond biennium for the Volunteer Reforest Grant. A motion was made by Representative Hart to grant the request to September 30, 2023. Representative Koch seconded the motion,

which passed without objection.

There being no further business, the meeting adjourned at 10:27 AM.

## **Government Contract Review Committee**

### **Committee Minutes**

February 9, 2021

#### **Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, February 9, 2021, at 5:30 PM, in Room 171 of the Capitol Annex. Representative Matthew Koch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Matthew Koch, Co-Chair; Senators, Adrienne Southworth, and David Yates; Representatives Adam Bowling, Mark Hart, and Patti Minter.

Guests: Terri Giltner, Teresa Pemberton, Bekka Korosec, Stacy Woodrum, Chris Lewis, Astrud Masterson, Mark Carter, Ethan Witt, Mark Howard, John Akers, Tracey Francis, Lisa Lee, Jessin Joseph, Linda Bridwell, Karen Wilson, Jay Hartz, Brian Thomas, Tom Stratton, Ellen Barnard, Jan Chamness, Mike Tuggle, Troy Robinson, Melanie McPartlin, Chad Smith, and Mary Carpenter.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Senator Meredith to approve Minutes of the January 2021, meeting of the committee. Representative Hart seconded the motion, which passed without objection.

#### **JANUARY DEFERRED ITEM:** **KENTUCKY COMMUNITY TECHNICAL COLLEGE SYSTEM**

Statwax, LLC, 832. Terri Giltner, Teresa Pemberton, and Bekka Korosec discussed the contract with the committee. A motion was made by Representative Bowling to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

A motion was made by Senator Meredith to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion,

which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Correction List. Representative Hart seconded the motion, which passed without objection.

#### **THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

##### **AGRICULTURAL DEVELOPMENT BOARD**

RDP Consulting, LLC, 2100001622.

##### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Sources of Strength, Inc., 2100001221.

##### **DEPARTMENT OF HIGHWAYS**

Palmer Engineering Company, 2100001614; GRW Engineers, Inc., 2100001615; Gresham Smith, 2100001616; QK4, Inc., 2100001671; Michael Baker International, Inc., 2100001672; Integrated Engineering, 2100001673; Aecom Technical Services, Inc., 2100001674; Strand Associates, Inc., 2100001707; Burgess and Niple, Inc., 2100001755.

##### **FACILITIES & SUPPORT SERVICES**

Omni Architects, 2100001138.

##### **FINANCE - OFFICE OF THE SECRETARY**

Dinsmore & Shohl, LLP, 2100001715.

##### **KENTUCKY FISH AND WILDLIFE RESOURCES**

Copperhead Environmental Consulting, Inc., 2100001291.

##### **KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION**

The Segal Company (Southeast), Inc. d/b/a Segal, 21-012.

##### **KENTUCKY STATE POLICE**

Michael S. Dubree, 2100001691; Jermaine

Maurice Savage, 2100001705.

##### **KY PUBLIC SERVICE COMMISSION**

Wells Engineering, PSC, 2100001362; Harvey Economics Company, 2100001364; Browne Bortz & Coddington, Inc., 2100001586; Harvey Economics Company, 2100001587.

##### **TRANSPORTATION - OFFICE OF THE SECRETARY**

Balance Dynamics Motorcycle Training Center, Inc., 2100001329; Schipper Enterprises, LLC, 2100001330; Harley Davidson Bowling Green, 2100001331; Dubya J Brands, LLC, 2100001334; Tim Cody, 2100001335; Total Control Training, Inc., 2100001336.

##### **UNIVERSITY OF KENTUCKY**

Staggs & Fisher Consulting Engineers, A211130; PriceWaterhouseCoopers, LLP, K21-201; Robert W. Baird & Company, Inc., K21-202; Shield Environmental Associates, Inc., K21-203; PriceWaterhouseCoopers, LLP, K21-205; Trimeric Corporation, K21-206; Lerch Bates, Inc., K21-207; Wyatt, Tarrant & Combs, LLP, K21-208.

##### **WESTERN KENTUCKY UNIVERSITY**

Multi, 2021-45; Multi, 2021-46.

#### **THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

##### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Crown Services, Inc., 2000001581; Tri-State Podiatric Medical Services PSC, 2000002309.

##### **DEPARTMENT FOR PUBLIC HEALTH**

Multi, 2100001595.

##### **DEPARTMENT OF EDUCATION**

TCB Consulting, LLC, 2000002277.

##### **DEPARTMENT OF HIGHWAYS**

QK4, 1000000927; Burgess & Niple, Inc., 1200000614; Palmer Engineering Company, 1200002613; Lochner H. W. Consulting, Inc., 1300001776; QK4, 1500000241; Palmer Engineering County, 1500001283; Strand Associates, Inc., 1500001578; HDR Engineering, Inc., 1600000936; Integrated Engineering, Inc., 1800000420; American Engineers, Inc., 1800001152; Vaughn & Melton Consulting Engineers, Inc., 1800002226; QK4, Inc., 1800002274; Haworth Meyer Boleyn, Inc., 1900002086; HDR Engineering, Inc., 1900002815; HDR Engineering, Inc., 1900003048; J. Michael Jones and Associates, 1900003378; The Raleigh Company,

1900003379; G. Herbert Pritchett & Associates, Inc., 1900003382; Baumgardner and Associates PSC, 1900003383; Matthew L. Chapman, 1900003385; Bluegrass Valuation Group, LLC, 1900003392; American Engineers, Inc., 1900004727; H. W. Lochner, Inc., 2000000469; HMB Engineers, Inc., 2000000523; HMB Engineers, Inc., 2000000715; Palmer Engineering Company, C-00124800; Presnell Associates, Inc., C-00240486; Aecom Technical Services, Inc., C-01346554.

#### DEPARTMENT OF VETERANS AFFAIRS

Multi, 2000001986.

#### EASTERN KENTUCKY UNIVERSITY

Multi, 22-009; Tetra Tech, Inc., 22-024; Johna Rodgers Consulting, LLC, 344-2021.

#### FACILITIES & SUPPORT SERVICES

Stantec Consulting Services, Inc., 1500002859; Paladin, Inc., 1600001124; Sustainable Streams, LLC, 1800001506; Redwing Ecological Services, Inc., 1800002056; Redwing Ecological Services, Inc., 2000000086; Riverine Systems, LLC, 2000000378; EOP Architects PSC, 2000003040.

#### FINANCE - OFFICE OF THE SECRETARY

Embry Merritt Shaffar Womack, PLLC, 2000003100.

#### PERSONNEL - OFFICE OF THE SECRETARY

Premise Health Employer Solutions, LLC, 2000003865; Brock Medical, LLC, 2000004203.

#### UNIVERSITY OF KENTUCKY

Lord, Aeck, & Sargent, Inc., A211090; Ankura Consulting Group, LLC, K21-129; Vimarc, K21-179.

#### **THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

#### BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Education Development Center, Inc., 2100001120; NAMI Louisville, Inc., 2100001407; Recovery Cafe Lexington, Inc., 2100001659.

#### DEPARTMENT FOR COMMUNITY BASED SERVICES

New Vista of the Bluegrass, Inc., 2100001575; West Kentucky Allied Services, Inc., 2100001597; Kentucky Housing Corporation, 2100001641; Kentucky Center for Education and Workforce Statistics, 2100001686.

#### DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Bluegrass Greensource, Inc., 2100000771; Commonwealth Office of Technology, 2100001039.

#### DEPARTMENT FOR LIBRARIES & ARCHIVES

Russell County Public Library, 2100001666; William B. Harlan Memorial, 2100001676; Lincoln County Public Library, 2100001678; Campbell County Public Library, 2100001680; Boyle County Public Library, 2100001681.

#### DEPARTMENT FOR LOCAL GOVERNMENT

Todd County, 2100001043; City of Richmond, 2100001072; City of Harlan, 2100001093; City of Liberty, 2100001108; City of Muldraugh, 2100001125; City of Pineville, 2100001131; Christian County, 2100001170; Hopkins County, 2100001172; City of Edgewood, 2100001205; City of Oak Grove, 2100001309; Greenup County Fiscal Court, 2100001350; City of Brodhead, 2100001468; City of Hillview, 2100001471; Johnson County Treasurer, 2100001488; City of Irvine, 2100001509; Martin County Treasurer, 2100001513; Whitley County Fiscal Court, 2100001516; City of Irvington, 2100001643; Cadiz-Trigg County Industrial Development Authority, 2100001667; Columbia-Adair County Economic Development Authority, Inc., 2100001677.

#### DEPARTMENT FOR NATURAL RESOURCES

University of Kentucky Research Foundation, 2100001055.

#### DEPARTMENT FOR WORKFORCE INVESTMENT

National Center for Families Learning, 2100001598.

#### DEPARTMENT OF AGRICULTURE

University of Kentucky Research Foundation, 2100001655.

#### DEPARTMENT OF EDUCATION

University of Kentucky Research Foundation, 2100001140.

#### UNIVERSITY OF KENTUCKY

Northern Kentucky Legal Aid Society d/b/a Legal Aid of the Bluegrass, 008-21.

#### **THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

#### BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Voices of Hope - Lexington, Inc., 2000001738; Kentuckiana Health Collaborative, 2000001839;

Pennyroyal Regional Mental Health Mental Retardation Board, 2000002015; Green River Regional MHMR Board, Inc., 2000002016; Northern Kentucky Regional Mental Health Mental Retardation Board, 2000002026; Cumberland River Behavioral Health, Inc., 2000002037; Volunteers of America Mid-States, Inc., 2000002227; University of Kentucky Research Foundation, 2000002455.

#### CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

University of Kentucky Research Foundation, 2000003475.

#### DEPARTMENT FOR COMMUNITY BASED SERVICES

Kentucky Housing Corporation, 2000001485; Multi, 2000002656.

#### DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 2000002154; University of Kentucky, 2000002162; University of Louisville Research Foundation, 2000002919; University of Louisville Hospital, 2100000278.

#### DEPARTMENT OF EDUCATION

Kentucky Valley Education, 2000002791; Kentucky Valley Education, 2000002884.

#### DEPARTMENT OF INSURANCE

Kentucky Community and Technical College System, 2000001925.

#### KENTUCKY ENVIRONMENTAL EDUCATION COUNCIL

Legacy Greenscapes, Inc., 2000002354.

#### **THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

#### DEPARTMENT FOR PUBLIC HEALTH

Deloitte Consulting, LLP, 2100001731. Astrud Masterson and Mark Carter discussed the contract with the committee. A motion was made by Representative Minter to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

#### EASTERN KENTUCKY UNIVERSITY

Kentucky Council for Children with Behavioral Disorders, Inc., 594-2021; LabTox, LLC, 596-2021. Ethan Witt, Mark Howard, John Akers, and Tracey Francis discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.



HEALTH AND FAMILY SERVICES,  
CABINET FOR

MedImpact Healthcare Systems, Inc., 2100000556. Lisa Lee, Astrud Masterson, and Jessin Joseph discussed the contract with the committee. A motion was made by Representative Bowling to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

KY PUBLIC SERVICE COMMISSION

Strategen Consulting, LLC, 2100001593. Linda Bridwell and Karen Wilson discussed the contract with the committee. A motion was made by Representative Bowling to consider the contract as reviewed. Representative Minter seconded the motion, which passed with Representative Hart and Senator Meredith voting no.

LEGISLATIVE RESEARCH COMMISSION

Landrum & Shouse, LLP, 20-21-41. Jay Hartz discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE  
AMENDMENTS WERE SELECTED FOR  
FURTHER REVIEW:

HEALTH AND FAMILY SERVICES,  
CABINET FOR

Crown Services, Inc., 1800000817; Management Registry, Inc., 1800000818; AMS Temporaries, Inc. d/b/a AMS Healthcare Staffing, 1800000819; Guardian Healthcare Providers, 1800000820; Worldwide Travel Staffing Limited, 1800000821; NR, Inc. d/b/a Professional Staffing Solutions, 1800000822; RCM Technologies USA, Inc. d/b/a RCM Healthcare Services, 1800000823; Cell Staff, LLC, 1800000825; Cognosante, LLC, 2000000632; HW Temps LLC d/b/a HW Staffing Solutions, 2000000634; Maximus Health Services, Inc., 2000000635; Randstad North America, Inc., 2000000636; CKF Enterprises, Inc. d/b/a Executrain, 2000000637; Prolink Healthcare, LLC, 2000000638; Midtown Personnel, Inc. d/b/a The Midtown Group, 2000000639; Atrium Staffing, LLC, 2000000640; Medical Edge Recruitment, LLC, 2000000641; Medix Staffing Solutions, Inc., 2000000642; TEKSystems, Inc., 2000000644; Conduent State Healthcare, LLC, 2000000645; NTT Data, Inc., 2000000646; MEDASOURCE, 2000000647; AEROTEK, Inc., 2000000648. Brian Thomas, Mark Carter, Tom Stratton, and Astrud Masterson discussed the contracts with the committee. A motion was made by Representative Minter to consider the contracts as reviewed. Senator Yates seconded the motion, which passed with Senator Meredith voting no.

THE FOLLOWING PERSONAL SERVICE  
CONTRACT FOR \$10K AND UNDER WERE  
SELECTED FOR FURTHER REVIEW:

LEGISLATIVE RESEARCH COMMISSION

University of Louisville Research Foundation, Inc. (as payee in support of William Paul McKinney), 20-21-43. Jay Hartz discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF  
AGREEMENTS WERE SELECTED FOR  
FURTHER REVIEW:

ATTORNEY GENERAL

Justice Cabinet Administrative Services, 2100001692. Stacy Woodrum and Chris Lewis discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Medical Services Foundation, Inc., 2000002162-1; Kentucky Personnel Cabinet, 2100001661; Finance and Administration Cabinet, 2100001663. Ellen Barnard, Jan Chamness, Mike Tuggle, Troy Robinson, and Astrud Masterson discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Senator Yates seconded the motion, which passed with Senator Southworth voting to pass.

DEPARTMENT OF AGRICULTURE

Multi, 2100001484; Multi, 2100001485. Melanie McPartlin and Chad Smith discussed the contracts with the committee. A motion was made by Representative Bowling to consider the contracts as reviewed. Senator Yates seconded the motion, which passed.

THE FOLLOWING MEMORANDA  
OF AGREEMENT AMENDMENTS WERE  
SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR COMMUNITY BASED  
SERVICES

University of Kentucky Research Foundation, 2000003507. Mary Carpenter discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Yates seconded the motion, which passed.

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky, 2100000282. Mike Tuggle discussed the contract with the committee. A

motion was made by Senator Meredith to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

There being no further business, the meeting adjourned at 7:00 PM.

**Government Contract Review  
Committee  
Committee Minutes**

March 9, 2021

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, March 9, 2021, at 9:00 AM, in Room 171 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Matthew Koch, Co-Chair; Senator Adrienne Southworth; Representatives Mark Hart, and Patti Minter.

Guests: Ethan Witt, Sara Zeigler, Brian Murphy, Katie Marks, Nancy Hale, Jason Dunn, Brian Thomas, Wendy Smith, Tammy Branham, and Hilarye Dailey.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Representative Koch to approve Minutes of the February 2021, meeting of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Representative Koch to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Representative Koch to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Representative Koch to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Representative Koch to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Representative Koch to consider as reviewed the Correction List.

Representative Hart seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**ATTORNEY GENERAL**

McBrayer, PLLC, 2100001752.

**BOARD OF ACCOUNTANCY**

Scanlan Associates, LLC, 2100001727.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

Environment Rating Scales Institute, 2100001747.

**DEPARTMENT FOR INCOME SUPPORT**

Russell Lee Travis, 2100001753.

**DEPARTMENT OF HIGHWAYS**

WSP USA, Inc., 2100001757; Stantec Consulting Services, Inc., 2100001758; Aecom Technical Services, Inc., 2100001785; Michael Baker International, Inc., 2100001791; Palmer Engineering Company, 2100001825.

**FACILITIES & SUPPORT SERVICES**

Paladin, Inc., 2100001709; Omni Architects, 2100001736; Sherman Carter Barnhart Architects, PLLC, 2100001763; Paladin, Inc., 2100001812.

**KENTUCKY STATE POLICE**

Lawrence Uriah Walker, 2100001795.

**MURRAY STATE UNIVERSITY**

Dean Dorton Allen Ford, PLLC, 020-021.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

E & E Cycles of Kentucky, LLC, 2100001694.

**UNIVERSITY OF KENTUCKY**

Sasaki Associates, Inc., A211120; Lord, Aeck, & Sargent, Inc., A211140; SSR Cx, LLC, A211150; New City Media, Inc., K21-204; King & Schickli, PLLC, K21-209; Caldwell Intellectual Property Law, K21-210; K&L Gates, LLP, K21-211.

**UNIVERSITY OF LOUISVILLE**

Dean Dorton Allen Ford, PLLC, 21-088; The Segal Company (Eastern States), Inc., 21-089; CapFinancial Partners, LLC, 21-090.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS**

Adams Law, PLLC, 1600003912.

**AUDITOR OF PUBLIC ACCOUNTS**

Tichenor and Associates, 2000003784.

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Jackson & Coker Locumtenens, LLC, 2000001572.

**COUNCIL ON POSTSECONDARY EDUCATION**

Student Success Academy, LLC, 2100001169.

**DEPARTMENT FOR INCOME SUPPORT**

Paul Wayne McLaughlin, 2100001191.

**DEPARTMENT OF HIGHWAYS**

URS Corporation, 0700003365; Stantec Consulting Services, Inc., 1200001639; HDR Engineering, Inc., 1200001709; QK4, Inc., 1400000709; QK4, Inc., 1600000935; URS Corporation, 1600001427; Town Branch Tree Experts, Inc., 1700000174; DLZ Kentucky, Inc., 1800000391; QK4, Inc., 1800000899; American Engineers, Inc., 1800001005; GRW Aerial Surveys, Inc., 1900001742; QK4, Inc., 1900002166; Gresham Smith, 1900002881; Gresham Smith, 2000000178; HMB Engineers, Inc., 2000000520; American Engineers, Inc., 2000000705; Strand Associates, Inc., 2000000850; HDR Engineering, Inc., 2100000659.

**DEPARTMENT OF JUVENILE JUSTICE**

Shannon L. Smith-Stephens DNP APRN-BC, PLLC, 2000002857.

**FACILITIES & SUPPORT SERVICES**

Omni Architects, 1800000919; Omni Architects, 1900003527; GRW Engineers, Inc., 2000000343; Logsdon Auction Group, LLC, 2000002097.

**KY PUBLIC SERVICE COMMISSION**

Browne Bortz & Coddington, Inc., 2100001586; Harvey Economics Company, 2100001587; Wells Engineering, PSC, 2100001588.

**MURRAY STATE UNIVERSITY**

Multi, 001-21; Multi, 003-21; Multi, 004-21; Multi, 008-21; Multi, 009-21; Multi, 010-21.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

Workwell, 2000003199.

**WESTERN KENTUCKY UNIVERSITY**

Crow, LLP, 202112; Luckett and Farley, 202116.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Kentucky Research Foundation, 2100001213.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

Bell Whitley Community Action Agency, Inc., 2100001600; Audubon Area Community Services, 2100001601; Big Sandy Area Cap, Inc., 2100001602; Blue Grass Community Action Partnership, 2100001603; Central Kentucky CAC, Inc., 2100001604; Daniel Boone Community Action Agency, Inc., 2100001605; Gateway Community Action, 2100001606; KCEOC Community Action Partnership, 2100001607; Lake Cumberland Community Action Agency, Inc., 2100001608; Community Action Lexington Fayette, 2100001609; Licking Valley Cap., 2100001611; LKLP Community Action Council, 2100001612; Community Action of Southern Kentucky, Inc., 2100001613; Louisville Jefferson County Metro Government, 2100001628; Multi Purpose Community Action Agency, Inc., 2100001630; Harlan County Community, 2100001631; Middle Kentucky Community Action

Partnership, Inc., 2100001632; Northeast Kentucky Community Action Agency, 2100001638; Northern Kentucky Community Action, 2100001639; Pennyroyal Allied Community Services, Inc., 2100001640.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

City of Cadiz, 2100000890.

**DEPARTMENT FOR LOCAL GOVERNMENT**

Metcalfe County Fiscal Court, 2000002581; Owsley County, 2100001645; City of Lebanon, 2100001711; Northeast Kentucky Regional Industrial Authority, Inc., 2100001748; City of Elkton, 2100001751; City of Dayton, 2100001754.

**DEPARTMENT OF CORRECTIONS**

Kentucky Transportation Cabinet, 2100001717.

**DEPARTMENT OF EDUCATION**

Kentucky Valley Education Cooperative, 2100001695; American Institutes for Research In the Behavioral Sciences, 2100001698; Kentucky Valley Education, 2100001699.

**DEPARTMENT OF MILITARY AFFAIRS**

Multi, 2100001036; University of Kentucky Research Foundation, 2100001145; Multi, 2100001741.

**OFFICE OF KY NATURE PRESERVES**

Green Forests Work, Inc., 2100001016.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

Center for Employment Opportunities, Inc., 2100001328; Elizabethtown Community and Technical College, 2100001710.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

New Beginnings Bluegrass, Inc., 2000001590; The Healing Place, Inc., 2000001601; Shepherds House, Inc., 2000001828; Achieving Recovery Together, Inc., 2000001843; Appalachian Regional Healthcare, Inc., 2000001846; Western Kentucky Regional Mental Health & Retardation Advisory Board, 2000002011; Communicare, Inc., 2000002022; Seven Counties Services, Inc., 2000002023; Pathways, Inc., 2000002028; Mountain Comprehensive Care Center, 2000002029; Cumberland River Behavioral Health, Inc., 2000002032; Pennyroyal Regional Mental Health Mental Retardation Board, 2000002126; Green River Regional MHMR Board, Inc., 2000002127; Lifeskills, Inc., 2000002128; Communicare, Inc., 2000002129; Seven Counties Services, Inc., 2000002130; Northern Kentucky Regional Mental Health Mental Retardation Board, 2000002131; Comprehend, Inc., 2000002132; Pathways, Inc., 2000002133; Mountain Comprehensive Care Center, 2000002134; Kentucky River Community Care, Inc., 2000002135; Cumberland River Behavioral Health, Inc., 2000002136; New Vista of the Bluegrass, Inc., 2000002138; University of Kentucky Research Foundation, 2000002213; University

of Kentucky Research Foundation, 2000002233; Kentucky Partnership for Families and Children, Inc., 2000002721; Seven Counties Services, Inc., 2000002764; University of Kentucky Research Foundation, 2000002766; University of Kentucky Research Foundation, 2100000884; University of Kentucky Research Foundation, 2100000941; University of Kentucky Research Foundation, 2100000942; Department of Public Advocacy, 2100000987.

**BOARD FOR RESPIRATORY CARE PRACTITIONERS**

Public Protection Cabinet, 2000002371.

**CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING**

Northern Kentucky Cooperative for Educational Services, Inc., 2000002613; Multi, 2000002717.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

Specialized Alternatives for Families & Youth of Kentucky I, 2000001518; Kentucky Association of Sexual Assault Programs, 2000001992; Kentucky River Foothills Development Council, Inc., 2000002412; Youth Villages, Inc., 2000002738; Audubon Area Community Services, 2000003287; Uspiritus, Inc., 2000003290; KVC Behavioral Health Care/Croney & Clark, 2000003297; KVC Behavioral Health Care/Croney & Clark, 2000003300.

**DEPARTMENT FOR LOCAL GOVERNMENT**

City of Maysville, 1900003580; City of Jamestown, 1900003989; McLean County Fiscal Court, 2100000204.

**DEPARTMENT FOR PUBLIC HEALTH**

Public Health Foundation, 2000001505; Heartland Cares, Inc., 2000001640; Go-Hire Employment and Development, Inc., 2000001850; Emory University, 2000003213; University of Louisville Hospital, 2100000278; University of Kentucky, 2100000282.

**DEPARTMENT OF AGRICULTURE**

Northern Kentucky Area Development District, 2000002326; Purchase Area Development District, Inc., 2000002339; Dare To Care, Inc., 2000002342; Gods Pantry Food Bank, Inc., 2000002343; Feeding America, Kentucky's Heartland, 2000002344; Tri State Food Bank, Inc., 2000002345; Multi, 2100001484; Multi, 2100001485.

**DEPARTMENT OF EDUCATION**

Kentucky Community and Technical College System, 2000004206.

**HORSE RACING COMMISSION**

University of Kentucky Research Foundation, 2000001858.

**JUSTICE - OFFICE OF THE SECRETARY**

Unlawful Narcotics Investigations Treatment and Education, 2000003445.

**KENTUCKY FISH AND WILDLIFE RESOURCES**

Murray State University, 2000003470.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

Western Kentucky University, 2000002668.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

**EASTERN KENTUCKY UNIVERSITY**

AGB Search, LLC, 610-2021. Ethan Witt and Sara Zeigler discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**AGRICULTURAL DEVELOPMENT BOARD**

RDP Consulting, LLC, 2100001622. Brian Murphy discussed the contract with the committee. A motion was made by Senator Southworth to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Unlawful Narcotics Investigations Treatment and Education, 2100001793. Katie Marks and Nancy Hale discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

Tri-County Community Action Agency, Inc., 2100001712; Kentucky River Foothills Development Council, Inc., 2100001713. Jason Dunn discussed the contracts with the committee. A motion was made by Representative Koch to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

**FINANCE - OFFICE OF THE SECRETARY**

Multi, 2100001740. Brian Thomas and Wendy Smith discussed the contract with the committee. A motion was made by Senator Southworth to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

**PUB PROTECTION - OFFICE OF THE SECRETARY**

Community Action Kentucky, Inc., 2100001784. Tammy Branham discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

**EXEMPTION REQUESTS:**

**JUSTICE AND PUBLIC SAFETY CABINET**

The Justice and Public Safety Cabinet, Department of Corrections requests an exemption

from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for Comprehensive Medical Services contract for inmate populations to June 30, 2024 with (2) optional two-year renewals. Hilarye Dailey discussed the exemption with the committee. A motion was made by Representative Hart to defer the exemption request to the April meeting of the committee. Representative Koch seconded the motion, which passed.

The committee expressed concerns that the RFP process for the Comprehensive Medical Services contract for inmate populations did not adequately address the issues identified in the legislative Budget Review Subcommittee meetings this past year as well as the limited amount of time given for potential vendors to respond. Senator Meredith asked for a motion requesting the extension of the RFP process by an additional 45 days. A motion was made by Representative Hart extending the RFP process by an additional 45 days. Representative Koch seconded the motion, which passed.

There being no further business, the meeting adjourned at 10:10 AM.

**U:\INTERIM.REC\2021.V34\NO\_01\ SPECSUBS\41010413.DOC GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Committee Minutes**

**April 13, 2021**

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, April 13, 2021, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Matthew Koch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Stephen Meredith, Co-Chair; Representative Matthew Koch, Co-Chair; Senators Adrienne Southworth and David Yates; Representatives Mark Hart and Patti Minter.

**Guests:** Mark Carter, Astrud Masterson, Lea Mott, James House, Heather Dearing, Dondra Meredith, Cora McNabb, Todd Allen, Karen Wirth, Matt Ross, Jeremy Edgeworth, David Gormley, Kathy Rupinen, Cassandra Weiss, Beau Barnes, Bart Hardin, Barry Swanson, William Thro, Tom Hoy, Sally Molsberger, Shannon Rickett, Andrea Anderson, Hilarye Dailey, Jennifer Washabaugh, Robyn Bender, Stephanie Craycraft, Phyliss Millsbaugh, Toby Smith, and Melanie Taylor.

**LRC Staff:** Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Senator Meredith to approve Minutes of the March 2021, meeting of the committee. Representative Hart seconded the motion, which passed without objection.

**MARCH DEFERRED ITEM:**

**DEPARTMENT OF CORRECTIONS**

Hilarye Dailey, Robyn Bender, and Jennifer Washabaugh discussed with the committee a request for an exemption from the Committee Policy Statement #99-4 which prohibits contracts and agreements for extending beyond the biennium for a Comprehensive Medical Services contract for the inmate population. A motion was made by Representative Hart to grant the request to June 30, 2024, with two (2) optional two-year renewals. Senator Meredith seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Correction List. Representative Minter seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS**

MCM CPAS & Advisors, LLP, 2100001930.

**CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING**

Center for Comprehensive Services, Inc., 2100001315; Neurobehavioral Resources, LTD., 2100001316.

**DEPARTMENT OF CORRECTIONS**

McBrayer, PLLC, 2100001877.

**DEPARTMENT OF HIGHWAYS**

Burgess and Niple, Inc., 2100001880; Michael Baker International, Inc., 2100001940; Haworth Meyer Boleyn, Inc., 2100002120.

**DEPARTMENT OF INSURANCE**

Kreiter IF, LLC, 2100001862.

**FACILITIES & SUPPORT SERVICES**

John A. Newman Consulting Engineers, 2100001857; Staggs & Fisher Consulting Engineers, Inc., 2100001922.

**KENTUCKY COMMISSION ON PROPRIETARY EDUCATION**

Dean Dorton Allen Ford, PLLC, 2100001669.

**KENTUCKY LOTTERY CORPORATION**

Latitude 36, Inc., 21-023; Waterfield Technologies, 22-10-027; Ellipse Solutions, LLC, 22-17-016; Volta, Inc., 22-18-027; Barker & Herbert Analytical Laboratories, Inc., 22-20-015; Strothman and Company, PSC, 22-20-042.

**KENTUCKY RETIREMENT SYSTEMS**

Gabriel Roeder Smith & Company, 2000001307-1; Dean Dorton Allen Ford, PLLC, 2000001787-1; Paul Anthony Ebben, 2000001910-1; David Eager, 2000002110-1; Industrial Rehabworks, 2000002170-1; Donald Merz, 2000002212-1; John E. Albers, 2000002214-1; Nancy K. Mullen, 2000002220-1; Donna Fay Sadler, 2000002386-1; Kristal Wilson, 2000003514-1; Locum, Inc., 2000003534-1; Managed Medical Review Organization, Inc., 2100000154-1.

**KY HOUSING CORPORATION**

McBrayer, McGinnis, Leslie & Kirkland, PLLC, 2021-9; BLX Group, LLC, 2022-1; Walther, Gay & Mack, PLC, 2022-10; Caine Mitter & Associates, Inc., 2022-2; Gibson Consulting, LLC, 2022-3; T. Ronald Brown: Research and Analysis, 2022-4; Valbridge Property Advisors, 2022-5; Value Tech Realty Services, Inc., 2022-6; Vogt Santer Insights, Ltd., 2022-7.

**NORTHERN KENTUCKY UNIVERSITY**

Competitive Edge Business Solutions, Inc., 2021-138; Williams & Towe Law Group, PLLC, 2022-136; BKD, LLP, 2022-137.

**OCCUPATIONS AND PROFESSIONS**

Jeff Knight, 2100001780.

**UNIVERSITY OF KENTUCKY**

GBBN, A211160; Stoll Kennon & Ogden, PLLC, K21-213; Judith Jones-Toleman, K21-214; In Trust Partners, LLC, K21-215.

**WESTERN KENTUCKY UNIVERSITY**

Cannon and Cannon, 2021-53; RATP Dev USA, Inc. f/k/a McDonald Transit, 2022-09.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Reach of Louisville, Inc., 2000001388.

**BOARD OF MEDICAL LICENSURE**

Multi, 2000001945; Multi, 2000001945.

**DEPARTMENT FOR WORKFORCE INVESTMENT**

Winstead PC, 2100000260.

**DEPARTMENT OF HIGHWAYS**

HDR Engineering, Inc., 1000003299; Burgess and Niple, Inc., 1300002065; Gresham Smith & Partners, 1300002683; QK4, Inc., 1500001282; QK4,

Inc., 1600000429; QK4, Inc., 1600000429; Glaus, Pyle, Schomer, Burns & Dehaven, Inc., 1800001539; Stantec Consulting Services, Inc., 1800001566; Burgess and Niple, Inc., 1800002263; QK4, Inc., 2000000295.

**DEPARTMENT OF VETERANS AFFAIRS**

AssistedDiningSolutions, LLC, 2100000865.

**EASTERN KENTUCKY UNIVERSITY**

Mark French, 22-078.

**ECON DEV - OFFICE OF THE SECRETARY**

Stites & Harbison, PLLC, 2000003378.

**FACILITIES & SUPPORT SERVICES**

Patrick D. Murphy Company, Inc., 1300002656; Omni Architects, 1500000941; Hafer Associates, 1500001053; Kohrs Lonnemann Heil Engineers, PSC, 1600000312; S&Me, Inc., 1900002340; EOP Architects, PSC, 1900002546; Riverine Systems, LLC, 2000000378; Ross Tarrant Architects, Inc., 2000002652; Kesler Simpson Architects, LLC, 2100000412.

**FINANCE - OFFICE OF THE SECRETARY**

Multi, 2000002249.

**MURRAY STATE UNIVERSITY**

Multi, 002-21; Multi, 006-21; Multi, 008-21; Attain Consulting Group, LLC, 013-21.

**TRANSPORTATION - OFFICE OF THE SECRETARY**

Family Medicine Associates of Flemingsburg, 2000003233.

**UNIVERSITY OF KENTUCKY**

Champlin Architecture, A191070; Multi, A221020; Smith Management Group, K21-146; Trimeric Corporation, K21-152.

**WESTERN KENTUCKY UNIVERSITY**

Multi, 202003.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Life Learning Center, Inc., 2100001760; Volunteers of America Mid-States, Inc., 2100001809.

**COUNCIL ON POSTSECONDARY EDUCATION**

Kentucky Valley Education Cooperative, 2100001734; Central Kentucky Educational Cooperative, 2100001781.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

University of Kentucky Research Foundation, 2000004347.

**DEPARTMENT FOR LIBRARIES & ARCHIVES**

Lawrence County Public Library, 2100001679; Carroll County Public Library, 2100001866; Bell County Public System, 2100001874.

**DEPARTMENT FOR LOCAL GOVERNMENT**

Perry County Fiscal Court, 2100001750; Perry County Fiscal Court, 2100001800; Ohio County Fiscal Court, 2100001814; Christian County, 2100001820;

City of Campbellsville, 2100001821; Daviess County Fiscal Court, 2100001822; City of Manchester, 2100001856; Ohio County Industrial Development Authority, Inc., 2100001888; City of Morehead, 2100001928; Rowan County, 2100002037; Webster County Fiscal Court, 2100002055.

DEPARTMENT FOR MEDICAID SERVICES

University of Kentucky Research Foundation, 2100001738.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Perinatal Association, 2100001756.

DEPARTMENT FOR WORKFORCE INVESTMENT

Department of Public Advocacy, 2100001895; Kentucky Community and Technical College System, 2100001908.

DEPARTMENT OF AGRICULTURE

Feeding Kentucky, Inc., 2100001941.

DEPARTMENT OF EDUCATION

Northern Kentucky University, 2100001786.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Lake Cumberland Mental Health Mental Retardation Board, 2000002034; Lake Cumberland Mental Health Mental Retardation Board, 2000002137; Justice Cabinet, 2000002175; University of Kentucky Research Foundation, 2000002455; Intentional Beginnings, Inc., 2100000990; Western Kentucky University, 2100000991.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Kentucky Coalition Against Domestic Violence, Inc., 2000001802.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Multi, 2000002403.

DEPARTMENT FOR LOCAL GOVERNMENT

Martin County Fiscal Court, 2100000147; Bell County, 2100000168.

DEPARTMENT FOR PUBLIC HEALTH

University of Louisville Research Foundation, 2000002770; University of Kentucky Research Foundation, 2000003085; Haven Care Center, 21000000236.

DEPARTMENT OF AGRICULTURE

Multi, 2100001484; Multi, 2100001485.

DEPARTMENT OF CORRECTIONS

Spalding University, 2000003368; Kentucky Transportation Cabinet, 2000004253.

DEPARTMENT OF EDUCATION

Northern Kentucky University, 2000002428; Prichard Committee for Academic Excellence, 2000002523; Central Kentucky Educational Cooperative, 2000002684; Fayette County Board of Education, 2000002703; Eastern Kentucky University, 2000003178; Morehead State University, 2000004216; Northern Kentucky Cooperative for

Educational Services, Inc., 2100001733.

ECON DEV - OFFICE OF THE SECRETARY

Kentucky Science and Technology Corporation, 2000003147.

STATE TREASURER

Mattingly Center, Inc., 2100000166.

TRANSPORTATION - OFFICE OF THE SECRETARY

Dry Stone Conservancy, 2000002512; Treeslouisville, Inc., 2000002628.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR PUBLIC HEALTH

Wild Health, Inc., 2100001894. Mark Carter and Astrud Masterson discussed the contract with the committee. A motion was made by Representative Hart to disapprove the contract. Senator Southworth seconded the motion, which failed with Senator Yates and Representative Minter voting no. A motion was made by Representative Minter to consider the contract as reviewed. Senator Yates seconded the motion which failed, with Senator Southworth, Representative Hart, Senator Meredith, and Representative Koch voting no. A motion was made by Representative Hart requesting that the contract be sent to the Legislative Oversight & Investigations Committee for review. Senator Meredith seconded the motion which failed, with Representative Minter voting to pass.

DEPARTMENT FOR WORKFORCE INVESTMENT

Western Kentucky Food Service, 2100001627. Heather Dearing, Dondra Meredith, and Cora McNabb discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

DEPARTMENT OF EDUCATION

Tilford Dobbins & Schmidt, PLLC, 2100001792. Todd Allen, Karen Wirth, and Matt Ross discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

DEPARTMENT OF HIGHWAYS

HDR Engineering, Inc., 2100001942. Jeremy Edgeworth and David Gormley discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

KENTUCKY RETIREMENT SYSTEMS

Frost Brown Todd, LLC, 2000002116-1; Sammie Pigg, 2000002454-1; Roland P. Merkel, 2000002515-1; James Garvin Womack PSC, 2000002517-1; Faegre Drinker Biddle & Reath, LLP, 2100000485-1. Kathy Rupinen and Cassandra Weiss discussed the contracts with the committee. A motion was made by Senator Southworth to consider the contracts as reviewed. Representative Minter seconded the motion, which passed.

KY TEACHERS RETIREMENT SYSTEM

Aon Risk Solution, 2021-0011. Beau Barnes discussed the contract with the committee. A motion was made by Senator Southworth to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

UNIVERSITY OF KENTUCKY

Frier & Levitt, LLC, K21-212. Bart Hardin, Barry Swanson, and William Thro discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

UNIVERSITY OF LOUISVILLE

Dinsmore & Shohl, LLP, 21-093. Tom Hoy, Sally Molsberger, and Shannon Rickett discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY

Fisher & Phillips, LLP, 2021-52. Andrea Anderson discussed the contract with the committee. A motion was made by Senator Meredith to disapprove the contract. Representative Hart seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT OF CORRECTIONS

KPMG, LLP, 2000002808. Hilary Dailey and Robyn Bender discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Alliance Boys and Girls Clubs, 2000001635; Pennyroyal Regional Mental Health Mental Retardation Board, 2000001664; Mountain Comprehensive Care Center, 2000001671; Pennyroyal Regional Mental Health Mental Retardation Board, 2000001678; Kentucky River Community Care, Inc., 2000001914; Cumberland River Behavioral Health, Inc., 2000002037; Kentucky River Community Care, Inc., 2000002784; University of Kentucky Research Foundation, 2100000078; Center for Women Families, 2100000904; Louisville Jefferson County Metro Government, 2100000907; NAMI Louisville, Inc., 2100001407. Stephanie Craycraft and Phylliss Millsbaugh discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Representative Minter seconded the motion, which passed.

DEPARTMENT FOR COMMUNITY BASED SERVICES

KVC Behavioral Health Care/Croney & Clark,



2000001542; KVC Behavioral Health Care/Croney & Clark, 2000003297; KVC Behavioral Health Care/Croney & Clark, 2000003302. Toby Smith and Melanie Taylor discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

#### DEPARTMENT FOR PUBLIC HEALTH

Mayo Collaborative Services, LLC, 2000001219. Lea Mott discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

#### DEPARTMENT FOR PUBLIC HEALTH

Multi, 2000002953. James House discussed the contract with the committee. A motion was made by Representative Minter to consider the contract as reviewed. Senator Yates seconded the motion, which passed with Senator Southworth voting no.

There being no further business, the meeting adjourned at 11:17 AM.

## **Public Pension Oversight Board Minutes of the 7th Meeting of the 2020 Interim**

December 14, 2020

### **Call to Order and Roll Call**

The 7th meeting of the Public Pension Oversight Board was held on Monday, December 14, 2020, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Gerald A. Neal, Dennis Parrett, Wil Schroder, and Mike Wilson; Representatives Joe Graviss, Jerry T. Miller, Phillip Pratt, Steven Rudy, Russell Webber, and Buddy Wheatley; John Chilton, Joseph Fawns, Mike Harmon, John Hicks, James M. “Mac” Jefferson, and Sharon Mattingly.

Guests: Representative C. Ed Massey; David Eager, Executive Director, Kentucky Retirement Systems; and Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers’ Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, and Angela Rhodes.

### **Approval of Minutes**

Representative DuPlessis moved that the minutes of the November 17, 2020 meeting be approved. Representative Miller seconded the motion, and the minutes were approved without objection.

Senator Higdon announced that this is Representative Graviss’ last meeting and thanked

him for his work and for being a true asset to his community. Representative DuPlessis also stated that Representative Graviss has been an active, factual, and nonpartisan member and is appreciated for all the work he has done.

### **Proposed Legislation (Discussion Only)**

Representative Massey discussed proposed legislation for a new hire plan for the Teachers’ Retirement System (TRS) effective January 2022. He explained that the new hybrid plan would include features to: take some of the responsibility or risk away from the state and transfer it to new hires; provide that new hires could retire at age 55 with 30 years of employment with incentives to encourage additional years of service; limit the state’s cost for new hires to 10 percent of pay (8 percent foundational and 2 percent supplemental); and create a stabilization fund that, if the plan were to ever fall below 90 percent funding, could be used by the TRS board, along with other levers, to bring the fund where it needed to be. Also, the plan would allow a person to retire, draw unreduced benefits, including retiree health benefits, at age 55 with 30 years’ experience, at age 60 with 10 years’ experience, and at age 65 with 5 years’ experience.

Representative Massey stated that at this time there has been good responses from the universities and stakeholder associations involved.

Representative Massey stated that this proposed legislation will not resolve the retirement funding issue and that an unfunded legacy deficit will still exist, but that this would be a fully-funded tier for new hires and would at least stop the bleeding.

In response to a question from Representative Graviss regarding whether there was any research done on how the proposed plan would affect the recruitment of new teachers, Representative Massey stated there has been more discussion than research due to unknown trends and patterns. However, the adjustments that have been made are intended to improve the ability to recruit when employment is compared regionally. He stated that one of the adjustments would load more benefits on the front end of employment and taper off some incentives on the back end.

In response to questions from Representative Wheatley, Representative Massey stated that bill information was not previously provided to the Public Pension Oversight Board (PPOB) for no other reason than it was unknown if stakeholder negotiations would proceed. In response to a follow-up question regarding the risk being removed from the state and placed with the new hire employees, Representative Massey stated that Kentucky does not have the money to sustain the current program, much less continue sustainability into the future. He added that benefit

portability is also valued and welcomed by new employees.

In response to a question from Senator Higdon, Representative Massey confirmed that the plan includes a supplemental fund account, which also belongs to the members and should be substantial at the time of retirement if properly prepared. He also stated that the health component for all members should be fully funded in a few years.

In response to a question from Representative Miller, Representative Massey stated that this bill does have a trigger/lever under which the TRS board can take action if the fund drops to a certain percentage and creates the stabilization fund to ensure that it will remain funded.

In response to a question from Senator Wilson, Senator Higdon stated it takes five years to be vested into the system. Senator Wilson commented that with the legacy system the General Assembly is only statutorily required to contribute 13 percent of payroll, but it has funded TRS with \$500 million above the 13 percent each year for the last 5 years.

Representative DuPlessis commented that he feels like Kentucky is losing educators to bordering states such as Indiana, Ohio, and Tennessee. Indiana offers a defined benefit plan, much like Kentucky’s, and a defined contribution plan, although Indiana’s retirement multiplier is only 1.1 percent with Social Security benefits, whereas Kentucky offers a 2.5 percent multiplier with no Social Security benefits. One of the things in the bill that Representative DuPlessis favored, is teachers will get a Social Security replacement defined benefit plan along with a defined contribution plan merged together. Representative DuPlessis believes that new graduating educators are more interested in the higher pay in the beginning of their career, rather than what retirement benefits are offered. He believes that this bill moves Kentucky toward being able to offer higher salaries to new teachers.

In response to a question from Representative Pratt, Representative Massey stated he believes that Ohio’s defined benefit plan currently requires 30 years’ service with benefits being paid at age 65.

Representative Graviss commented that TRS has had representatives and actuaries testify that TRS is performing well and only needs the ARC funded. Representative Graviss stated that KEA’s position is to not opine on a bill until it is filed and that he has checked the LRC website and does not see BR 278 as a prefiled bill. He stated he has spoken with the top folks of KEA and that their position is they have no position because the bill has not been filed and their board of directors has not issued a statement. Representative Massey clarified that it was his testimony that KEA stated that, if the draft is what it purports to be, then

KEA would tell its membership not to oppose it. Representative Massey responded that the draft was given to the KEA with authorization to send to their membership, which it did. With no further questions, Representative Massey concluded his remarks.

Representative Webber discussed BR 277, which would create separate statutory benefit structures while maintaining co-administration of the County Employees Retirement System (CERS) and the Kentucky Retirement Systems (KRS) as required by House Bill 484.

### **Actuarial Update – Kentucky Retirement Systems**

David Eager, KRS, began his presentation by stating that as of June 30, 2020, nine of the 10 retirement insurance plans improved their funded status. He also noted that the Kentucky Employees Retirement System (KERS) nonhazardous plan's payroll continues to decline. He stated that it declined 5.9 percent in fiscal year 2020 and has an average decline of about 3.5 percent over 10 years, which continues to be a serious problem.

In response to a question from Senator Higdon regarding how many payroll employees have been lost from the quasi-employer and state government groups, Mr. Eager stated he did not have those specific numbers, but that in fiscal year 2020, Eastern Kentucky University's payroll went down more than 40 percent and the payroll for Morehead State University and Murray State University went down 22 and 23 percent, respectively. In response to a follow-up question, Mr. Eager stated that KRS is not notified of any outsourcing of positions.

Mr. Eager explained the cycle of declining payroll and increasing employer contributions under a percent of pay amortization method. Employers are incentivized to outsource so as not to pay the 85 percent of payroll contribution rate, which then increases as a result of declining payroll. He stated that if House Bill 171, which passed the House during the 2020 Regular Session, or a similar fixed allocation bill were to pass in 2021, it would freeze the liability for all agencies to a fixed dollar amount to be paid over a period of 30 years. Therefore, employers would be incentivized to hire, as they will be paying a fixed rate on the UAL and only the normal cost for employees, making it advantageous to hire and retain and not outsource. Mr. Eager noted that one particular employer at one time had 300 employees participating in a retirement plan, now there are only 3 employees participating even though they still have 300 working, just as employees of a nonparticipating subsidiary.

In response to a question from Senator Higdon, Mr. Eager stated that there were about 400 juvenile justice officers that switched over from nonhazardous to hazardous duty retirement in 2020, which also caused a negative impact on payroll.

Mr. Eager discussed the unfunded actuarial accrued liability (UAAL). He provided a chart showing the pension and insurance 2019 and 2020 valuations for each of the pension plans along with the change in the UAAL. He stated that the combined total equaled \$660 million less UAAL.

Mr. Eager discussed funded ratio with comparison of the 2019 and 2020 valuation for pension and insurance for each of the pension plans along with the change in funded ratio.

In response to a comment from Senator Higdon, Mr. Eager agreed that the CERS hazardous is the only plan with a negative change in the funding, which decreased by 0.2 percent. He attributed the change to lower investment returns and possibly payroll issues as well.

Mr. Eager discussed employer contribution rates. He provided a chart comparing the actuarially determined rates for 2019 valuation (FY 2021) and 2020 valuation (FY 2022) along with the board certified rates for FYE 2021 and 2022 for all plans.

Mr. Eager also discussed the calculated contributions for all plans for the 2019 valuation (FY 2021) and 2020 valuation (FY 2022) with the change in dollar amounts. He noted that with the higher rate and smaller payroll, KERS is going to lose \$34 million in cash flow.

Mr. Eager discussed the projection information for KERS nonhazardous and CERS nonhazardous for pension and health combined. He provided a chart that showed valuation years 2020, 2021, 2025, 2030, 2040, and 20 year totals.

In response to a question from Representative Wheatley, Mr. Eager explained that the difference in the actuarially determined employer rates and board certified rates for the CERS plans reflect the statutory phase-in that the board is required to follow.

Mr. Eager presented an illustration of the stochastic projection model for KERS nonhazardous. He stated that KERS can be fully funded by 2049, if the ARC is fulfilled every year and if KERS nonhazardous earns 5.25 percent. The model reflects the degree of probability of attaining a 100 percent funded ratio by that date.

In response to a question from Representative Graviss, Mr. Eager stated that the KRS board of trustees has not formally discussed BR 424, the new bill draft which proposes a fixed allocation payment for the employer cost of the UAAL.

In response to Senator Higdon's request for the opinion of Mr. Eager on the PPOB's recommendations, Mr. Eager stated that GRS Consulting is satisfied with the standardized actuarial analysis bill. In regards to the housekeeping bill, he stated that pension spiking

is the major issue and KRS's approach will be to waive anyone whose spike is not greater than 10 percent or does not improve their benefit by greater than 25 dollars per month. Mr. Eager stated that KRS is comfortable with BR 411 regarding beneficiary changes after retirement.

Representative Wheatley commented that he has met with KRS staff regarding adjustments to BR 411.

Representative Miller moved that the 2020 Recommendations be approved. Representative Wheatley seconded the motion, and the recommendations were approved without objection.

Representative Graviss commented that he would like the PPOB to determine whether stakeholder groups were adequately involved in the collaboration and drafting of BR 278.

Representative DuPlessis moved that the draft 2020 Annual Report be approved subject to the addition of the recommendations just approved and any technical edits needed. Representative Pratt seconded the motion, and the draft PPOB 2020 Annual Report was approved without objection.

### **Actuarial Update – Teachers' Retirement Systems**

Beau Barnes, TRS, began his presentation with an update on investment performance for the quarter ended September 30, 2020, which was 6.51 percent net, above the benchmark of 5.79 percent, and placed TRS in the top 5 percent of public pension plans in the nation. He then reviewed returns for the 1-, 3-, 5-, 10-, and 20-year periods with a 30-year compounded gross return of 8.32 percent.

Mr. Barnes discussed how carried interest works for TRS. Carried interest occurs when there is a group of partners who join together to invest in a business or profit-sharing enterprise. Most of these investments are complex, dealing with the business of business (e.g. corporate restructuring). Within this model, there is a general, managing partner and multiple limited partners. All limited partners pay a management fee of typically 2 percent to the general partner, and then all the partners share in the profits of the investment. Carried interest is the general managing partner's share of the profit from the enterprise.

He explained that TRS generally receives back its initial capital investment, a preferred rate of return on the capital investment (e.g., between 7 and 9 percent), and the management fee before the general partner receives any profits. The profit sharing typically is 20 percent for the general partner and 80 percent for the limited partners such as TRS.

In response to a question from Representative DuPlessis regarding the high 2 percent management fee, Mr. Barnes stated that the 2 percent management fee is typical in the industry, but limited partners do

continue to negotiate for better terms or lower fees. However, Mr. Barnes added that TRS not only earns a 7 to 9 percent return on its investment, but also recoups its initial investment plus often the 2 percent management fee before the general partner receives \$1, plus 80 percent of the profits as a limited partner.

Mr. Barnes continued that, with these types of multi-year investments, the limited partners never know what the final general partner's profits or carried interest will be until the fund closes. He added that because carried interest is a share of the general partner's profits, this is not a fee or expense to TRS, as there is no legal right to the money. If TRS were to record the general partner's profits as an expense on its financial statements, TRS would also have to record those profits as income, which it does not do, since it has no legal right to those unrealized profits.

Mr. Barnes discussed the system's private equity gross returns for fiscal years 2012 through 2020. He stated the five-year return for quarter ending September 30, 2020, was 10.2 percent gross and 8.4 percent net.

Mr. Barnes discussed TRS' experience with private equity profit sharing or carried interest. He provided examples of investments in which TRS was a limited liability partner. Some of these enterprises included a U.S. -headquartered global leader in insurance brokerage space, toll roads, fuel storage, and a furniture/home décor store chain. Finally, he presented the total profit allocation or carried interest paid to the general partners' for FY 2020, which was \$(1,537,736) for the retirement annuity fund and \$(1,099,434) for the health insurance fund. He noted that the carried interest was negative as a result of the pandemic, but because these are multi-year investments, the partnerships will wait to sell until the investments recover and reap profits.

In response to a question from Senator Higdon, Mr. Barnes stated that TRS is reporting the carried interest in the aggregate, which includes private equity, private real estate, and private credit.

In response to a question from Representative Pratt, Mr. Barnes stated that TRS's comprehensive annual financial report details business partners along with investment managers, attorneys, investment consultants, and management fees.

In response to a question from Representative Wheatley, Mr. Barnes stated that the management fees are reflected within the 0.33 percent net returns. In response to a follow-up question regarding the 20-, 10-, and 5-year returns continually rising, Mr. Barnes stated this reflects changes made to diversify the portfolio with expanding into different equities/assets. Mr. Barnes added that TRS continues to increase its allocations.

Mr. Barnes summarized the actuarial valuation

for the retirement annuity and the health insurance trust funds for the FYE June 30, 2020. He included total values of assets, liabilities, UAAL, and the funded ratios.

In response to a question from Senator Higdon regarding the increase in the UAAL despite a good year, Mr. Barnes stated that TRS has had two back to back years of about 5 percent returns and is still in the early stages of the 30 year amortization.

Mr. Barnes discussed the actuarial findings from the annual valuation for FYE June 30, 2020. He stated that TRS received 100 percent of the actuarially determined employer contribution (ADEC), the retirement annuity trust fund increased by \$345 million, and TRS's negative cash flow for 2020 as a percentage of assets was (3.68) percent, which was consistent with the two prior years. Senator Higdon commented that it is concerning that TRS has a negative cash flow.

Mr. Barnes discussed TRS's actuarial experience gain/(loss) analysis by source. He stated that, this year, TRS has had a loss in investment returns, turnover and retirement, mortality, and new entrants. However, over a 10 year period, TRS has had more gains than losses.

Mr. Barnes discussed the 2022 budget request based on the 2019 valuation for FY 2021, actual, and FY 2022. He itemized the budget request including pension leave of absence matching, the state's portion of shared responsibility health insurance funding, amortized payments, and additional employer contributions for ADEC, for a total TRS actual and requested. He also added the statutory contribution to TRS funded through the SEEK Formula in the budget for the Kentucky Department of Education for a complete total to TRS.

In response to a question from Mr. Hicks, Mr. Barnes stated that he believes that most retirement systems have the ADEC language in their statutes as opposed to having a fixed statutory rate. In response to a follow-up question, Mr. Barnes stated that there have been bills introduced that would have provided specific ADEC language as opposed to or in addition to the existing fixed statutory language.

Mr. Jefferson commented that, in his experience, the industry has seen a standardization of private equity as an asset class, and the costs associated with such investments are typically a 2 percent stated annual fee and carried interest. He agreed that the carried interest is not an annual cost and is more complicated. However, the investment world classifies carried interest as a cost or fee, albeit an inconsistent one that is paid only when profits occur within the partnership. He also commented that his position on the PPOB has been to assist legislators in understanding and providing a level playing field in comparing pension plans that legislators are

responsible for funding. As such, it is very important for legislative staff to have the information on a timely basis and the opportunity to have reports created so they can analyze these different plans. To date, Mr. Jefferson stated, to the best of his knowledge, TRS has created a deficit in getting the information requested by staff regarding its payment of carried interest and fees. From the legislative perspective, he believes that it is important that TRS get the information requested to staff and the PPOB on a timely basis in order that the legislators may make funding judgments to the best of their ability.

In response to a question from Senator Higdon, Mr. Barnes stated that the \$26,753,600 increase for the additional employer contributions required for ADEC in FY 2022 is a normal increase that is unaffected by the ongoing experience study.

Mr. Barnes continued with actuarial projections for the 2020 valuations for the retirement annuity and health insurance trust funds with projections through FY 2042.

In response to a question from Representative DuPlessis, Mr. Barnes stated that the 2 percent fees are for management fees paid to an external general partner.

In closing, Mr. Barnes discussed the actuarial experience study for the five-year period ended June 30, 2020. He stated that the actuary uses demographic assumptions such as rates of withdrawal, pre-retirement mortality, disability retirement, service retirement, post-retirement mortality, and salary increases. The actuary also uses economic assumptions, such as price inflation, investment return, and wage inflation. The study will be completed in 2021.

In response to a question from Senator Higdon, Mr. Barnes stated that the increases in the TRS budget request for the ADEC from one year to the next relates to the amortization method, which tracks the payroll growth.

In response to a question from Representative Pratt, Mr. Barnes stated that the 2 percent management fees paid to the general partner includes salaries of staff for the general partner, marketing strategies, and expenses. In response to a follow-up question, Mr. Barnes stated that TRS has in-house investment experts that are paid a salary only.

In response to a question from Representative Graviss, Mr. Barnes stated that the actuaries project that if TRS continues receiving the funding it has received for the past 5 years the system will reach 100 percent funding.

In response to a question from Mr. Harmon, Mr. Barnes stated, in agreement, that the ADEC has been fully paid within the last five or six years, but that in some years prior to that, TRS had not always received

full funding.

With no further business, the meeting was adjourned.

## **Public Pension Oversight Board Minutes of the 1st Meeting of the 2021 Interim**

February 22, 2021

### **Call to Order and Roll Call**

The 1st meeting of the Public Pension Oversight Board was held on Monday, February 22, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Robby Mills, Dennis Parrett, and Mike Wilson; Representatives Jerry T. Miller, Jason Petrie, James Tipton, and Buddy Wheatley; John Chilton, Joseph Fawns, Mike Harmon, John Hicks, James M. “Mac” Jefferson, and Sharon Mattingly.

Guests: David Eager, Executive Director, David Harris, Chair, Board of Trustees, Steven Herbert, Executive Director, Office of Investments, Kentucky Retirement Systems; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers’ Retirement System; and Bo Cracraft, Executive Director, and Stephen LeLaurin, Chair, Judicial Retirement Investment Committee, Judicial Form Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, and Angela Rhodes.

Representative DuPlessis welcomed Senator Mills and Representative Tipton as new members on the Public Pension Oversight Board (PPOB).

### **Approval of Minutes**

Senator Parrett moved that the minutes of the December 14, 2020 meeting be approved. Senator Higdon seconded the motion, and the minutes were approved without objection.

### **Investment/Cash Flow Update and Board Chair Comments – Kentucky Retirement System**

David Eager, Kentucky Retirement Systems (KRS), started off by introducing David Harris, KRS Board of Trustees, and the new CIO, Stephen Herbert. Mr. Eager announced that Mr. Harris is leaving his position as Chair of the board. Mr. Harris spoke about his time with the KRS board over the last five years. He commended the PPOB in the oversight job it does. As to next steps for the board, he suggested more level dollar funding and that actuarial assumed rates of return should be set at 4 percent above a 30 year U.S. Treasury bond coupon rate.

Senator Higdon commented that he appreciated Mr. Harris’ service to the Commonwealth. He agreed that the PPOB has been good for understanding the retirement systems and educating the General Assembly and the public.

Representative Miller thanked Mr. Harris for his service with good advice and a steady course to recovery.

Representative DuPlessis seconded Senator Higdon and Representative Miller’s comments and stated that Mr. Harris has been wonderful for the PPOB and has had a hand in the upward path of the pension systems. In response to a question from Representative DuPlessis, Mr. Harris stated that today’s return on the 30-year Treasury Bill (T-Bill) is 2.16 percent.

Mr. Eager discussed the FY 2021 YTD highlights. He stated that asset levels in all 10 plans rose a total of \$2.5 billion in the first 6 months of FY 2021.

Mr. Herbert discussed the pension and health investment updates as of December 31, 2020. He discussed the net of fees rates of return for the 1-, 3-, 5-, 10-, 20-, and 30-year periods for all plan systems along with their plan index. He indicated that three risk factors – inflation, downward pressure on bond prices, and an equity correction – are being actively considered and mitigated by the investment team.

Mr. Eager discussed cash flow updates. He stated that the total for all plans, KRS was negative \$103 million in contributions less benefits and expenses. He added that KRS is up \$2.4 billion in asset level with a total increase (less the -\$103 million) is \$2.469 billion, which is about 12 percent.

In response to a question from Representative Miller regarding the unfunded ratio for County Employees Retirement System (CERS), Mr. Eager stated he would have to follow up with an answer. Mr. Harris stated he believes CERS is around 57 percent.

In response to a question from Representative Tipton regarding what is the 30-year average going to be 10 years from now, Mr. Herbert stated that from an actuarial point of view, KRS is targeted to do 5.25 percent. Representative DuPlessis asked if the 30-year, 8.31 percent, is factored by years 29 and 30 and that it is likely to see a fall in a couple years. Mr. Eager agreed. Mr. Herbert added that treasury rates during the early years of the 30-year period were likely double or more than what they are now, thereby influencing the 30-year returns of over 8 percent.

Mr. Eager continued with his cash flow overview on the sources of funding, which are employee and employer contributions, and investments, and gave a summary of contribution percentages between a typical pension, Kentucky Employees Retirement System

(KERS) nonhazardous, and CERS nonhazardous.

In response to a question from Representative DuPlessis regarding Mr. Harris’ thoughts on HB 8, Mr. Harris stated that, when rehiring employees, the liability is booked the day hired, then when the employee leaves and is not replaced, the payroll goes down. However, the liability is still there as if the employee had worked 10 or more years. Mr. Harris stated that it is a flawed design to have contribution rates based on payroll as a percentage. The payroll can change, but the liability will not necessarily correlate. He stated that under current law it is considered under percentage of payroll funded, which incentivizes employers to limit headcount by outsourcing. Representative DuPlessis commented that the liabilities are shifted to the taxpayers when an agency hires someone from an outside agency to get away from paying their liabilities. Mr. Harris agreed, and stated that the level dollar/fixed dollar allocation is the last fix needed for the system.

In response to a question from Senator McDaniel regarding whether the actuarial company was at a malpractice level to be so incorrect on the 3.5 percent payroll growth assumption when Mr. Harris first started with the KRS board, Mr. Harris stated he believed that an actuary should catch unsuitable assumptions.

### **Investment/Cash Flow Update – Teachers’ Retirement System**

Beau Barnes, Teachers Retirement System (TRS).

Mr. Barnes responded to a question from Representative Wheatley regarding a statement made by Mr. Eager on how KRS was funding 40 percent of an actuarially inaccurate number resulting in many years of underfunding by the General Assembly, and if had anything similar occurred for TRS in which it did not receive full funding. Mr. Barnes stated that TRS was not receiving full funding to implement the funding plan to pay off the unfunded liability until FY 2017. In FY 2017 and every year following, TRS has received full funding. He stated that there is 24 years left of the 30 year amortization period and that TRS is receiving the funding according to their current actuarial assumptions. He added that TRS is currently undergoing an experience study, and it should be ready by June 30, 2021.

In response to a question from Representative DuPlessis in regards to Mr. Harris’ comment that over the last 75 years across the country, the average rate of return is about 4 percent above the T-Bill, Mr. Barnes stated that he believes TRS has been doing better in recent years with extremely low interest rates.

Mr. Barnes began his presentation with investment performance as of December 31, 2020, and discussed the gross and net performance for the quarter, fiscal-year-to-date, 1-, 3-, 5-, 10-, 20-year trailing time periods, and the 30-year compounded

gross return of 8.49 percent. Mr. Barnes added that from 2008 to December 2020, TRS investment returns totaled a net \$18.2 billion, compared to the average plan's \$13.4 billion. This outperformance generated \$4.8 billion to the benefit of Kentucky's teachers.

Mr. Barnes reviewed cash flow for the pension fund FYTD 2021 compared to FYTD 2020. He pointed out the cash inflows, including member contributions, employer contributions/appropriations, and investment income. He explained that the investment income declined between the comparative period due in part to the pandemic and the decline of assets in the alternatives.

In response to a question from Representative DuPlessis, Mr. Barnes stated the increase in member contributions could be due to additional teachers, payroll increases, and/or report timing.

Mr. Barnes continued with o u t f l o w s , investment gains or losses, and the total net plan assets across both time periods. The result for the 2021 six-month period was a negative cash flow of \$291.2 million, which is still manageable and does not impede TRS' ability to invest.

In response to a question from Representative DuPlessis, Mr. Barnes stated that the percent funded is an actuarial number that was 58.4 percent June 30, 2020, and is anticipated to show some progress if there was an actuarial measure of valuation available for December 31, 2020.

Representative Miller commented that he is troubled by TRS' continual decline in net cash flow numbers, while KRS has been fairly solid as they tend to stagger their actuarial assumption changes from year to year. He stated that TRS' payroll growth assumptions are obscenely wrong and does not understand why the TRS board will not recommend changing at least the payroll growth assumption. Mr. Barnes stated that in the last experience study, the actuaries did recommend TRS to lower their payroll growth from 4 to 3.5 percent. Representative Miller followed up that he urges Mr. Barnes and TRS' Executive Secretary to recommend to their board to not wait five years on every single assumption.

Representative DuPlessis commented that he believes Representative Miller makes a good point to continue to adjust assumptions. Mr. Barnes replied that TRS has a statute that states the actuary shall provide those assumptions and the board shall ratify. Representative DuPlessis commented that TRS can let the General Assembly know if there is legislative assistance needed for more flexibility in making assumption changes.

Representative Tipton commented that he would like for TRS to provide a chart on the sources of funding percentages for the pension system that would include employee, employer, and investments

for the last 5 to 10 year average.

Representative DuPlessis commented that he would like for the three pension systems to organize a common presentation format for the cash flow updates.

Mr. Barnes responded to Representative Tipton's comment in stating that TRS does have a slide that goes back to July 1, 1985, that shows contributions from members, contributions from employers, investment income expenses, and benefits paid out. Representative Tipton responded he would like it if TRS could highlight the period of the full ARC payments.

Mr. Barnes continued with a review of cash flow for the health insurance fund through FYTD 2021 compared to FYTD 2020. He pointed out cash inflows, outflows, investment gains or losses, and the total net plan assets across both time periods. Cash flow remained positive.

Senator Higdon commented that he was surprised to learn that the assumed rate of return on the health insurance trust was 8 percent and believes that, once the experience study is completed, the assumed rate of return will drop considerably. Mr. Barnes replied that TRS' actuary did a sensitivity analysis that indicated there would be no contribution increase if the assumed rate of return was adjusted to 7 percent. However, such an assumption change would push the 100 percent funding amortization period out 2 years from 2026 to 2028.

Mr. Barnes concluded his presentation with the cash flow update on the insurance trust.

In response to a question from Senator McDaniel, Mr. Barnes stated that the PPOB should have the experience study, by Cavanaugh McDonald, in hand by mid-June. Senator McDaniel stated that he is concerned that TRS is continuing to use the same actuary it has used for 5 years for its experience study, since that actuary could possibly be unwilling to indict their own performance or admit errors. In response to a follow up question regarding what the TRS board is going to do to make sure the results from Cavanaugh McDonald are accurate, Mr. Barnes stated that TRS has actuarial audits completed.

In response to a question from Senator Mills, Mr. Barnes stated that he strongly believes in order to put the Commonwealth in the most secure position of avoiding any future budget pressures, the goal is to be 100 percent funded in both pension and health.

**Investment/Cash Flow Update – Judicial Form Retirement System** Bo Cracraft and Stephen LeLaurin, Judicial Form Retirement System, began their presentation with Mr. LeLaurin discussing the system's portfolio design. He stated that it includes four plans for the judges and legislators, requires a

simpler investment policy, has a small administrative staff, and requires caution on risk taking.

Mr. LeLaurin discussed the investment performance overview that included the market value, 1-, 3-, 5-, 10-, 20- and 27-years for the judicial and legislators' defined benefit and hybrid cash balance plans period ending December 31, 2020.

Mr. LeLaurin provided an overview of the asset allocation by plan as of December 31, 2020. He discussed the investment policy targets and defined benefit portfolios rebalanced in January 2021.

Before presenting their cash flow data, Mr. LeLaurin offered and Representative DuPlessis confirmed his request for the three pension systems to organize a common presentation format for the cash flow updates.

Lastly, Mr. Cracraft discussed the cash flow for the judicial and legislators' retirement plans, which included the cash inflows, cash outflows, net cash flow before asset gain/(losses), realized/unrealized investment gains/(losses), and net plan assets for the period ending December 31, 2020.

With no further business, the meeting was adjourned.

## **Tobacco Settlement Agreement Fund Oversight Committee**

### **Minutes of the 8th Meeting of the 2020 Interim**

December 15, 2020

#### **Call to Order and Roll Call**

The 8th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Tuesday, December 15, 2020, at 10:30 AM, in Room 149 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Paul Hornback, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Kim King, Phillip Pratt, Brandon Reed, Rachel Roberts, and Dean Schamore.

Guests: Dorsey Ridley, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; Jason Chesney, M.D., Ph.D., Director, University of Louisville James Graham Brown Cancer Center (BCC); and B. Mark Evers, M.D., Director, University of Kentucky Markey Cancer Center (MCC).

LRC Staff: Nathan Smith, Kelly Ludwig, Stefan Kasacavage, and Rachel Hartley.



## **Governor's Office of Agricultural Policy Report**

Dorsey Ridley stated GOAP has allocated \$1.5 million in tobacco settlement funds and has identified \$2 million in funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act to assist the meat processing program.

Bill McCloskey described the Agricultural Development Board's projects for November under the program. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Shared-Use Equipment Program, and Youth Agriculture Incentives Program.

The requested program amendments discussed included:

Lyon County Conservation District requested an additional \$24,811 in Lyon County funds for CAIP. The board recommended approval, which would bring the program total to \$55,811.

Garrard County Farm Bureau requested an additional \$40,000 in Garrard County funds for CAIP. The board recommended approval, which would bring the program total to \$255,000.

Franklin County Cattlemen's Association requested an additional \$54,000 in Franklin County funds for CAIP. The board recommended approval, which would bring the program total to \$185,184.

The projects discussed included:

Hancock County Cattlemen's Association was approved for \$5,000 in Hancock County funds for a Hancock County Youth Agriculture Production Cost-Share Program.

Menifee County Board of Education was approved for \$10,000 in Menifee County funds to purchase a CNC digital plasma cutter system and to update existing agricultural mechanics equipment.

Green River Beekeepers was approved for \$960 in Taylor County funds to purchase new honey extracting equipment.

The Kentucky Department of Agriculture was approved for \$2,624,895 in state funds for calendar years 2021 and 2022 to fund the Kentucky Proud program.

Campbellsville Independent Schools Board of Education was approved for \$15,000 in Taylor County funds for a high school greenhouse.

The Pennyryle Resource Conservation and Development Area was approved for \$2,500 in Christian County funds to help fund a community garden.

The Kentucky Beef Network was

approved for \$1,445,400 in state funds for calendar years 2021 and 2022 to continue to provide programs that enhance net farm income for cattle producers.

The Kentucky Dairy Development Council was approved for \$1,594,123 in state funds for calendar years 2021 and 2022 to continue its mission of educating, representing, and promoting Kentucky's dairy producers and the dairy industry.

Hometown Butcher, located in Adair County, was approved for \$250,000 in state funds as a forgivable loan to expand its processing facility and to purchase additional processing equipment.

Trackside Butcher Shoppe, located in Henry County, was approved for \$250,000 in state funds as a forgivable loan to expand its processing facility to include a second meat processing room with the necessary processing and packaging equipment.

### **University of Louisville James Graham Brown Cancer Center**

Jason Chesney, M.D., Ph.D., stated Kentucky is ground zero for cancer in the United States with 10,000 deaths expected in 2020. The vast majority of Covid-19 deaths are individuals over the age of 70, while the vast majority of cancer deaths are individuals under the age of 70.

The national cancer death rate dropped by 25 percent in the past 20 years. Kentucky's rate is 180 deaths per 100,000 and the national rate is 150 deaths per 100,000. The reduction in the death rate is due to clinical trials of innovative immunotherapies, development of novel drugs that target cancer mutations, aggressive cancer screening programs coupled with discovery of blood-based approaches to detect cancer, and outreach and education.

In 2020, the Center for Cancer Immunology and Immunotherapy received an \$11.5 million federal grant over 5 years. The goal is to understand the interplay between cancer and the immune system in order to develop innovative treatment strategies.

The BCC is conducting Tumor Infiltrating Lymphocytes (TILs) trials of cancer-specific immune cells extracted and expanded from the patient's tumor. TILs will likely be approved by the Food and Drug Administration (FDA) next year and the BCC will be one of only ten sites in the world to offer the therapy.

The BCC has built the first Good Manufacturing Practices clean room in the central part of the United States designed to create novel Chimeric Antigen Receptor (CAR) T cells against multiple types of cancer.

BCC researchers have discovered a novel class of RAS (renin-angiotensin-system) inhibitors that

suppress tumor growth in mice. There are no FDA approved drugs for cancer that target RAS. Clinical trials to develop the RAS inhibitors are being developed.

The BCC has hired a dedicated cancer screening liaison to coordinate its screening services through the region. The expansion has increased the number of cancer screenings for Kentuckians.

The Krista Loyd Resource Center and new SOAR Wellness Program are providing services to patients seeking to reduce the risk of cancer. Funds were raised for a mobile cancer screening van to support cancer screening and education.

The Kentucky Cancer Program and Kentucky African Americans Against Cancer participated in a webinar relating to participation and access to clinical trials for African Americans.

University of Louisville cancer researchers are helping to fight Covid-19. A drug that was originally developed for cancer was discovered to suppress Covid-19 infections and has been licensed for clinical development. An \$8.5 million grant received from the Department of Defense will assist in developing a nasal spray to prevent serious viral respiratory infections, and a researcher discovered a biomarker that predicts Covid-19 complications.

In response to Representative Roberts, Dr. Chesney stated most cancers are curable if a screening detects the cancer early.

### **University of Kentucky Markey Cancer Center**

B. Mark Evers, M.D., stated the mission of Markey Cancer Center (MCC) is to reduce cancer mortality through cancer research, treatment, education, and community engagement with a particular focus on the underserved population of Appalachian Kentucky.

Kentucky ranks first in cancer mortality in the United States with a 23 percent higher death rate than the national average. Cancer patients from central and eastern Kentucky comprise 93 percent of the patients who receive care from MCC.

The reach of MCC extends throughout Kentucky. There are currently 20 MCC affiliate network sites and seven research network sites in Kentucky. The network infrastructure supports the efforts of community hospitals in providing high quality cancer care.

In April 2020, MCC began to utilize telehealth for follow-up visits due to the pandemic. MCC continues telehealth care with 200-300 patients per month.

MCC was awarded an initial designation by

the National Cancer Institute (NCI) in 2013, and the designation was renewed in 2018. In 2022, MCC plans to apply for comprehensive status.

Due to the initial NCI designation, there has been an increase in cancer patient volume and funding. The total funding has increased from \$28.4 million in 2012 to \$52.2 million in 2020.

There are two recent projects that are focused on minorities in Kentucky. The Kentucky Community Cancer Awareness Research and Education Project is focused on lung cancer disparities among racial and ethnic minorities, and the Diabetes Prevention Program to promote weight loss and lifestyle changes.

The MCC investigators are developing a novel natural product repository of over 900 bacteria strains and over 450 pure products. The majority were collected in abandoned mining shafts in Kentucky. The investigators have identified and are testing new compounds for the treatment of cancer.

MCC investigators are working in collaboration with the University of Kentucky College of Agriculture, Food, and Environment to grow sweet wormwood. The compound artesunate is being used in clinical trials as a treatment for cancer.

There being no further business, the meeting was adjourned.

## **Tobacco Settlement Agreement Fund Oversight Committee Minutes of the 1st Meeting of the 2021 Interim**

January 27, 2021

### **Call to Order and Roll Call**

The 1st meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, January 27, 2021, at 10:30 AM, in Room 129 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Julie Raque Adams, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives George Brown Jr., Kim King, Phillip Pratt, and Rachel Roberts.

Guests: Dorsey Ridley, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; Van Ingram, Executive Director, Kentucky Office of Drug Control Policy (KY-ODCP); Heather Wainscott, Branch Manager, KY-ODCP; and Amy Andrews, Program Manager, Kentucky Agency for Substance

Abuse Policy, KY-ODCP.

LRC Staff: Stefan Kasacavage, Nathan Smith, Kelly Ludwig, and Rachel Hartley.

### **Governor's Office of Agricultural Policy Report**

Dorsey Ridley provided a brief overview of the history of the tobacco master settlement agreement.

Bill McCloskey described the Agricultural Development Board's projects for December and January under the program. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Deceased Farm Animal Removal, Next Generation Farmer, Shared-Use Equipment Program, and Youth Agriculture Incentives Program.

The requested program amendments discussed included:

Carter County Conservation District requested an additional \$50,564 in Carter County funds for CAIP. The board recommended approval, which would bring the program total to \$180,036.

Green River Area Beef Improvement Group requested an additional \$15,033 in McLean County funds for CAIP. The board recommended approval, which would bring the program total to \$51,513.

Green River Area Beef Improvement Group requested an additional \$25,000 in Daviess County funds for CAIP. The board recommended no funding, due to the designation of low priority by the Daviess County Council.

Jessamine County Future Farmers of America Alumni Association requested an additional \$80,000 for CAIP. The board recommended approval, which would bring the program total to \$180,000.

The projects discussed included:

The City of Fulton was approved for \$88,150 in state funds to construct a farmers market pavilion for the Fulton County farmers market.

The Kentucky Horticulture Council was approved for \$500,000 in state funds over two years to expand the Kentucky Small Fruit Crops Program.

Edwards Woolworks was approved for up to \$49,676 in multiple county and state funds to establish a wool mill for Kentucky sheep producers.

Nochelinda Farms was approved for \$4,722 in Bourbon County funds to build a walk-in freezer to support marketing farm raised beef.

Metcalfe County 4-H Council was

approved for \$1,521 in Metcalfe County funds to purchase hams for Metcalfe County 4-H members. The country ham project teaches members about the history and science of curing hams.

River Farm Nursery was approved for \$45,443 in state funds to implement pot-in-pot tree production and a micro-irrigation system.

Barr Farms Organic Produce was denied \$2,814 in state funds for a pond renovation and pump house construction for its beef cattle operation. The board denied the request due to the lack of an established water source.

The Hardin County Regional Farmers Market Foundation was approved for \$32,400 in state funds and \$1,000 in Hardin County funds for the construction of restrooms at the farmers market facility.

Taylor County Fiscal Court was denied \$10,000 in Taylor County funds to make recycling facility improvements due to the lack of producer impact.

### **Kentucky Office of Drug Control Policy**

Van Ingram stated the Kentucky Agency for Substance Abuse Policy (KY-ASAP) has continued to evolve since its placement in the Kentucky Office of Drug Control Policy. KY-ASAP local boards exist in 119 of Kentucky's 120 counties. Elliot County is in the process of receiving its designation.

From January to October 2020, there were 1,775 lives lost due to drug overdoses. Mr. Ingram stated 2020 has seen an increase in drug overdose deaths.

KY-ASAP had a budget of \$11.5 million in fiscal year 2020. All of the local boards received funds and also supplemental grants. The supplemental grants are focused on harm reduction efforts.

The KY HELP Statewide Call Center began connecting individuals to helpful resources in December 2017. A Kentucky social worker will screen and refer the individual to the appropriate treatment.

KY-ASAP has partnered with the Kentucky Pharmacy Education and Research Foundation to purchase, provide, and train law enforcement agencies for Naloxone treatment. KY-ASAP has also partnered with the Eastern Kentucky Concentrated Employment Program to increase access to and retention of employment for individuals in recovery seeking employment and job training.

There being no further business, the meeting was adjourned.

2021 Interim  
**LEGISLATIVE  
RECORD**

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