



INTERIM RECORD

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2021

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Capitol campus reopening allows citizens to attend legislative meetings

by Rob Weber - *LRC Public Information*

FRANKFORT – Kentuckians can once again view legislative committee meetings in person now that a recent change in COVID-19 visitor restrictions no longer prevents citizens from entering the Capitol and Capitol Annex.

Visitors who attend legislative committee meetings should enter the Capitol Annex through the visitor's entrance, the center doors on the front of the building.

To view the weekly calendar of committee meetings, go online to: <https://apps.legislature.ky.gov/legislativecalendar>.

Audience seats in legislative committee rooms have been spread out to prevent people from sitting elbow-to-elbow. If a meeting is expected to attract significant interest, an overflow room will be prepared so that anyone who doesn't find a seat in the meeting room can view the action on a screen.

For more than a year, committee meetings have been livestreamed so that people who couldn't attend meetings due to COVID-19 restrictions could view them online. The livestreams will continue. (For more information, go to <https://legislature.ky.gov/Public%20Services/PIO/Pages/Live-Streams.aspx>)

While the first floor and basement of the



Capitol Annex are open to visitors, citizens must have a scheduled appointment to enter the second, third and fourth floors of the Annex where lawmakers' offices are located.

The Legislative Research Commission's

guidance on mask-wearing reflects recommendations issued by the U.S. Centers for Disease Control and Prevention. Fully vaccinated people are not required to wear a mask inside legislative offices located in the Capitol and Capitol Annex.

Legislative panel hears testimony on how to reduce the cost of local jails

by Jordan Hensley - *LRC Public Information*

FRANKFORT— As jail populations increase in the Commonwealth, so do jail expenses.

Members of the Interim Joint Committee on Judiciary heard testimony from the Vera Institute of Justice on July 8 on how the average Kentucky county spent more than \$3.3 million, or 15% of its budget, on jail expenses. In the 2019 fiscal year alone, Kentucky counties spent more than \$402.3 million on jails.

Vera Research Associate Beatrice Halbach-Singh said that Kentucky's overall jail population shrank 28% last year due to efforts to reduce the spread of COVID-19.

According to the presentation, this showed how money is saved when people who are charged with low-level, non-violent offenses and who pose no threat to public safety are allowed to wait for trial at home.

"This rapid reduction shows that reducing the jail population safely is possible, and in fact, if every county maintained the reduction it saw in 2020, the estimated cost savings statewide would be over \$30 million annually," Halbach-Singh said.

Kentucky's rural counties have the highest jail populations and spend the most on jails. They also spend a greater share of their total budgets on jail costs compared to other types of communities and have seen these numbers increase in recent years, Halbach-Singh said.

Halbach-Singh also noted that while some counties spend more than half of their budgets on jails, one county spent as low as 3%. The type of jail and revenue sources are major factors in this data. Some counties only house local inmates while others also house state and federal inmates. Juvenile facilities and juvenile offenders were not factored into this study, Halbach-Singh added.

Vera Project Director Jasmine Heiss covered recommendations on how to reduce the financial burden of jails on counties. Reducing jail bookings was one of the main recommendations.



Rep. John Blanton, R-Salyersville, urges his fellow lawmakers to proceed with caution as they work to find ways to reduce jail spending during July 8 Interim Joint Committee on Judiciary meeting.

"I think there is a real policy question of whether there are some offenses for which jail bookings in the future can continue to be avoided altogether, particularly with an emphasis on diversion or referral to services for people who struggle with mental health issues, with substance use and generally with poverty," said Heiss.

Heiss also mentioned a bill filed in the 2021 legislative session, Senate Bill 223, which contained a provision to strengthen a defendant's constitutional right to a speedy trial. Reducing the time an inmate spends in a local jail while waiting for trial also can reduce jail costs, Heiss added. The General Assembly did not vote on SB 223 in the last legislative session.

Following the presentation, committee co-chair Sen. Whitney Westerfield, R-Crofton, commented that he would like to see some reform on the ways jails choose communication service contracts for inmates.

"There ought to be competitive bidding for those things to drive those prices down for the taxpayer and the people who are footing the bill for the facilities we have around the state," Westerfield said.

Rep. John Blanton, R-Salyersville, said he supports the call to find a way to reduce costs for the state and local communities, but he wanted to know if the pandemic led to more crime going unreported and if that was also a factor in reduced jail populations.

"And as much as we all want to reduce costs, we have to remember our jails are the way they are because people's committing crimes," Blanton said. "We either got to stop people committing crimes or we got to do away with what is a crime..."

"I just caution us to not get in too quickly here and that we take all the things into account as to why these numbers are lower during this pandemic."

The next Interim Joint Committee on Judiciary meeting is scheduled for 11 a.m. on Aug. 5.

Lawmakers present pre-filed bill to ensure critical race theory isn't taught in schools

by Jordan Hensley - *LRC Public Information*

FRANKFORT—Rep. Matt Lockett, R-Nicholasville, said he believes his bill, Bill Request 69 “will be one of the most vital pieces of legislation” that will be considered when the General Assembly convenes for its 2022 session.

According to Lockett, who is the bill's primary sponsor, the goal of BR 69 is to ban the teaching and promoting of critical race theory in Kentucky's public schools. The pre-filed bill was the main topic of discussion during the Interim Joint Committee on Education meeting on July 6.

Lockett said critical race theory (CRT) teaches that the political and social system in the US is based on race and labels those who are white as the oppressors and those who are Black as the oppressed.

Lockett along with one of the bill's co-sponsors Rep. Jennifer Decker, R-Waddy, said they have both heard from parents and educators across the Commonwealth who say CRT is being taught in schools and that they are against it being part of the school curriculum.

Kentucky Department of Education Commissioner Dr. Jason Glass testified that curricular decisions are left to school based decision making councils.

“The Kentucky Department of Education is not aware of any districts or teachers specifically teaching critical race theory and neither CRT nor terms associated with it appear in our state standards,” Glass said.

Although he is not an expert on critical race theory, Glass did offer a definition of CRT and suggested the committee invite an expert to testify.

“Critical race theory is a decades old legal and academic theory which seeks to explain why racism continues to exist,” Glass said, adding that CRT is typically taught and discussed in graduate-level courses and is not a developmentally



Rep. Matt Lockett, R-Nicholasville, testifies on Bill Request 69 during July 6 Interim Joint Committee on Education meeting.

appropriate concept for elementary and middle school-aged students.

In regards to BR 69, Glass said the bill hurts freedom of speech and that these types of laws hurts education and hinders the state's ability to recruit and retain teachers.

Fayette County social studies teacher Delvin Azofeifa joined Lockett and Decker in testifying in favor of BR 69.

“Any CRT adjacent doctrine doesn't belong in public schools,” Azofeifa said.

During discussion, Rep. Tina Bojanowski, D-Louisville, criticized the importance of the

bill compared to other issues such as the suicide ideation rate among children and the high child abuse rates in Kentucky. She, along with Rep. Lisa Willner, D-Louisville, also criticized the bill's language.

“When I read Bill Request 69, I found it vague,” Willner said. “...The goal seems to be to want to ban discomfort, but you know, unfortunately, that's not really something we can legislate.”

Lockett responded by explaining the goal of the bill isn't to just eliminate the term critical race theory, but to make sure students are not taught they are less than somebody else due to the color of their skin.



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Committee Meetings

LEGISLATIVE RESEARCH COMMISSION

2022-2024 Budget Preparation and Submission Subcommittee Minutes of the 1st Meeting of the 2021 Interim
June 25, 2021

Call to Order and Roll Call

The first meeting of the 2022-2024 Budget Preparation and Submission Subcommittee of the Legislative Research Commission was held on Friday, June 25, 2021, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Morgan McGarvey, and Max Wise; Representatives Joseph M. Fischer, Mark Hart, and Brandon Reed.

Guests: Janice Tomes, Deputy State Budget Director, Office of State Budget Director (OSBD); Kevin Cardwell, Deputy State Budget Director, OSBD; Laurie Dudgeon, Director, Administrative Office of the Courts (AOC); Carole Henderson, Budget Director, AOC; and, Jay Hartz, Director, Legislative Research Commission (LRC).

LRC Staff: Jenny Bannister, Greg Troutman, and Spring Emerson.

Kevin Cardwell and Janice Tomes provided an overview of the proposed changes to the Executive Branch Budget Instructions for fiscal biennium 2022-2024.

In response to a question from Chair McDaniel regarding Budget Review staff having access to electronic forms, Mr. Cardwell said they would work with LRC to improve the process. Chair McDaniel requested that the Co-Chairs be informed if there are issues with providing access.

Laurie Dudgeon and Carole Henderson provided an overview of the proposed changes to the Judicial Branch Budget Instructions for fiscal biennium 2022-2024. There were no questions.

Jay Hartz provided an overview of the proposed changes to the Legislative Branch Budget Instructions for fiscal biennium 2022-2024. There were no questions.

A motion was made by Representative Reed to direct the Co-Chairs to work with LRC staff to finalize the 2022-2024 Budget Instructions and formally present them to the LRC. The motion was seconded by Representative Hart, and the motion passed by voice vote.

A motion was made by Representative Reed to direct staff to send out Defined Calculations letters

to specific agencies before 2022-2024 Budget Instructions are finalized. The motion was seconded by Senator Wise, and was passed by voice vote.

There being no further business before the subcommittee, the meeting was adjourned at 10:15 AM.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 1st Meeting of the 2021 Interim
July 8, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Agriculture was held on Thursday, July 8, 2021, at 9:00 AM, in Room 154 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; Senators Matt Castlen, Jason Howell, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Josh Calloway, Jonathan Dixon, Myron Dossett, Daniel Fister, Kelly Flood, Derrick Graham, Mark Hart, Mary Beth Imes, Kim King, Matthew Koch, Nima Kulkarni, Shawn McPherson, Phillip Pratt, Felicia Rabourn, Josie Raymond, Brandon Reed, Cherlynn Stevenson, Nancy Tate, Walker Thomas, and James Tipton.

Guests: Matthew Gosnell, VP of Development, AppHarvest; Kristi Putnam, Director for State and Local Government Affairs, AppHarvest; Dana Feldman, Executive Director, Officer of Consumer and Environmental Protection, Kentucky Department of Agriculture; Harland Hatter, Deputy Executive Director, Office of Consumer and Environmental Protection, Kentucky Department of Agriculture; and Jason Glass, Director, Division of Regulation and Inspection, Kentucky Department of Agriculture.

LRC Staff: Stefan Kasacavage, CSA, Kelly Ludwig, Nathan Smith, and Susan Spoonamore, Committee Assistant.

Overview of AppHarvest

Ms. Kristi Putnam, Director for State and Local Government Affairs, AppHarvest, stated that the mission of AppHarvest is to build a resilient food system for America. The United Nations has found that the world will need fifty to seventy percent more food by 2050, and according to the United States Department of Agriculture approximately sixty-nine percent of all fresh vine crops sold in the United States in 2019 were imported. AppHarvest's technology will enable hyper-efficient facilities that can grow produce

where it is consumed allowing access to fresh, affordable, and nutritious produce. The facilities will also help to solve some of agriculture's biggest environmental and social issues. Kentucky can be the leader in ensuring that America's food supply chain is secure. AppHarvest's focus in Kentucky is on eastern Kentucky and Appalachia, where AgTech could be a significant part of rebuilding Kentucky's economy. Mr. Matthew Gosnell, VP of Development, AppHarvest, stated that AppHarvest is in the process of investing approximately \$200 million in two new projects in Madison County, which will create around 300 jobs. He said those two projects would expand to growing leafy greens as well as vine crops. Other projects currently being developed include a facility in Somerset to grow berries.

In response to Representative Heath, Ms. Putnam stated that AppHarvest sells to Mastronardi, which markets its products under the brand of Sunset. Mastronardi has contracts with the thirty biggest grocers in the Midwest and on the East coast. In Kentucky, the market is being pushed toward stores such as Kroger, Publix on the East coast, and Costco in the northeast.

In response to Representative King, Ms. Putnam said that Sunset and AppHarvest have an agreement to co-brand the produce. Produce stickers and boxes have both the Sunset and the AppHarvest "double mountains" logos prominently featured. Mr. Gosnell said that AppHarvest is trying to displace Mexico's market share with USA grown peppers, cucumbers, berries, lettuces, and tomatoes.

In response to Senator Howell, Mr. Gosnell said the entire greenhouse comes turn-key from the Netherlands. There are dozens of opportunities for supporting industries across the state such as those involved in making diffused glass, steel, LED lights, robotics, and other technology.

In response to Representative Graham, Mr. Gosnell stated that there were over 300 job openings in Morehead and AppHarvest received 7,000 resumes. It is important for AppHarvest to hire locally.

In response to Senator Hornback, Mr. Gosnell said currently 41 of 58 counties in California are in an extreme drought. A lot of the lettuce grown in the United States comes from the central valley in California where there have been concerns over salmonella and E. coli breakouts. This can be avoided because AppHarvest does not use chemical pesticides and uses ninety percent less water than conventional agriculture. Mr. Gosnell said that AppHarvest can only commit to growing produce and not fish at the same time due to the scale and size of the projects.

Discussion of Motor Fuels

Dana Feldman, Executive Director, Office of Consumer and Environmental Protection, Kentucky Department of Agriculture; Harland Hatter, Deputy Executive Director, Office of Consumer and Environmental Protection, Kentucky Department of Agriculture; and Jason Glass, Director, Division of Regulation and Inspection, Kentucky Department of Agriculture discussed program modernization and updates to motor fuel regulations. Mr. Glass explained that the Kentucky Department of Agriculture (KDA) tests fuel to ASTM International standards,

federal requirements, and administrative regulation requirements. The inspectors pull samples for random testing from over 2,600 gas stations in Kentucky. He said the Kentucky General Assembly mandated agencies to certify, repeal, or update regulations. Mr. Glass said that KDA is in the process of revamping administrative regulations in the Motor Fuel Quality Program. KDA does anticipate some changes to the statutes; mainly clean up language and removal of outdated terms. He said that any statutory changes will be worked on with stakeholders in advance of filing.

Referred Administrative Regulations reviewed by the committee pursuant to KRS 13A.290:

302 KAR 079:011

Motor fuel quality testing and inspection program

302 KAR 079:012

Motor fuel quality standards and specifications

There being no further business, the meeting was adjourned.

COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 2nd Meeting of the 2021 Interim July 7, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 7, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, David P. Givens, Alice Forgy Kerr, Morgan McGarvey, Stephen Meredith, Michael J. Nemes, Robin L. Webb, and Stephen West; Representatives Lynn Bechler, Danny Bentley, John Blanton, Randy Bridges, Myron Dossett, Joseph M. Fischer, Ken Fleming, Kelly Flood, Chris Fugate, Al Gentry, Robert Goforth, David Hale, Mark Hart, Angie Hatton, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Brandon Reed, Steve Riley, Sal Santoro, James Tipton, and Lisa Willner.

Guests: John Roenker, Chief Economist, Legislative Economic Analysis, Legislative Research Commission, Katie Scott, Staff Economist, Legislative Economic Analysis, Legislative Research Commission; David Eager, Executive Director, Kentucky Public Pensions Authority (KPPA), Rebecca Adkins, Executive Director, Office of Operations, KPPA, Erin Surratt, Executive Director, Office of Benefits, KPPA, Beau Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System (TRS); and John Hicks, State Budget Director, Office of State Budget Director (OSBD).

LRC Staff: Jennifer Hays, Grant Minix, Sarah Watts, and Chase O'Dell.

Pandemic Relief - Update on Federal Funding

John Hicks, State Budget Director, OSBD, provided an updated on pandemic relief and federal funding.

Mr. Hicks testified that there were seven federal acts related to COVID-19 which appropriated funds to and through Kentucky state government. The \$867 million award to Kentucky from the Families First Coronavirus Response Act was primarily for Medicaid. Kentucky was awarded \$7 billion through the CARES Act, of which \$4.7 billion was for unemployment insurance. Kentucky received over \$2 billion through the Coronavirus Response and Relief Supplemental Appropriations Act. The American Rescue Plan Act has awarded \$6.7 billion to the state. In total, \$16.9 billion has flowed to and through Kentucky as a result of the federal acts related to COVID-19. Most of these funds are flowing through existing programs.

Mr. Hicks detailed the funds that flowed through each cabinet of state government. The bulk of funds flowing through the Labor cabinet were for unemployment insurance. A significant amount of funding flowed through the Department of Education via the American Rescue Plan Act and the Coronavirus Response and Relief Supplemental Act. A large amount of funds passed through the Health and Family Services Cabinet, through the Department of Public Health and the Department for Community Based Services. Over \$1 billion in funds have flowed through Kentucky state government to childcare recipients and providers. The Department of Local Government distributes the \$300 million in funds from the American Rescue Plan Act to most cities. Of the \$252 million which flowed to the Transportation Cabinet, \$164 million came through the Coronavirus Response and Relief Supplemental Act to be used on highways. There are \$1 billion in funds from the American Rescue Plan Act state fiscal recovery fund that have not been appropriated by the General Assembly.

The largest federal pandemic grants outside of unemployment insurance were from the Elementary and Secondary School Emergency Relief Fund. Other large programs included the enhanced federal share for Medicaid benefits, the child care stabilization program, the higher education emergency relief fund, and assistance to cities and counties.

In response to a question from Senator McDaniel, Mr. Hicks testified that funds which flowed to existing programs would return to the federal government if not spent. All of the money from the Coronavirus relief fund was received upfront. Half of the dollars from the state fiscal recovery fund were received upfront, with the other half coming in twelve months. If those funds are not spent, they are returned to the U.S. Department of Treasury. By law, dollars from those two funds cannot be reallocated. In response to another question, Mr. Hicks stated that the administration still expects to spend all CARES Act funds awarded.

In response to a question from Representative Tipton, Mr. Hicks stated that the funds for highways are being used for maintenance projects more than for new projects. On the emergency eviction relief funds, the Kentucky Housing Corporation and the media have informed the public on the funds and programs

available to assist the public.

In response to a question from Senator Carroll, Mr. Hicks testified that most of the federal funds went through existing programs and were based on formula allocations. With the Coronavirus Relief Fund, decisions regarding fund distributions went through the Governor's Office. The General Assembly appropriated funds from the State Fiscal Recovery Fund. Mr. Hicks applauded cabinet reporting of funds during the pandemic.

In response to a question from Senator Givens, Mr. Hicks assured that the administration is not posing recurring obligations on the Commonwealth through the use of these federal funds. Agencies using the funds understand that these are one-time funds. In regards to the American Rescue Plan Act's State Fiscal Recovery Fund, states can reduce taxes but cannot use the federal funds to replace the portion of tax revenues reduced as a result of a tax policy action. Senator Carroll expressed his concern with organizations being unable to sustain wage increases once federal funds go away.

In response to a question from Representative Nemes, Mr. Hicks testified that federal funds will not be in jeopardy when Kentucky's state of emergency ends.

Inflation and Impacts on the Future of our Economy

John Roenker, Chief Economist, Legislative Economic Analysis, Legislative Research Commission, and Katie Scott, Staff Economist, Legislative Economic Analysis, Legislative Research Commission, discussed inflation and its impacts on the future of the economy.

Ms. Scott testified that the variables in the economy which impact inflation are the amount of dollars in the economy, the velocity of money, and the amount of goods to purchase in the economy. Inflation is measured through the Consumer Price Index (CPI). The CPI reflects changes in the prices paid for various consumer goods. The core CPI removes food and energy prices.

Controlling inflation is the responsibility of the Federal Reserve. The Federal Reserve is statutorily mandated to ensure maximum employment, stable prices, and moderate long-term interest rates.

The Federal Reserve has three tools to control the money supply and control inflation or deflation. The Federal Reserve can change the federal funds rate, which is the interest rate on the money banks lend to each other. It can also change the reserve ratio, which is the amount of money banks have to keep in their vaults. Lastly, the reserve can conduct open market operations, which is the buying and selling of treasury bonds.

The International Monetary Fund has referred to the period beginning in 2020 in response to the COVID-19 pandemic as the "Great Lockdown". The money supply has increased 74 percent compared to pre-pandemic levels. The velocity of money dropped almost 77 percent at its lowest point. Velocity has begun to recover. There have also been changes in output in the economy, particularly with supply chain issues.

There are several theories for the cause of current

inflation. One current theory is supply shock, with things such as chip shortages leading to higher prices. Another theory is misleading comparisons, with one example being that gas prices dropped sharply while people were locked down, but now have risen above 2019 levels. Another theory is monetary policy, with the drastic increase of the money supply.

The all-items CPI was up five percent compared to May, 2020. The core CPI is up 3.8 percent. Volatile indexes such as gasoline and fuel oil indexes are up 56 and 50 percent, respectively, since May, 2020. Used car and truck prices are up 30 percent. Transportation services are up 11 percent. Stable indexes such as food, electricity, shelter, and medical are under less pressure.

Last year, the Federal Reserve shifted its policy to target an average of two percent inflation over the long-term. The Federal Reserve decided to keep the federal funds interest rate at zero to .25 percent until maximum employment is achieved. The latest projection is for inflation to reach 3.4 percent in 2021 and 2.1 percent in 2022. The governors of the reserve voted unanimously to keep the current monetary policies in place as of June 16, 2021.

In response to a question from Senator Givens, Ms. Scott testified that when considering inflation, current price levels are compared relative to 2020. In response to another question, Mr. Roenker stated that the Federal Reserve views current pressures on the economy such as the current microchip shortages as transitory pressures which will eventually resolve themselves. He continued that this is why the reserve is returning to its baseline projection of two percent inflation in 2022. In response to another question, Mr. Roenker testified that the reserve has revised its inflation projections from previous estimates.

In response to a question from Senator Carroll, Ms. Scott stated that the Federal Reserve is attempting to balance things out in their approach. Mr. Roenker testified that it is telling that the reserve voted unanimously not to change its policy.

In response to a question from Representative Fischer, Mr. Roenker stated that the General Assembly should listen to the fact that the Federal Reserve Board is not expressing much worry.

In response to a question from Representative Petrie, Mr. Roenker testified that his professional opinion would be to listen to the Federal Reserve Board's advice.

Public Pension Report – Financial Status and Future Needs

David Eager, Executive Director, KPPA, Rebecca Adkins, Executive Director, Office of Operations, KPPA, Erin Surratt, Executive Director, Office of Benefits, KPPA, and Beau Barnes, Deputy Executive Secretary of Operations and General Counsel, TRS, provided a report on the financial status and future needs of the various retirement systems.

Mr. Eager outlined three key events which will lead to the retirement plans being fully funded by 2048. Senate Bill two, passed in 2013, established tier three and required full funding of the ARC. The economic and mortality assumptions were reset in 2017 and 2019. House Bill eight, passed in 2021, changed the method of funding for the Kentucky Employees

Retirement System (KERS) non-hazardous plan. Each employer will pay its percentage of the total plan liability.

Through May 31, 2021, all pension year-to-date performance was up 23 percent, resulting in a net increase of \$2.9 billion in assets. Fund performance totaled \$176.8 million above the benchmark. The KERS non-hazardous plan had a net cash flow of \$234 million with investment income. The County Employees Retirement System (CERS) had net cash flow of negative \$100 million with investment income.

As of May 31, 2021, the KERS non-hazardous plan market value is up 20.4 percent year-to-date. KERS non-hazardous member contributions for fiscal year 2021 were down to \$82.5 million from \$89.4 million in fiscal year 2020. Mr. Eager testified that this was the result of the last phase of employee reduction and the loss of contributions associated with it, which will not be seen again. KERS has more contribution inflows than outflows. Insurance fund cash flows are also positive.

Mr. Eager reviewed the impact of fiscal year 2021 investment returns on the unfunded liability of the KERS non-hazardous plan. There will be \$628 million less in unfunded liability by 2027 as a result of investment returns in fiscal year 2021. The funded ratio is now projected to reach 26 percent by 2027, up three percent from the previous projections. In fiscal year 2018, the funded ratio was 12.9 percent.

Because of investment returns in fiscal year 2021, employer contributions for KERS non-hazardous are projected to total \$1.024 billion in fiscal year 2022, down from the initial projection of \$1.034 billion.

For the CERS non-hazardous plan, the 2027 unfunded liability is now projected to total \$6.16 billion, \$1.4 billion less than initial projections. The CERS non-hazardous plan is now projected to be 63 percent funded by 2027, up from earlier projections of 55 percent. CERS non-hazardous employer contributions are now projected to total \$561 million in 2027, down from earlier projections of \$683 million for that year. In response to a question from Senator McDaniel, Ms. Adkins testified that the five year window for the CERS rate collar began in 2018. Those CERS employers will catch-up to the rates they would have otherwise been contributing before the end of the window.

In response to a question from Senator Givens, Mr. Eager testified that statute states that KPPA's actuary calculates each employer's share of the total liability. He continued to say that 44 of the 110 employers have appealed their calculations. Mr. Eager encouraged the legislature not to require KPPA to provide individual member information to employers. In response to another question from Senator Givens, Mr. Eager stated that 54 employers have received individual employee liability information. These are employers who cannot leave the system. Twenty-two employers who can leave the system will not be given individual employee liability information.

Mr. Barnes described the process and necessity of experience studies. There have been several significant changes to assumptions which will impact TRS' budget request. The investment return assumption has been lowered from 7.5 to 7.1 percent for all plans. The

payroll growth assumption has been lowered from 3.5 to 2.75 percent. New teacher-specific mortality tables have been developed and implemented.

As a result of the recent changes, total TRS annuity trust liabilities have increased \$2.95 billion from \$35.58 billion. New mortality tables accounted for a \$1.49 billion increase in liabilities. The lowering of the assumed investment returns accounted for a \$1.65 billion increase in liabilities. The lowering of salary assumptions for teachers lowered liabilities by \$400 million.

TRS will request an additional \$629.4 million from the budget for fiscal year 2023. The fiscal year 2024 request will be based on the 2021 annual valuation.

In response to a question from Representative Tipton, Mr. Barnes testified that for fiscal year 2023, there will be \$435 million which will be needed for the SEEK formula as an addition to the \$629.4 million budget request. The fiscal year 2023 budget request is a \$50 million increase over the previous year.

In response to a question from Senator Carroll, Mr. Barnes stated that the actuary provides specific assumption numbers, while the TRS board ratifies those assumptions. The board does not have the authority to change or not follow the assumptions.

In response to a question from Senator McDaniel, Mr. Barnes testified that dropping 2016 returns off of the valuation and adding 2021 returns would lead to less pressure on the general fund.

With no further business to come before the committee, the meeting was adjourned at 2:55 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE

Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection

Minutes of the 1st Meeting of the 2021 Interim

June 2, 2021

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, June 2, 2021, at 9:00 AM, in Room 154 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Matt Castlen, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Morgan McGarvey, and Wil Schroder; Representatives Al Gentry, David Hale, Nima Kulkarni, Savannah Maddox, Bart Rowland, and Russell Webber.

Guests: Mike Berry, Secretary, Tourism, Arts, and Heritage Cabinet; Russ Meyer, Commissioner, Department of Parks; Hank Phillips, President and CEO, Kentucky Travel Industry Association; Karen Williams, President and CEO, Louisville Tourism; Claude Bacon, Vice President of Sales, Marketing, and Ecommerce, LinGate Hospitality; Mary Quinn Ramer, President and CEO, VisitLex.

LRC Staff: Sara Rome, Kevin Newton, Joseph Holt, and Amie Elam.

Representatives from the Tourism, Arts and Heritage Cabinet, and Kentucky Travel and Tourism Agencies spoke to the committee about the impact of COVID-19 on Kentucky Tourism and plans for the future. Topics discussed included marketing, expanding broadband in state parks, and extended unemployment benefits.

Tourism, Arts, and Heritage Cabinet

In response to questions by Chair Bechler, Mr. Berry said that hotel/motel occupancy was down greater than ten percent during the pandemic. Mike Mangeot, Commissioner, Kentucky Department of Tourism, added that revenue impact figures were in the process of being compiled. He said early estimates are in the \$2-3 billion range.

In response to a question by Representative Webber, Mr. Berry stated that Kentucky was given \$5 million in CARES Act funding for marketing the state as a tourist destination. He said an additional \$2.8 million was provided for recovery assistance and marketing of specific regions of the commonwealth. He added that Kentucky ranks 30th in spending for advertising and tourism.

In response to a question by Chair Bechler, Mr. Berry said the number of jobs generated is not an all-inclusive number. He said the number comes from industries that draw revenues primarily from tourism and travel. Mr. Meyer said that expanding broadband access is a budget priority for the Department of Parks. He added that getting infrastructure services into remote areas where state parks are located is difficult and costly, but progress is being made.

Kentucky Travel and Tourism Agencies

In response to a question by Representative Gentry, Ms. Williams said iconic attractions and industries in Louisville are major draws for tourists. She added that the product and infrastructure are in place, but the commonwealth is desperate for the ability to advertise them. She said, with an aggressive marketing plan, Louisville can be competitive. Ms. Ramer said that Lexington is a charming mid-sized city that cannot be missed. She highlighted the equine and bourbon industries and the growing university town vibe. Mr. Phillips added that the struggle has always been to communicate and raise public awareness about what Kentucky has to offer visitors. Mr. Bacon mentioned that Rolling Stone magazine mentioned Owensboro as one of seven must-visit music cities. He listed a vibrant culinary scene, a redeveloped riverfront, and Green River Distillery among the major draws to Owensboro's visitors.

In response to a question by Representative Webber, Ms. Williams said the tourism industry is taking cues from Governor Beshear on COVID-19 restrictions.

In response to questions by Chair Bechler, Mr. Bacon said that extended unemployment benefits have certainly had an impact on the hospitality and tourism industries. Ms. Williams stated that no businesses permanently closed in Louisville due to social unrest. There being no further business to come before the subcommittee, the meeting adjourned at 10:35 a.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement

Minutes of the 2nd Meeting of the 2021 Interim

July 7, 2021

Call to Order and Roll Call

The second meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 7, 2021, at 9:00 AM, in Room 131 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Michael J. Nemes, Co-Chair; Representatives John Blanton, Co-Chair, and Myron Dossett, Co-Chair; Senators Robby Mills, Adrienne Southworth, and Reginald Thomas; Representatives Kevin D. Bratcher, Jeffery Donohue, Robert Goforth, Jim Gooch Jr., Derrick Graham, Mark Hart, Adam Koenig, Michael Meredith, Suzanne Miles, Jerry T. Miller, Jason Petrie, Phillip Pratt, Josie Raymond, Brandon Reed, Nancy Tate, and Buddy Wheatley.

Guests: Gerina Whethers, Secretary, Personnel Cabinet; Mary Elizabeth Bailey, Commissioner, Human Resources Administration, Personnel Cabinet; David Eager, Executive Director, Kentucky Public Pensions Authority (KPPA); and, Erin Surratt, Executive Director, Office of Benefits, KPPA.

LRC Staff: Emma Mills, Savannah Wiley, and Spring Emerson.

Chair Dossett began the meeting by opening to remarks by Co-Chair Nemes, who expressed condolences on the recent passing of Senator Tom Buford. Senator Buford had been a member of the Kentucky Senate since 1991, representing Fayette, Garrard, Jessamine, Mercer, and Washington counties. A moment of silence was observed in his honor.

Approval of Minutes

A motion was made by Representative Petrie to approve the minutes of the June 2, 2021 meeting. The motion was seconded by Representative Hart, and the minutes were approved without objection.

Personnel Cabinet

Executive Branch Employees Compensation Plan

Commissioner Bailey provided an overview of the Executive Branch Employees Compensation Plan. Secretary Whethers said there are approximately 50,000 state employees, and with an additional six percent of the 4.4 million citizens in Kentucky being on the Kentucky Employees Health Insurance Plan, the goal of the Personnel Cabinet is to improve on recruitment as well as retention. Moving forward will include being competitive outside this market.

In response to a question from Chair Dossett regarding cases where new hires are being paid as

much or more than current or long-term employees in the same grade level or position, Commissioner Bailey explained that when a new employee is hired by job classification, and there are other employees in the same agency, in the same county, in the same job classification, with the same or similar combination of education and experience, then those current employees could be raised to the same pay scale as the new hire. If current employees in the same class are outside that county, or the combination of education and experience is less than the new employee, then the new employee would be paid more.

In response to a question from Chair Dossett regarding the Executive Branch employee turnover rate and what prevention measures are in place, Commissioner Bailey said it is around twenty percent. Additional premiums were created, as well as allowing a pay increase on a reclass and promotion. Additional incentives have also been created to help with retention. Secretary Whethers said there had been a slow increase in turnover since 2012, which is also true for the private sector, as well as state government employees in other states.

In response to a question from Chair Dossett regarding the labor market and the decrease in applicants, Commissioner Bailey said it is hard to recruit certain job classifications in some counties, such as for professions like nurses and engineers.

In response to a question from Representative Bratcher regarding coordination with local unemployment offices, Commissioner Bailey said they do, and also work with state career development offices. Secretary Whethers added that social media and other communications outlets are being used to inform the public about employment within state government. Kentucky has had no layoffs due to the pandemic, unlike employers in the private sector.

In response to a question from Co-Chair Blanton regarding pay equity, Commissioner Bailey said Kentucky must invest in our workforce. Secretary Whethers added that the midpoint of paygrades was raised, but it still is not enough. Co-Chair Blanton commented that it is a two-fold issue which includes pay equity and retention, as well as maintaining a healthy pension system. He said the time is now, and something must be done to retain our state employees. Commissioner Bailey agreed that incremental pay increases must be reinstated in order to retain current employees, as well as to recruit new ones. Secretary Whethers added that in order to be competitive with the private market, things will have to change.

In response to questions from Senator Southworth regarding the salary schedule and job classifications, Commissioner Bailey said that funding to increase the minimum salary schedule is necessary, in addition to providing annual increments. By statute, a nationally-known points grading system must be used for adjusting salary schedules.

Secretary Whethers added that replacing ten employees paid \$30,000 per year with three employees paid at \$60,000 per year would become problematic throughout the state, due to the decrease in state employment.

In response to a question from Senator Southworth regarding the requirement of college degrees for low-skilled positions, Commissioner Bailey said

substitution clauses are in place for education and/or experience for many jobs. Agencies are very involved with reviews of the entire job classification system, which are performed on a regular basis.

In response to a question from Representative Graham regarding the number of agencies with employees that are on a permanent telework schedule, the salary ranges of professionals as compared to the private sector, and the demographic of the state workforce as it compares to the demographic of the general population in Kentucky, Commissioner Bailey said that all agencies are eligible for teleworking, and more information will be provided to the subcommittee at a later date.

In response to a question from Representative Petrie regarding details of the Personnel Cabinet's plan to revise the current compensation program, Commissioner Bailey said that information would be provided before September 1, 2021, as requested.

In response to a question from Representative Wheatley regarding whether increased pay or an improved pension plan would be better for recruitment/retention of the best employees, Secretary Whethers said in comparison with the private sector, neither would be better, because both are necessary.

Chair Dossett requested that any remaining questions be emailed to Budget Review Staff due to the meeting running overtime.

Kentucky Public Pensions Authority

Update on RS 2021 House Bill 8

Director Eager and Erin Surratt provided an overview of the KPPA and House Bill 8 that was passed during the 2021 Regular Session of the General Assembly.

Chair Dossett expressed his appreciation for how the KPPA protects the private information of its participants.

In response to a question from Representative Meredith regarding the calculated contribution rate in 2009 versus the actual rate, Mr. Eager said that rate was determined within the state budget.

In response to a question from Representative Meredith regarding the prevalence of a shift to contracted employees among quasi-governmental agencies, Mr. Eager said the intent is not purely to reduce costs, but could be a large factor.

In response to questions from Chair Dossett, Mr. Eager said each employer contribution is tracked individually. KPPA alerts those employers when the contribution level is reached.

In response to a question from Chair Dossett regarding ongoing appeals, Ms. Surratt said there are two currently underway from the universities. Mr. Eager added that out of 110 state agencies, 44 of them have appealed.

Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 10:44 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE

Budget Review Subcommittee on Education Minutes of the 1st Meeting

of the 2021 Interim

June 2, 2021

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, June 2, 2021, at 11:00 AM, in Room 154 of the Capitol Annex. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Representatives Kim Banta, Tina Bojanowski, Randy Bridges, Ken Fleming, Kelly Flood, Bobby McCool, Charles Miller, and Ruth Ann Palumbo.

Guests: Dr. Tim Caboni, President, Western Kentucky University; Dr. David McFaddin, President, Eastern Kentucky University; Dr. Aaron Thompson, President, Council on Postsecondary Education, Dr. Bill Payne, Vice President of Finance and Administration, Council on Postsecondary Education, Shaun McKiernan, Director of Finance and Budget, Council on Postsecondary Education.

LRC Staff: Jennifer Krieger, Seth Dawson, Liz Columbia, and Amie Elam

2021 Regular Session House Bill 8

Dr. Caboni, President, Western Kentucky University (WKU), and Dr. McFaddin, President, Eastern Kentucky University (EKU), spoke to the committee regarding 2021 Regular Session House Bill 8.

In response to a question from Chair Tipton, Dr. Caboni said that historically vendors have participated in the pension system.

In response to a question from Senator West, Dr. Caboni said that the length of third-party vendor contracts varies depending on the vendor.

In response to a question from Representative Bojanowski, Dr. Caboni said he is unaware of any other government entities that are required to pay pensions for subcontracted employees. Dr. Caboni said that vendors typically offer additional benefit plans to employees. Dr. Caboni said there are too many differences to accurately compare defined contributions and defined benefit plans. He agreed to provide information to the committee regarding the long-term outcomes of both investment plans.

In response to a question from Representative Fleming, Dr. McFaddin said that contract services have no bearing on Eastern's aviation program. He said that all courses are taught by EKU faculty and staff. Dr. McFaddin said that EKU is grateful to the General Assembly for the investment in performance funding. Dr. McFaddin said that because Free Application for Federal Student Aid (FAFSA) applications are down

and the college-going rate is down, it is important for Kentucky's institutions to provide students with opportunities and meet each student where they are on the other side of the pandemic.

Council on Postsecondary Education

Representatives from the Council on Postsecondary Education discussed federal funds for pandemic relief, asset preservation and deferred maintenance, and Performance Fund distribution for FY22.

In response to a question from Chair Tipton, Mr. McKiernan said the two percent reduction in the current year does not impact performance funding. Dr. Thompson said that even with federal pandemic relief funds, the universities would be in deficit. Dr. Thompson stated that the foregone revenue at each institution could include housing, food services, safety, personal protective equipment, etc.

In response to a question from Senator West, Dr. Thompson said that refunds and reimbursements to students for services such as parking and campus housing are happening across the board. However, the process varies at each institution.

In response to a question from Chair Tipton, Dr. Thompson said that CPE would provide the committee with a list of asset preservation capital projects by institution.

In response to a question from Senator West, Dr. Thompson said that he would reach out to discuss the Kentucky Community and Technical College System's partnership with the University of Maryland in more detail.

There being no further business to come before the subcommittee, the meeting adjourned at 12:32 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement Minutes of the 2nd Meeting of the 2021 Interim July 7, 2021

Call to Order and Roll Call

The second meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 7, 2021, at 9:00 AM, in Room 131 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Michael J. Nemes, Co-Chair; Representatives John Blanton, Co-Chair, and Myron Dossett, Co-Chair; Senators Robby Mills, Adrienne Southworth, and Reginald Thomas; Representatives Kevin D. Bratcher, Jeffery Donohue, Robert Goforth, Jim Gooch Jr., Derrick Graham, Mark Hart, Adam Koenig, Michael Meredith, Suzanne Miles, Jerry T.

Miller, Jason Petrie, Phillip Pratt, Josie Raymond, Brandon Reed, Nancy Tate, and Buddy Wheatley.

Guests: Gerina Whethers, Secretary, Personnel Cabinet; Mary Elizabeth Bailey, Commissioner, Human Resources Administration, Personnel Cabinet; David Eager, Executive Director, Kentucky Public Pensions Authority (KPPA); and, Erin Surratt, Executive Director, Office of Benefits, KPPA.

LRC Staff: Emma Mills, Savannah Wiley, and Spring Emerson.

Chair Dossett began the meeting by opening to remarks by Co-Chair Nemes, who expressed condolences on the recent passing of Senator Tom Buford. Senator Buford had been a member of the Kentucky Senate since 1991, representing Fayette, Garrard, Jessamine, Mercer, and Washington counties. A moment of silence was observed in his honor.

Approval of Minutes

A motion was made by Representative Petrie to approve the minutes of the June 2, 2021 meeting. The motion was seconded by Representative Hart, and the minutes were approved without objection.

Personnel Cabinet

Executive Branch Employees Compensation Plan

Commissioner Bailey provided an overview of the Executive Branch Employees Compensation Plan. Secretary Whethers said there are approximately 50,000 state employees, and with an additional six percent of the 4.4 million citizens in Kentucky being on the Kentucky Employees Health Insurance Plan, the goal of the Personnel Cabinet is to improve on recruitment as well as retention. Moving forward will include being competitive outside this market.

In response to a question from Chair Dossett regarding cases where new hires are being paid as much or more than current or long-term employees in the same grade level or position, Commissioner Bailey explained that when a new employee is hired by job classification, and there are other employees in the same agency, in the same county, in the same job classification, with the same or similar combination of education and experience, then those current employees could be raised to the same pay scale as the new hire. If current employees in the same class are outside that county, or the combination of education and experience is less than the new employee, then the new employee would be paid more.

In response to a question from Chair Dossett regarding the Executive Branch employee turnover rate and what prevention measures are in place, Commissioner Bailey said it is around twenty percent. Additional premiums were created, as well as allowing a pay increase on a reclass and promotion. Additional incentives have also been created to help with retention. Secretary Whethers said there had been a slow increase in turnover since 2012, which is also true for the private sector, as well as state government employees in other states.

In response to a question from Chair Dossett regarding the labor market and the decrease in applicants, Commissioner Bailey said it is hard to recruit certain job classifications in some counties, such as for professions like nurses and engineers.

In response to a question from Representative Bratcher regarding coordination with local unemployment offices, Commissioner Bailey said they do, and also work with state career development offices. Secretary Whethers added that social media and other communications outlets are being used to inform the public about employment within state government. Kentucky has had no layoffs due to the pandemic, unlike employers in the private sector.

In response to a question from Co-Chair Blanton regarding pay equity, Commissioner Bailey said Kentucky must invest in our workforce. Secretary Whethers added that the midpoint of paygrades was raised, but it still is not enough. Co-Chair Blanton commented that it is a two-fold issue which includes pay equity and retention, as well as maintaining a healthy pension system. He said the time is now, and something must be done to retain our state employees. Commissioner Bailey agreed that incremental pay increases must be reinstated in order to retain current employees, as well as to recruit new ones. Secretary Whethers added that in order to be competitive with the private market, things will have to change.

In response to questions from Senator Southworth regarding the salary schedule and job classifications, Commissioner Bailey said that funding to increase the minimum salary schedule is necessary, in addition to providing annual increments. By statute, a nationally-known points grading system must be used for adjusting salary schedules.

Secretary Whethers added that replacing ten employees paid \$30,000 per year with three employees paid at \$60,000 per year would become problematic throughout the state, due to the decrease in state employment.

In response to a question from Senator Southworth regarding the requirement of college degrees for low-skilled positions, Commissioner Bailey said substitution clauses are in place for education and/or experience for many jobs. Agencies are very involved with reviews of the entire job classification system, which are performed on a regular basis.

In response to a question from Representative Graham regarding the number of agencies with employees that are on a permanent telework schedule, the salary ranges of professionals as compared to the private sector, and the demographic of the state workforce as it compares to the demographic of the general population in Kentucky, Commissioner Bailey said that all agencies are eligible for teleworking, and more information will be provided to the subcommittee at a later date.

In response to a question from Representative Petrie regarding details of the Personnel Cabinet's plan to revise the current compensation program, Commissioner Bailey said that information would be provided before September 1, 2021, as requested.

In response to a question from Representative Wheatley regarding whether increased pay or an improved pension plan would be better for recruitment/retention of the best employees, Secretary Whethers said in comparison with the private sector, neither would be better, because both are necessary.

Chair Dossett requested that any remaining questions be emailed to Budget Review Staff due to the meeting running overtime.

Kentucky Public Pensions Authority

Update on RS 2021 House Bill 8

Director Eager and Erin Surratt provided an overview of the KPPA and House Bill 8 that was passed during the 2021 Regular Session of the General Assembly.

Chair Dossett expressed his appreciation for how the KPPA protects the private information of its participants.

In response to a question from Representative Meredith regarding the calculated contribution rate in 2009 versus the actual rate, Mr. Eager said that rate was determined within the state budget.

In response to a question from Representative Meredith regarding the prevalence of a shift to contracted employees among quasi-governmental agencies, Mr. Eager said the intent is not purely to reduce costs, but could be a large factor.

In response to questions from Chair Dossett, Mr. Eager said each employer contribution is tracked individually. KPPA alerts those employers when the contribution level is reached.

In response to a question from Chair Dossett regarding ongoing appeals, Ms. Surratt said there are two currently underway from the universities. Mr. Eager added that out of 110 state agencies, 44 of them have appealed.

Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 10:44 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE Budget Review Subcommittee on Human Resources

Minutes of the 1st Meeting

of the 2021 Interim

June 2, 2021

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, June 2, 2021, at 11:00 AM, in Room 129 of the Capitol Annex. Representative Danny Bentley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Ralph Alvarado, Karen Berg, and Danny Carroll; Representatives Adam Bowling, Deanna Frazier, Kimberly Poore Moser, Jason Petrie, Melinda Gibbons Prunty, Brandon Reed, Steve Sheldon, Russell Webber, Susan Westrom, and Lisa Willner.

Guests: Eric Friedlander, Secretary, Cabinet for Health and Family Services (CHFS); Eric Lowery, Executive Director, Office of Finance and Budget, CHFS; Lisa Lee, Commissioner, Department for Medicaid Services (DMS), CHFS; Pam Smith, Director, Division of Community Alternatives, DMS, CHFS; and Amy Staed, Executive Director, Kentucky

Association of Private Providers.

LRC Staff: Miriam Fordham, Kevin Newton, and Benjamin Thompson

Overview of American Rescue Plan Act Funding

Secretary Friedlander and Mr. Lowery provided an update on federal funding related to the American Rescue Plan Act.

Update on Funding and Expenditures for COVID-19 Related Services

Secretary Friedlander and Mr. Lowery presented information regarding federal funds used during the COVID-19 pandemic for associated services.

In response to questions from Representative Gibbons Prunty, Secretary Friedlander stated that the childcare stabilization funds were intended to be used for salaries and other fixed expenditures. Secretary Friedlander noted that the cabinet intends to encourage entrepreneurship and plans to provide grants and loans in order to assist microbusinesses, such as in-home child care centers. Secretary Friedlander confirmed that no COVID-19 funds were used to support abortion clinics.

In response to a question from Representative Frazier, Secretary Friedlander noted that the cabinet had received proposals from adult day care providers on how the cabinet can best assist them.

In response to questions from Representative Moser, Secretary Friedlander said that the cabinet would be putting funds into hiring roughly fifty community health workers throughout the state, and some funding into a pilot program to assess how to possibly expand the program through Medicaid. The cabinet is also looking to support community based service providers in expanding their outreach.

In response to a question from Senator Carroll, Secretary Friedlander stated that child care providers will receive some one-time funds for support, but to sustain them for a longer term would require decisions as to how and how much the state is willing to support child care providers.

In response to a question from Senator Meredith, Secretary Friedlander noted that the cabinet does not believe in committing to future spending that cannot be sustained. The Secretary does feel that some programs could be restructured to be more sustainable, leading to more long term impact.

In response to a question from Chair Bentley, Mr. Lowery said that no General Fund was used for COVID-19 testing or contact tracing. All contact tracing and testing was paid for by Federal Funds.

Implementation of 21RS HB 183

Commissioner Lee provided a brief update regarding the implementation status of House Bill 183 that was passed during the 2021 Regular Session.

In response to a question from Senator Meredith, Commissioner Lee stated that hospitals would be covering the increased state cost of the Hospital Rate Improvement Program.

Michelle P. and Supports for Community Living Waiver Programs

Commissioner Lee and Ms. Smith provided an overview of the status and needs of the waiver programs.

In response to a question from Representative Gibbons Prunty, Ms. Smith noted that some individuals on the future planning waitlist for a Supports for Community Living waiver may already be receiving home and community based services. Ms. Smith noted that there is a Kentucky specific Electronic Visit Verification training that was done for providers.

In response to questions from Senator Carroll, Ms. Smith said that the Department for Medicaid Services (DMS) was in the process of evaluating services and utilization of each waiver. DMS is attempting to determine whether some individuals could be better served through a different waiver or through other means.

In response to a question from Representative Frazier, Commissioner Lee noted that the department issued roughly \$5 million in retainer payments to adult day centers. Ms. Smith noted that DMS has allowed adult day providers to branch out into telehealth and in-home services.

In response to questions from Senator Meredith, Ms. Smith stated that in a provider survey, there was an overwhelming response that a lack of personnel did not have a very large impact in providing services. Ms. Smith said that the single thing that would provide the most help was an increase in waiver funding.

Ms. Staed presented private provider concerns regarding the waiver programs.

In response to a question from Representative Webber, Ms. Staed stated that the Kentucky Association of Private Providers believes that the extra \$300 in unemployment assistance has negatively affected the ability to recruit employees.

In response to a question from Representative Moser, Ms. Staed noted that the liability for state mandated services falls on the service provider.

In response to a question from Senator Carroll, Ms. Staed said that residential service providers are struggling the most with regards to staffing, while adult day centers are struggling the most with a lack of revenue.

There being no further business before the subcommittee, Representative Bowling made the motion to adjourn. Representative Moser seconded the motion, and the meeting was adjourned at 12:33PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE Budget Review Subcommittee on Justice and Judiciary

Minutes of the 1st Meeting

of the 2021 Interim

June 2, 2021

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations & Revenue was

held on Wednesday, June 2, 2021, at 9:00 AM, in Room 129 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senators John Schickel and Whitney Westerfield; Representatives McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Angie Hatton, C. Ed Massey, Jason Nemes, Jason Petrie, and Brandon Reed.

Guests: Colonel Phillip Burnett, Jr., Commissioner, Kentucky State Police; and Kyle Nall, Lieutenant Colonel, Administrative Division, Kentucky State Police

LRC Staff: Zachary Ireland, Savannah Wiley, and Benjamin Thompson

Kentucky State Police

Commissioner Burnett and Lieutenant Colonel Nall provided an overview of the budgetary needs of the Kentucky State Police (KSP).

In response to questions from Senator Carroll, Commissioner Burnett stated that there are 70 Trooper Rs, eight of which work Commercial Vehicle Enforcement (CVE). Lieutenant Colonel Nall confirmed that Trooper Rs work on year to year contracts. Commissioner Burnett noted that there are 60 CVE officers, not including Trooper Rs. Lieutenant Colonel Nall stated that KSP has not done a pay scale comparison to local law enforcement agencies.

In response to questions from Senator Westerfield, Commissioner Burnett noted that while KSP laboratory staff received a fifteen percent pay raise they are still the lowest paid state lab staff in the country.

In response to a question from Representative Nemes, Lieutenant Colonel Nall stated that KSP would be launching an apprenticeship program in July 2021 for individuals recently graduated to embark on either a CVE or telecommunication pathway.

In response to a question from Senator Carroll, Commissioner Burnett noted that the number of Trooper Rs will likely decrease when 25 year retirement kicks in. Lieutenant Colonel Nall noted that troopers on Tier 3 retirement are already leaving for other employment as soon as they are vested. There being no further business before the subcommittee, the meeting was adjourned at 10:19 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE

Budget Review Subcommittee on Justice and Judiciary

Minutes of the 2nd Meeting

of the 2021 Interim

July 7, 2021

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, July 7, 2021, at 9:00 AM, in Room 129 of the Capitol Annex. Senator Danny

Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senators John Schickel and Whitney Westerfield; Representatives McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Angie Hatton, and Jason Nemes.

Guests: Representative Ken Fleming; Nicolai Jilek, Commissioner, Department of Criminal Justice Training (DOCJT); Frank Kubala, Training Division Director, DOCJT; Kevin Rader, Administrative Division Assistant Director, DOCJT; Joe Wallace, Firearms Section Supervisor, DOCJT; Holly Johnson, Secretary, Finance and Administration Cabinet (FAC); Peggy Willhite, Executive Advisor, Office of Policy and Budget, FAC; Tina Howard, Executive Director, Office of Administrative Services, FAC; Judge Marcus Vanover, Circuit Judge, Family Court; Angel Darcy, Governmental Affairs Liaison, Administrative Office of the Courts (AOC); and Nathan Goins, Family Court Liaison, Family and Juvenile Services Department, AOC.

LRC Staff: Zachary Ireland and Benjamin Thompson

Chair Carroll requested a moment of silence in honor of the life of Senator Tom Buford.

Approval of Minutes

Representative Fischer made the motion to approve the minutes from the June 2, 2021, meeting of the subcommittee. Representative Hatton seconded the motion, and the minutes were approved without objection.

Department of Criminal Justice Training Firing Range

Commissioner Jilek, Mr. Kubala, Mr. Rader, and Mr. Wallace all presented information regarding the deteriorating condition of the Department of Criminal Justice Training's (DOCJT) current firing range, and the difficulties that would present by not having a replacement should the current range become unusable.

In response to questions from Chair Carroll, Mr. Rader stated that DOCJT was debt free. Mr. Wallace noted that DOCJT had utilized virtual firearms training for roughly eight years, but that a virtual experience only has value as a supplement to live firearms training rather than as a replacement. Mr. Rader stated that an architectural firm has provided DOCJT an estimate of roughly \$28 million for the construction of a new firing range with multipurpose training functionality. DOCJT has had to install a steel beam to stabilize a roof truss where an exterior wall bearing the weight of the roof is crumbling.

In response to a question from Representative Fischer, Mr. Rader confirmed that DOCJT is continually assessing the condition of all its facilities, but that the firing range is the department's area of greatest need.

In response to a question from Senator Carroll, Commissioner Jilek stated that after a new firearms training facility, the department's next priority would be an onsite cafeteria where recruits wouldn't have to travel off-campus for meals.

In response to questions from Representative Fleming, Commissioner Jilek said that the Post Critical Incident Seminar (PCIS) section was moved into another branch of the department. Commissioner Jilek noted that there had been no reduction in PCIS training.

Guardians Ad Litem

Secretary Johnson spoke on the Finance and Administration Cabinet's role in the Guardian ad litem program, specifically the issuance of payments to Guardians.

Judge Vanover, Ms. Darcy, and Mr. Goins provided information regarding the requirements for being a Guardian ad litem, their rates of pay, and the kinds of work that Guardians ad litem do.

In response to a question from Chair Carroll, Mr. Goins noted that many guardians are relatively new attorneys, as it provides an early opportunity to get into a courtroom and help clients.

In response to a question from Representative Hatton, Mr. Goins said that dependency, neglect, and abuse legal trainings that are provided free of charge by the Administrative Office of the Courts (AOC) count for eight hours of continuing legal education for attorneys that take the course.

In response to a question from Chair Carroll, Secretary Johnson stated that funding levels for the guardian ad litem program are \$11.2 million in Fiscal Year 2021 and \$11.189 million in Fiscal Year 2022. There being no further business before the subcommittee, the meeting was adjourned at 10:49AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 2nd Meeting

of the 2021 Interim

July 7, 2021

Call to Order and Roll Call

The second meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 7, 2021, at 11:00 AM, in Room 131 of the Capitol Annex. Representative Sal Santoro, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Sal Santoro, Co-Chair; Senators Brandon J. Storm, and Johnnie Turner; Representatives Chris Fugate, Samara Heavrin, Shawn McPherson, Jason Petrie, Phillip Pratt, Brandon Reed, Rachel Roberts, Cherlynn Stevenson, and Ken Upchurch.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC; Tracy Nowaczyk, Assistant State Highway Engineer, Department of Highways, KYTC; Shellie Hampton, Director of Government

Affairs, Kentucky Association of Counties (KACO); and, Bryanna Carroll, Director of Public Affairs, Kentucky League of Cities (KLC).

LRC Staff: Justin Perry,
David Talley, and Spring Emerson.

Chair Santoro began the meeting by opening to remarks by Co-Chair Higdon, who expressed condolences on the recent passing of Senator Tom Buford. Senator Buford had been a member of the Kentucky Senate since 1991, representing Fayette, Garrard, Jessamine, Mercer, and Washington counties. Co-Chair Higdon said Senator Buford always had a smile on his face and something witty to say. He told his wife just before he passed away that he wanted his tombstone to read, "I knew this was going to happen, but just not this soon." A moment of silence was observed in his honor.

Approval of Minutes

A motion was made by Representative Heavrin to approve the minutes of the June 2, 2021 meeting. The motion was seconded by Representative Stevenson, and the minutes were approved without objection.

Road Funds Received by Other Agencies

Robin Brewer provided a presentation on Road Funds that are received by other state government agencies.

In response to a question from Representative Petrie regarding the amount in the Road Fund being used for payment of certain expenses, Ms. Brewer said it is important to look at where the Road Fund dollars are going.

In response to questions from Co-Chair Higdon regarding the payment for the Kentucky Pride Fund, Ms. Brewer said the amount paid into that fund from the KYTC is \$5 million, and there is no matching fund.

Chair Santoro commented that the cost of materials has been continually increasing since 2001.

State, City, and County Roads

Secretary Gray and Ms. Nowaczyk provided an update on unfunded maintenance needs for state, city, and county roads.

Co-Chair Higdon commented that the motor fuels tax rate has remained almost the same since 2011, when the rate was 25.9 cents. In 2020, the rate was 26 cents. Miles driven has increased, fuel efficiency is greater now, and costs continue to go up. The last increase in gas tax was in 2015. Secretary Gray agreed that the numbers are disturbing.

In response to questions from Representative Petrie regarding current unfunded road improvement needs, Ms. Nowaczyk said the \$750 million listed includes the \$400 million spent on state-owned bridges and pavements last fiscal year. Secretary Gray explained that the \$750 million represents \$350 million needed in additional funds over the amount spent last fiscal year.

In response to a question from Chair Santoro regarding federal funding, Ms. Nowaczyk said no federal reimbursement is made for any snow and/or

ice removal costs.

Representative Heavrin expressed her appreciation for road work currently being done in her district.

In response to questions from Co-Chair Higdon regarding the receipt of federal funds, Secretary Gray said lettings have increased from the amount of projects let last year, and even if some federal funds are received, more resources will be needed.

In response to a question from Representative Petrie regarding the remaining \$60 million in Road Funds, Secretary Gray said those funds would be used for maintenance rather than new projects. A list of expenditures for those funds will be provided at a later date.

Ms. Hampton and Ms. Carroll provided overviews of the unfunded maintenance needs within their respective agencies.

Chair Santoro commented that county judges and mayors hear directly from their constituents about issues in their areas.

Adjournment

There being no further business before the subcommittee, a motion was made by Representative Upchurch to adjourn. The motion was seconded by Representative Heavrin, and the meeting was adjourned without objection.

COUNTY CLERK OFFICE MODERNIZATION TASK FORCE Minutes of the 1st Meeting

of the 2021 Interim
June 16, 2021

Call to Order and Roll Call

The 1st meeting of the County Clerk Office Modernization Task Force was held on Wednesday, June 16, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jason Howell, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Robby Mills, Robin L. Webb, and Phillip Wheeler; Representatives Randy Bridges, Patrick Flannery, and Ashley Tackett Laferty.

Guests: Chris Cockrell, Tabatha Clemons, Debra Stamper, John Cooper, John Williams, Charles Hinckley, and Tom Underwood.

LRC Staff: Roberta Kiser, Randall Roof, and Yvonne Beghtol.

Electronic Access to Official Records: Kentucky County Clerks Association

Tabatha Clemons, Grant County Clerk, provided an update to the members regarding electronic access of official records across the Commonwealth based on a survey conducted by the Kentucky County Clerks Association. Results indicate that almost 96 percent of county clerks have less than five full time recording deputy clerks, and 96 counties offer an online search portal. Funding for county clerk offices differ based on the population of the county and nearly half of the

counties have a population of less than 20,000. The majority of county clerks' offices are open 37 hours or more each week. Those with limited staff may only be open 30 to 33 hours per week. During the COVID-19 pandemic 70 percent of county clerks allowed free access to online records. Those that did not, allowed limited in-person appointments. Presently, more than half of the county clerks offer a 30 year online search for deeds, mortgages, lis pendens, wills, marriage licenses, and encumbrances. Though the instituting of e-Recording was halted due to the COVID-19 pandemic in 2020, 25 counties have begun accepting e-Recordings.

Ms. Clemons stated that county clerks' offices operate based on fees generated by the office. Each year the majority of county clerks begin with a zero dollar bank balance and any excess fees at the end of the year are turned over to the fiscal courts, unless the county population is over 70,000.

In response to Chairman Howell, Ms. Clemons stated that the third dollar from vehicle registrations is allotted for county clerks in counties with populations less than 20,000. Counties with a population above 20,000 can receive a short-term loan.

Ms. Clemons stated that Senate Bill 114 in 2019 allotted a ten dollar storage fee to county clerks to be used for equipment upgrades and digitalization of records. However, that money is being turned over to the fiscal courts at the end of each year as excess fees. Ms. Clemons advised that county clerks are the only entity that collects funding for the Kentucky Department of Libraries and Archives (KDLA). The number of grants awarded decreased by 80.64 percent from 2018 to 2021, and the amount of those grants decreased 76.5 percent. In response to Chairman Meredith, Ms. Clemons stated that the amount of funding for grants has increased due to the increase in recorded documents in clerks' offices. Mr. Cockrell, Montgomery County Clerk, added that some of the grants were awarded to non-permanent recording entities in the Commonwealth. In response to Chairman Howell, Ms. Clemons stated that while the amount of grant funding to county clerks decreased over the past 3 years, the amount increased for other recording entities; such as cities, police agencies, libraries, or any other government entity with records. In response to Senator Mills, Ms. Clemons advised that the KDLA fee is one dollar per document.

In response to Chairman Howell, Ms. Clemons advised that, of the 25 counties that did not participate in the survey, some have 30 years of online recordings accessible and some do not have any online access.

Electronic Access to Official Records: Kentucky Bankers Association (KBA), Kentucky Land Title Association (KLTA), Kentucky Association of Realtors (KYR), Kentucky Automobile Dealers Association (KADA)

Debra Stamper, Executive Vice President/General Counsel of the KBA, provided an overview of what the banking industry experienced during the COVID-19 pandemic and the importance of modernization in the future. In 2015, the Kentucky Secretary of State created a task force to consider electronic and remote notarization. Senate Bill 114 in 2019 included

language to allow county clerks and individuals to utilize electronic notarization. Kentucky now has capacity for electronic and remote notarization. The COVID-19 pandemic emphasized the importance of electronic access to official records. If a county clerk's office has to close for any reason, having online access is important and advantageous.

John Cooper, KBA, explained that the American Rescue Plan Act (ARPA) allows for funding of projects impeded due to the COVID-19 pandemic. ARPA treasury rules 602(c)(1)(c) addresses state and territories, while 603(c)(1)(c) addresses municipal and county governments. Funding allowed under those rules includes improvements to software and hardware services. The KBA recommends that ARPA funds be made available for modernizing county clerks' offices. In response to Chairman Meredith, Mr. Cooper confirmed that the coalition has drafted a request to the ARPA administration.

Tom Underwood, Representative for the KADA, stated that the KADA would like to have auto transactions entered in a centralized system to ensure liens are perfected appropriately, and to have all Kentucky clerks accept electronic signatures. The Kentucky Transportation Cabinet has approximately 4 million vehicles on record and processes 2.2 million titles per year. Converting to an electronic titling system would eliminate cost, time, and loss of titles. In response to Chairman Meredith, Mr. Underwood stated that resources from third party vendors can plug into the Kentucky Automated Vehicle Information System (KAVIS) at no cost to the state.

Mr. John Williams, CEO of Bluegrass Land Title, stated that one of their main concerns is that the land title process is different throughout Kentucky. Mr. Williams provided a list of issues they have had to deal with when trying to get information from county clerks' offices.

Charles Hinckley, President of the KYR, stated that real estate transactions accounted for nearly \$32 billion in 2019. The COVID-19 pandemic brought forth the need to uniformly move forward to allow businesses to continue to operate at a standard rate of time and efficiency. Real estate transactions cannot move forward without access to official records. In response to Representative Tackett Laferty, Ms. Stamper stated that the KBA believe recordings should be available back to a reasonable period of time and that an access fee should not be more than what a third party vendor is charging. Mr. Cooper added that adding a fee would not be enough to cover the cost of updating the clerk's office, so funding would still be required.

Senator Webb noted that cyber security and the option for electronic or hard copies of official records are issues that need to be considered.

In response to Senator Wheeler, Ms. Stamper stated that county clerk offices need to be consistent in managing the personal online data and would require vendors who offer built-in cyber security. Mr. Williams noted that there are risks of fraudulent hard copies just as there are risks to online documents.

Chairman Meredith reviewed issues to be considered at future County Clerk Office Modernization Task Force meetings: the work week hours of county clerks' offices, moving forward with

e-Searching of documents and e-Recording, ten dollar storage fee being accessible to county clerks' offices, internet technology security, how county clerk funds interact with county governments, KDLA funds, and ARPA funds.

There being no further business, the meeting adjourned at 12:43 P.M.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 1st Meeting

of the 2021 Interim

June 17, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, June 17, 2021, at 9:00 AM, in Room 154 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Russell Webber, Co-Chair; Senators Alice Forgy Kerr, Christian McDaniel, Robby Mills, Adrienne Southworth, Brandon J. Storm, Phillip Wheeler, Mike Wilson, and David Yates; Representatives Shane Baker, Kim Banta, Lynn Bechler, Tina Bojanowski, Josh Bray, George Brown Jr., Josh Calloway, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Mark Hart, Thomas Huff, DJ Johnson, Kim King, Nima Kulkarni, William Lawrence, Matt Lockett, Bart Rowland, Scott Sharp, Steve Sheldon, and Ashley Tackett Laferty.

Guests: Larry Hayes, Interim Secretary, Cabinet for Economic Development; Anthony Ellis, General Counsel, Cabinet for Economic Development; Jeff Taylor, Commissioner, Department for Business Development, Cabinet for Economic Development; Kristina Slattery, Deputy Commissioner, Department for Business Development, Cabinet for Economic Development; Katie Smith, Commissioner, Department for Financial Services, Cabinet for Economic Development; and Andrew McNeill, Visiting Policy Fellow, Bluegrass Institute for Public Policy Solutions.

LRC Staff: Andrew Manno, Audrey Ernstberger, Drew Baldwin, Sasche Allen, and Helen McArthur.

Cabinet for Economic Development Update

Larry Hayes, Interim Secretary of the Cabinet for Economic Development; Anthony Ellis, General Counsel; Jeff Taylor, Commissioner of the Department for Business Development; Kristina Slattery, Deputy Commissioner of the Department for Business Development; and Katie Smith, Commissioner of the Department for Financial Services, gave a presentation on the state's economic recovery and future opportunities in unprecedented times due to the COVID-19 pandemic. Current challenges and trends throughout the state include workforce shortages, a lack of industrial build-ready sites and mega sites,

and struggles with marketing Kentucky. However, over 4,000 new full time jobs and 50 private sector expansions or new facility location projects have been announced with over \$2 billion in investments. Additionally, the average hourly wage across incentivized jobs is trending the second highest in seven years at \$23.15. Out of the recent jobs and investments announced, the top industries include metals; automotive; food, beverage, and agritech; distribution and logistics; and plastics and rubber. Cabinet leadership also discussed the Kentucky Enterprise Fund, Commonwealth Seed Capital, and the return of the Angel Tax Credit/Fund Tax Credit. Looking forward, the Federal State Small Business Credit Initiative, which could produce over \$80 million, is a possible tool that could help rebuild the economy. The initiative would provide access to credit and investments for startups and small businesses with a focus on developing programs to benefit socially and economically underserved individuals. The Cabinet is currently awaiting federal guidelines for the program. Answering a question from Senator Schroder, Secretary Hayes explained that it can be difficult to fully measure the successes of the state at the end of a calendar year with metrics such as total number of investments because projects are better assessed over a longer span of time. However, at the end of 2021, the Cabinet should have more clarity regarding the status of various sectors across the Commonwealth. Addressing another question, the secretary stated that providing companies with a well-rounded workforce would make the state more attractive for potential site selection. The Governor has been in discussions with state universities, community colleges, and the Education and Workforce Development Cabinet about ways to better equip the state's workforce with more diverse skill sets that will accommodate companies' evolving needs.

Responding to Representative Webber, Secretary Hayes stated that the Cabinet did support HB 382, which was vetoed by the Governor during the 2021 Regular Session, and the Cabinet did not have any interactions with the Governor prior to the bill being vetoed.

Addressing Representative Bojanowski, Mr. Ellis gave examples of other states such as Indiana and Ohio that have created funds to support small business startups. A state's ability to provide early stage venture capital is one of the criterion for companies when searching for potential site locations. Answering a follow up, Mr. Ellis said that the Cabinet has initiated communication with the Kentucky State Data Center to compile statistics about private venture capital.

Replying to Representative Kulkarni, Mr. Ellis stated he would follow up with her regarding the number of foreign owned companies and subsidiaries located in the state. Responding to a follow up, Commissioner Taylor said the Cabinet has several marketing campaigns that target potential foreign direct investments.

Senator Wilson commended the Cabinet for their progress and success and pointed out that some funds should be allocated to attract skilled individuals and their families to the state.

Answering a question from Senator McDaniel, Secretary Hayes said he could not comment on the

specific details regarding the Governor's plan for offering an incentive to unemployed individuals returning to the workforce.

Kentucky's Economic Performance

Bluegrass Institute for Public Policy Solutions is a 501(c)(3) nonpartisan organization dedicated to policy research, education, and engagement. Andrew McNeill, a Visiting Policy Fellow with the Bluegrass Institute, compared Kentucky's tax burden to other comparable states with benchmarks such as quality of life and standards of living with per capita income and per capita disposable personal income. Comparable states included Alabama, Indiana, North Carolina, and Tennessee. Mr. McNeill highlighted that although Kentucky has traditionally been considered a "red state" because of how the state has voted in presidential elections, in actuality the size and scope of Kentucky's state government is more like New York and California than the comparable states of Alabama or North Carolina. Additionally, some of Kentucky's spending trends that may categorize the state as a "blue state" in comparison to comparable states include an increased rate of government spending as a percentage of state personal income, higher per capita spending, increased debt levels over time, and a higher tax burden. Mr. McNeill stated that although he could not provide direct correlations between the size and scope of state government with the growth and climate in the state within the business and entrepreneurial communities, there may be some connections after considering the economic growth of other states compared to Kentucky. He explained that achieving economic freedom for the state should include limiting government relying on markets, lowering government spending, lowering tax burdens, and having more responsible debt levels. Recommendations for 2022, include strengthening the rainy day fund, beginning the process of reining in the state's debt, continuing responsible budgets, and principled tax policy.

Answering a question from Senator Wheeler, Mr. McNeill explained that tax reform, that would involve eliminating the state income tax, would include examining the taxation of groceries and utilities. He would suggest looking to Indiana as a model for tax reform but does not believe that Indiana taxes groceries or utilities.

Responding to Representative King, Mr. McNeill said that he did follow HB 156 during the 2021 Regular Session that pertained to taxing on historical horse racing but was not informed enough to give an opinion; however, the positive net revenue could be used to eliminate another type of tax.

Addressing Senator Mills, Mr. McNeill stated that shifting to a tax model like Indiana would make Kentucky more competitive. Conversely, although tax reform is significant, paying down the state's debt is of equal or greater importance.

There being no further business before the committee, the meeting adjourned at 10:51 a.m.

INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

Minutes of the 1st Meeting

of the 2021 Interim
June 16, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, June 16, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Ralph Alvarado, 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, Karen Berg, Danny Carroll, Denise Harper Angel, Jason Howell, Stephen Meredith, Michael J. Nemes, and Max Wise; Representatives Danny Bentley, Adam Bowling, Josh Bray, Tom Burch, Ryan Dotson, Daniel Elliott, Ken Fleming, Deanna Frazier, Mary Lou Marzian, Melinda Gibbons Prunty, Felicia Rabourn, Josie Raymond, Steve Riley, Scott Sharp, Steve Sheldon, Nancy Tate, Russell Webber, Susan Westrom, and Lisa Willner.

Guests: Dr. John Weeks, Norton Healthcare; Dr. Jeffrey M. Goldberg, State Legislative Chair, American College of Obstetricians and Gynecologists; Dr. Connie White, Deputy Commissioner, Department for Public Health, Cabinet for Health and Family Services; Kelly Joplin, MSW, Associate Professor, Carver School of Social Work, Campbellsville University, SEPPA Southeastern Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (Pandas)/Pediatric Acute-onset Neuropsychiatric Syndrome (PANS) Association, Kentucky Committee Lead, PANS/PANDAS Parent; Dritan Agalliu, PhD, Principal Investigator, Department of Neurology; Columbia University Irving Medical Center; Michelle Liberatore, PANDAS Parent, Lobbyist, Advocate; Mark Kleiner, President, Preferred Insurance Group PANS/PANDAS Parent; Sarah Roof, Executive Director, Kentucky Hands and Voices; Sarah Streeval, Parent, Bella's Bill 4 CMV; Joseph Klausing, Chair, Kentucky Rare Disease Advisory Council; Sarah Vanover, Director, Andrea Day, Assistant Director, Division of Child Care, Department for Community Based Services, Cabinet for Health and Family Services; and Julie Brooks, Policy Specialist, Department for Public Health, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, CSA, Chris Joffrion, Samir Nasir, Becky Lancaster, Hillary Abbott, and Amanda DuFour.

Consideration of Referred Administrative Regulations

The following referred administrative regulation with amendments were placed on the agenda for consideration: **201 KAR 002:380 Proposed** - Board authorized protocols; **201 KAR 002:410 Emergency** - Ordering and administering vaccinations; **201**

KAR 008:505 Emergency - Administration of COVID-19 immunizations; **201 KAR 020:065 Proposed** - Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder; **201 KAR 020:370 Proposed** - Applications for licensure; **201 KAR 020:411 Proposed** - Sexual Assault Nurse Examiner Program standards and credential requirements; **201 KAR 020:660 Proposed** - Licensed certified professional midwives duty to report; **201 KAR 022:170 Proposed** - Physical Therapy Compact Commission; **201 KAR 023:070 Proposed** - Qualifying education and clinical practice experience under supervision; **201 KAR 023:150 Proposed** - Complaint procedure, disciplinary action, and reconsideration; **201 KAR 045:130 Proposed** - Continuing education; **900 KAR 006:030 Proposed** - Certificate of need expenditure minimums; **900 KAR 006:055 Proposed** - Certificate of need forms; **900 KAR 006:060 Proposed** - Timetable for submission of certificate of need applications; **900 KAR 006:065 Proposed** - Certificate of need application process; **900 KAR 006:080 Proposed** - Certificate of need emergency circumstances; **900 KAR 006:090 Proposed** - Certificate of need filing, hearing, and show cause hearing; **900 KAR 006:095 Proposed** - Certificate of need administrative escalations; **900 KAR 006:100 Proposed** - Certificate of need standards for implementation and biennial review; **900 KAR 006:105 Proposed** - Certificate of need advisory opinions; **900 KAR 006:110 Proposed** - Certificate of need notification requirements; **900 KAR 006:115 Proposed** - Certificate of need requirement for critical access hospitals, swing beds, and continuing care retirement communities; **900 KAR 011:011 Proposed** - Repeal of 900 KAR 011:010; **902 KAR 004:150 Emergency** - Enhanced HANDS services in response to declared national or state public health emergency; **902 KAR 010:010 Proposed** - Public restrooms; **902 KAR 010:110 Proposed** - Issuance of on-site sewage disposal system permits; **902 KAR 010:131 Proposed** - Repeal of 902 KAR 010:060 and 902 KAR 010:130; **902 KAR 010:140 Proposed** - On-site sewage disposal system installer certification program standards; **902 KAR 010:150 Proposed** - Domestic septage disposal site approval procedures; **902 KAR 010:160 Proposed** - Domestic septage disposal site operation; 902 KAR 010:170 Proposed - Septic tank servicing; **902 KAR 020:160 Proposed** - Chemical dependency treatment services and facility specifications; **902 KAR 020:160 Emergency** - Chemical dependency treatment services and facility specifications; **902 KAR 020:440 Emergency** - Facilities specifications, operation and services; residential crisis stabilization units; **902 KAR 020:440 Proposed** - Facilities specifications, operation and services; residential crisis stabilization units; **902 KAR 030:210 Emergency** - Enhanced early intervention services in response to declared national or state public health emergency; **902 KAR 045:160 Proposed** - Kentucky food and cosmetic

processing, packaging, storage, and distribution operations; **902 KAR 095:040 Proposed** - Radon Contractor Registration Program; **907 KAR 007:020 Proposed** - 1915(c) Home and community based services waiting list and waiting list placement appeal processes; **907 KAR 015:070 Emergency** - Coverage provisions and requirements regarding services provided by residential crisis stabilization units; **907 KAR 015:070 Proposed** - Coverage provisions and requirements regarding services provided by residential crisis stabilization units; **907 KAR 015:080 Emergency** - Coverage provisions and requirements regarding chemical dependency treatment center services; **907 KAR 015:080 Proposed** - Coverage provisions and requirements regarding chemical dependency treatment center services; **908 KAR 002:270 Proposed** - Community behavioral health training; **921 KAR 003:010 Proposed** - Definitions; **921 KAR 003:045 Proposed** - Issuance procedures; **922 KAR 001:490 Emergency** - Background checks for foster and adoptive parents and relative and fictive kin caregivers; **922 KAR 001:540 Proposed** - Registration of a foreign adoption; **922 KAR 001:580 Proposed** - Standards for children's advocacy centers; **922 KAR 002:120 Proposed** - Child-care center health and safety standards; **922 KAR 002:230 Proposed** - Director's credential; **922 KAR 002:240 Proposed** - Kentucky Early Care and Education Trainer's Credential and training approval; and **922 KAR 002:250 Proposed** - Commonwealth Child Care Credential. The administrative regulations above have been reviewed by the committee. The following referred administrative regulation was placed on the agenda for consideration: **902 KAR 045:190 Proposed** - Hemp-derived cannabinoid products; packaging and labeling requirements. There was an agency amendment offered by the Kentucky Department for Public Health with the Cabinet for Health and Family Services. Julie Brooks, Regulations Coordinator, Department for Public Health, Cabinet for Health and Family Services, explained how the agency amendment would change the regulation. A motion to accept the agency amendment was made by Senator Adams and seconded by Representative Bowling. After a roll call vote of 25 yes votes, 0 no votes, and 2 pass votes, the agency amendment was accepted by the committee.

Legislative Hearing on the Child Care and Development Fund (CCDF) Block Grant Preliminary State Plan

Sarah Vanover, Director, and Andrea Day, Assistant Director, Division of Child Care, Department for Community Based Services, Cabinet for Health and Family Services, gave an overview of the 2022-2024 FFY CCDF Block Grant Preliminary State Plan. The block grant was reviewed by the committee.

Rare Disease Advisory Council Update

Joseph Klausing, Chair, Kentucky Rare Disease Advisory Council, provided a brief overview of the council and its membership. He is the newly appointed chair and the Governor has yet to appoint

the rest of the members. He thanked the legislators for the passage of legislation that will help Kentuckians with rare diseases.

Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) Syndrome and Pediatric Acute-onset Neuropsychiatric Syndrome (PANS)

Representative Melinda Gibbons Prunty gave a brief overview of PANDAS and PANS coverage in other states and the steps taken regarding her request for a PANDAS and PANS task force. Dritan Agalliu, PhD, Principal Investigator, Department of Neurology, Columbia University Irving Medical Center, presented information on the genetic studies of PANDAS and PANS on humans and animals. The presence of the disease is often associated with streptococcal infection. Early treatment of the infection may prevent the disease from developing. In response to questions from Representative Bentley, Dr. Agalliu stated that the M1 protein has been implicated in PANDAS and PANS.

In response to questions from Representative Sheldon, Dr. Agalliu stated that there is an outstanding issue with diagnosing PANDAS and PANS. He stated there was a previous test to recognize the disease but it has come in to question by some studies. He stated that Columbia University Irving Medical Center has a dedicated team to evaluate methods to diagnose children with this disease.

In response to questions from Senator Berg, Dr. Agalliu stated that there are many cases of children with a streptococcal infection who are not aware that they have the streptococcal infection. He stated that sometimes the treatment of the streptococcal infection can be difficult.

Michelle Liberatore, PANDAS Parent, Lobbyist, Advocate, testified about her experience when her then seven year old daughter started showing symptoms of her later diagnosed PANDAS syndrome and the following impact of the disease on her daughter. Kelly Joplin, MSW, Associate Professor, Carver School of Social Work, Campbellsville University, SEPPA Southeastern Pandas/Pans Association, Kentucky Committee Lead, PANDAS/PANS Parent, testified about her experience of how her son battled PANDAS/PANS for over 10 years. She gave information regarding: the number of children that may have PANDAS or PANS, other misdiagnosis that may be received, the significance of an early diagnosis, and the importance of promoting access to treatment. Mark Kleiner, President, Preferred Insurance Group, PANDAS/PANS Parent, testified in favor of creating a task force to educate more people on PANDAS/PANS. He described his son's experience before and after his son's PANDAS/PANS diagnosis.

In response to questions from Representative Marzian, Ms. Liberatore stated that the number of Intravenous Immunoglobulin (IVIG) treatments needed varies among patients. Dr. Agalliu testified regarding the guidelines for PANDAS or PANS treatments including IVIG approach. Mr. Kleiner testified to the costs of the IVIG and plasmapheresis, blood plasma replacement, treatments.

In response to questions from Representative Moser, Ms. Joplin stated that many pediatricians are

compassionate but often want to pass a patient onto a mental health or other provider because PANDAS/PANS presents with psychiatric or orthopedic symptoms. Representative Gibbons Prunty stated she is open to the idea of creating a workgroup within the Rare Disease Advisory Council to study and advise on PANDAS and PANS issues.

In response to questions from Representative Sheldon, Mr. Kleiner stated that there is a medical code for the PANDAS/PANS diagnosis but insurance companies may not pay for PANDAS or PANS treatments.

In response to questions from Representative Westrom, Representative Gibbons Prunty stated that there is an informational sheet about PANDAS/PANS in the meeting materials online. Sen. Alvarado stated that there are 350 psychiatrists in Kentucky including approximately 59 child psychiatrists.

Perinatal Infant Mortality and Maternal Mortality

Dr. Jeffrey M. Goldberg, Legislative Advocacy Chair, Kentucky Section, American College of Obstetricians and Gynecologists, presented the following information to the committee: a brief introduction to the concept of maternal and perinatal infant mortality, an overview of the main causes and yearly rates of maternal and infant mortality in the United States, the reasoning for formal mortality reviews, a summary regarding the Kentucky Mortality Review Committee, and recommendations to improve maternal and perinatal infant outcomes.

Dr. John Weeks, Norton Healthcare, presented the following information to the committee: his maternal services background and experience in Kentucky, the impact of the opioid epidemic and substance use disorders on maternal and perinatal infant death rates, praise for the Kentucky Perinatal Quality Collaborative (KyPQC), and a recommendation to go beyond the perinatal period to make Kentucky a great place for children to grow and develop.

Dr. Connie White, Deputy Commissioner, Department for Public Health, Cabinet for Health and Family Services, provided the following information to the committee: preliminary data from the Maternal Mortality Review Committee regarding 2017 maternal deaths and the contributing factors, a view of Kentucky's rates of neonatal abstinence syndrome by area, an explanation of the coordination of various committees, and the members that work to prevent maternal and perinatal infant deaths.

Kentucky Perinatal Quality Collaborative (KyPQC)

Dr. White presented an overview of the KyPQC goals, location, and membership. She reviewed Kentucky's status as an Alliance for Innovation on Maternal Health (AIM) state and what tools and partnerships will help improve maternal and perinatal infant health.

Update on 2021 Regular Session House Bill 212

Dr. White presented the following information to the committee: a brief review of the bill, the information gathered regarding child and maternal fatalities, and how the information will be reported.

In response to questions from Senator Adams, Dr. White stated that in regards to 2018 Regular Session Senate Bill 250, the DPH is in the instructional phase which is to have healthcare providers test pregnant women for Hepatitis C. Dr. Weeks stated that private providers at Norton Healthcare were testing pregnant patients for Hepatitis C prior to the bill.

In response to questions from Representative Burch, Dr. Goldberg stated that the United States healthcare system spends more per capita than any other western country and at the same time it has worse health outcomes. He stated that there is a deficit in the healthcare system by not having the right technology supplied to the correct areas and patients in a systematic fashion.

In response to questions from Representative Willner, Dr. Weeks stated that there is a growing awareness of the under treatment of postpartum depression. The Kentucky Perinatal Association is reviewing data and information that primary care physicians can use to screen for depression and initiate care for the patient. The mortality review committee has identified suicide as a reason for some maternal deaths. The KyPQC will address mood disorders during pregnancy. The KyPQC is in the process of developing a maternal mortality review subcommittee to analyze what recommendations could have kept a patient from dying. Such data would allow the KyPQC to examine the efficacy of preventative programs.

In response to questions from Representative Marzian, Dr. White stated that she does not have the number of women not receiving prenatal care but she can send it to her. Dr. Weeks stated that the majority of infant deaths occur after the delivery.

In response to questions from Representative Moser, Dr. White stated that the maternal care for substance use disorder bundle is not implemented. DPH will be meeting with AIM representatives to begin pilot projects with evidence-based interventions that can be sent to hospitals to utilize.

In response to questions from Senator Berg, Dr. Weeks stated that it can be hard to confirm how often domestic abuse during pregnancy impacts maternal and perinatal infant deaths because many abused women do not admit to being abused. He stated that it is well known that women who suffer from domestic abuse are more likely to die or be killed during the pregnancy.

Presentation on Cytomegalovirus (CMV) in Newborns

Sarah Streeval, Parent, Bella's Bill 4 CMV, testified about the following information: her daughter Bella's life and experience battling CMV, her goals to educate people and to advocate for other CMV families, the costs to care for Bella, and she shared brief stories about other children diagnosed with CMV.

In response to Senator Wise, Ms. Roof stated that CMV is not included in state mandated universal screenings for newborns but some states are doing targeted screening of newborns based on potential risk for the disease.

In response to Representative Moser, Ms. Roof stated that there may not be an exact cost of universal screening but it could be costly. She stated that in the

long-term view, universal testing would be considered cost-saving or cost-neutral. Ms. Streeval stated that there are three different ways to test for CMV and that if a test is positive there is follow-up testing. Ms. Streeval stated that there is not a CMV prenatal test for an infant but there is a CMV test for the mother. Dr. Goldberg stated that a patient can be tested for CMV infection through a cervical swab but there is no data supporting that testing for all pregnancies. He stated there is no current antiviral treatment for CMV. In response to Representative Bentley, Ms. Roof stated that there is a high percentage of people who have CMV in their lifetime but when pregnant women pass it on to a newborn child there can be serious effects from the virus. In many people CMV will present as a common cold. Sen. Alvarado stated that in a child's first four to five months of life they are completely dependent on maternal antibodies received from the birth mother to fight infections. Immunity problems, may not be recognized until the child is four to five months old and already impacted by CMV.

In response to Representative Berg, Ms. Streeval stated that if antivirals are given to newborns with CMV at birth, the development of hearing or vision loss may be prevented or slowed. She stated that mothers need to be educated regarding CMV and preventative measures. Ms. Roof stated that some children are asymptomatic at birth but test positive for CMV. She stated that there are developmental delays and additional costs when there is not an early diagnosis.

Adjournment

There being no further business, the meeting was adjourned at 3:25 PM.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 2nd Meeting

of the 2021 Interim

July 8, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Judiciary was held on Thursday, July 8, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Senators Karen Berg, Danny Carroll, Alice Forgy Kerr, Gerald A. Neal, Wil Schroder, Johnnie Turner, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Joseph M. Fischer, Samara Heavrin, Nima Kulkarni, Derek Lewis, Savannah Maddox, Chad McCoy, Patti Minter, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Attica Scott, and Pamela Stevenson.

Guests: Jasmine Heiss, Beatrice Halbach-Singh, Chris Mai, Josh Crawford, Nevada and Krista Gwynn, Christopher 2X, and Russell Coleman.

LRC Staff: Roberta Kiser, Michelle Spears,

Matt Trebelhorn, Maria Macaluso, Randall Roof, and Yvonne Beghtol.

Approval of the June 03, 2021 Minutes

Senator Carrol made a motion to approve the July 03, 2021, minutes, seconded by Senator Berg, and passed by voice vote.

The Cost of Jails in Kentucky

Jasmine Heiss, Project Director of the Vera Institute of Justice, stated that the rise of incarcerations has increased the cost of jails. Ms. Heiss also reviewed the negative effects of housing people in jails for even a short period of time.

Beatrice Halbach-Singh, Research Associate of the Vera Institute of Justice, stated that the increase in jail population from 2007 to 2019 increased jail expenditures by 25 percent, with costs rising most significantly in suburban counties and rural communities. In 2019, rural counties spent a greater share of their budgets, and more per capita, on jail costs than any other type of community, due to rural counties having the highest incarceration rates. The average county spent \$3,353,060, or 15 percent of its total budget on jail expenses. In 2019, counties across the Commonwealth spent a total of \$402,367,159 on jails. A variance from 3 percent to 72 percent of county budgets was spent on jails. Ms. Halbach-Singh explained that the variance reflects the different ways jails are used across the state: 70 out of the 120 counties in Kentucky house inmates for the Department of Corrections (DOC); 41 counties house inmates for other counties; and 22 counties house inmates for federal authorities. Counties without a full-service jail spend significantly less per capita and a lesser percent of their total budget to house inmates. Personnel expenditures make up an average of 59 percent of jail costs and contracted services are estimated at 20 percent. A decline in jail population would result in a reduction in budget for expenses such as food, contracted health care, uniforms, and administrative and maintenance costs. Ms. Halbach-Singh gave examples of the cost savings for three different counties if they were to experience a 35 percent reduction in local jail population. Kentucky had a 28 percent reduction in jail population in 2020, which estimates indicate could result in a potential cost savings of over \$30 million annually if maintained. However, jail spending increased by \$6,166,078 in FY2020, due mostly to personnel and debt service expenses.

Ms. Halbach-Singh stated that the majority of jail revenues comes from state revenue, surplus, borrowing, and transfers. Most of the state revenue comes from Class D felon payments and housing people for the DOC. Intergovernmental revenues from the DOC decreased by \$6.6 million and increased from the Federal government by \$4.5 million between 2019 and 2020. Telephone commissions represent the largest source of revenue drawn from those incarcerated.

Chris Mai, Senior Research Associate of the Vera Institute of Justice, indicated that while fines and fees may only provide less than half a percent of the state's revenue, it is costly for the individuals who

have to pay them. The current total of \$91 million in unpaid court fees is not expected to be received due to the individuals being indigent or incarcerated. Chairman Westerfield commented that these fees are to hold offenders accountable to pay restitution, and to pay fees and fines to the courts. Ms. Mai stated that collecting fines and fees can cost up to 40 cents per dollar and recommended reducing or eliminating fines and fees. Ms. Halbach-Singh added that reducing the number of bookings into jails and the length of jail time would allow savings that could be redirected to other community needs. Ms. Heiss concluded with policy and procedure recommendations to help lower the number of incarcerations which would reduce the cost of jails.

Chairman Westerfield acknowledged his concern with jail phone commissions and noted that the auditor's office has compiled a data bulletin on jail communication contracts showing that most jails do not offer open bidding.

In response to Representative Heavrin, Ms. Halbach-Singh verified that the county funds represent fiscal court funds and she will get a breakdown of funds spent on jails in Grayson and Hardin County for Representative Heavrin.

In response to Representative Nemes, Ms. Heiss stated that there are several factors to look at in regard to jail releases during the COVID pandemic and the public safety outcome.

In response to Senator Wheeler, Ms. Heiss stated that some of the ways to reduce the cost of incarceration are through limiting the amount of time of incarceration, who can be subjected to pretrial detention, and considering noncustodial sanctions for people who are convicted of misdemeanor offenses. Representative Blanton commented that, while there was an increase in releases and a reduction in bookings, the number of crimes recorded needs to be reviewed as well as the slowdown in law enforcement due to the COVID pandemic.

Group Violence Intervention

Josh Crawford, Pegasus Institute, stated that Louisville averaged just over 54 homicides a year between 1990 and 2015, but the number has increased and hit a record high of 173 in 2020, and is already at 104 for 2021. Mr. Crawford gave testimony to the case of Tyrese Garvin, a 20 year old who was shot and killed on June 23, 2019, shortly after visiting his newborn twins at the University of Louisville Hospital.

Nevada and Krista Gwynn gave testimony to the December 2019, random shooting death of their son Christian Gwynn while he was walking home from a restaurant. In June 2021, their daughter, Victoria Gwynn, was shot in the knee and her friend was shot and killed at a local park. Ms. Gwynn stated that the man who shot their son had an extensive criminal record and had been released early from prison just a couple of months prior to the incident.

Christopher 2X, Executive Director of Christopher 2X Game Changers, stated that between January 2020 and July 2021, Louisville had 277 homicides and 900 non-fatal gunfire wounds. The Christopher 2X Game Changers focus is on kids who deal with

secondary trauma due to constant gunfire in their neighborhoods. The University of Louisville medical students and Christopher 2X Game Changers have created the Future Healers Program to help kids from Kindergarten through eighth grade navigate through the trauma of violence and inspire them to build a better future for themselves and their communities.

Former U.S. Attorney Russell Coleman stated that legislators, the U.S. Attorney's Office, and law enforcement are responsible to mitigate the number of violent shootings. There was a 70 percent increase to the types of gun crimes subject to federal prosecution in 2019. Despite these law enforcement efforts there was still an increase in violent crimes. Mr. Coleman is working with the Pegasus Institute and the John Jay College of Criminal Justice to obtain data as to what efforts have had success elsewhere. Group Violence Intervention (GVI) helped reduce homicide and gun violence in cities across America by replacing enforcement with deterrence and fostering stronger relationships between law enforcement and the people they serve. Mr. Coleman encouraged the committee and the legislature to assert its oversight in Louisville and to ensure the American Rescue Plan Act (ARPA) funds have an impact on violent crimes.

Senator Berg commented as to the daily increased number of gunshot wounds treated at hospitals, and the fact that many are due to children shooting children, although it is illegal for minors to have these weapons.

Senator Carroll advocated that law enforcement officers must be supported if they are to enforce laws, and punishment for such crimes cannot continue to be reduced, regardless of the financial cost. Senator Carroll stated that society is victimizing criminals and not holding them accountable for their actions. The change in culture has to come from those in uniform at the Louisville Metro Police Department (LMPD) and the community needs to partner with them. Mr. Coleman encouraged contacting the new Chief of Police at the LMPD to work together and ensure that Louisville is treated the same as elsewhere in the Commonwealth.

Representative Blanton echoed that law enforcement officers need to be supported and criminals cannot be victimized if change is expected. In response to Mr. Coleman, Representative Blanton stated that Louisville tells officers to stay away from there and that they are not wanted.

Representative Stevenson questioned why the number of black people being incarcerated is higher than it should be, and communities are not given what they need to address their issues. Law enforcement officers need to engage with the Louisville community to have a better understanding of them, rather than forcing legislation on them. Mr. Crawford agreed that it is a small number of individuals who are responsible for the majority of the violence in Louisville. The GVI recognizes the needs of those individuals and provides a way to help bridge the gap between law enforcement and the community, which can reduce violence by 40 to 60 percent.

Chairman Westerfield stated that often times the legislature is criticized for interfering and not allowing Louisville to govern itself, but he appreciates

the methods presented for consideration as to how this can be improved.

Law Enforcement Reciprocity Discussion

Due to time restraints, Senator Danny Carroll gave a brief synopsis of the need for changes to be made through the Kentucky Law Enforcement Council (KLEC) to permit officers to transfer from other states or the military to Kentucky Law Enforcement. There being no further business the meeting adjourned at 12:55 PM.

COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 1st Meeting

of the 2021 Interim

June 17, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Thursday, June 17, 2021, at 11:00 AM, in Room 131 of the Capitol Annex. Senator John Schickel, 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, Jimmy Higdon, Paul Hornback, Jason Howell, Gerald A. Neal, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Kevin D. Bratcher, Tom Burch, Patrick Flannery, Al Gentry, Thomas Huff, Matthew Koch, C. Ed Massey, Chad McCoy, Michael Meredith, Kimberly Poore Moser, Phillip Pratt, Sal Santoro, Killian Timoney, and Susan Westrom.

Guests: Charles O'Neal, Kentucky Board of Emergency Medical Services; Tony Noll; John Mark Hutchenson, M.S.N.

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

Chairman Schickel introduced and welcomed new members of the committee. He apologized that the Capitol Annex building was not open to the public and anticipates it being open on July 1, 2021.

21RS SB 195 – AN ACT relating to emergency medical personnel.

Senator Karen Berg, sponsor of SB 195, 2021 Regular Session, presented the bill to the committee. She said the bill allows inmates who were trained and received a limited certification as an Emergency Medical Technician (EMT) while incarcerated to apply to the Emergency Medical Services (EMS) Board to continue to be certified once released from prison.

Senator Berg said the global pandemic highlighted the demand for skilled healthcare workers, particularly in hospitals and correctional facilities where a significant spike in Covid-19 cases arose. She thinks this type of program would greatly benefit Kentucky

communities and local healthcare organizations.

John Mark Hutchenson, M.S.N., Norton's Hospital, initially brought the issue to Senator Berg's attention. Mr. Hutchenson testified any ambulance run from the Kentucky State Reformatory System would be staffed by the limited EMT inmates, prior to the global Covid-19 pandemic. He received reports from different EMT's in these scenarios and most provided extremely professional services and were exceptional in their role. As with any other profession, there can always be a few bad apples. He wondered if Norton's hospital could provide a bridge program to help the incarcerated EMT's who were doing a great job to stay certified once released from prison. It was then he discovered that the inmates had a limited EMT license that was revoked on the inmates release from jail when they need a job and income the most. It shocked him that the license was revoked after witnessing the professional character and work ethic of most of the incarcerated inmates serving as EMT's. Felons who have completed their sentence and paid their debt to society should have a pathway for a valid EMT license and an opportunity for a job doing what they are trained in.

Chuck O'Neal, Deputy Director, Kentucky Board of EMS, said a bill to put incarcerated felons to work upon release is noble and more bills should be dedicated to work-related program for incarcerated individuals. However, he testified in opposition to SB 195. He believes in rehabilitation and an inmate's ability to contribute in a positive way to society upon release from prison. However, emergency medical services, healthcare, law enforcement, and work in schools are not the appropriate technical program for former felons. The Kentucky Board of Medical Services, as well as colleagues at the College Board of Medical Licensure, and the Kentucky Board of Nursing, are charged with ensuring the safety of the citizens of the Commonwealth of Kentucky. As a regulatory body, it is their responsibility to vet applicants for certification or licensure and provide adequate background checks of applicants to ensure patients, their families, and their property is safe during an emergency.

Emergency Medical Services is a multi-disciplinary profession that is part public safety and part healthcare. Law enforcement does not allow convicted felons to become peace officers, and colleagues in healthcare do not allow physicians, physician assistants, nurse practitioners, and nurses to be felons either. This ensures public trust in the state entities that vet applicants. It also ensures felons convicted of manufacturing, distributing, or abusing controlled substances will not be at risk for controlled substance diversion, as every advanced life support ambulance and Kentucky hospital have these substances readily available. It also reduces the risk to Kentucky citizens being sexually assaulted in their homes or having prescriptions or personal items stolen from their homes in case of an emergency visit. Responding to comments from Chairman Schickel, Mr. Hutchenson said he did not mean for his tone to imply that felons' rights were being intentionally discriminated against or oppressed. Senator Schickel said it can be fashionable to take that tone but he strongly disagrees with it.

Responding to questions from Representative

McCoy, Mr. O'Neal said the provisions for training are not the same for an incarcerated EMT and a regular EMT. The felons are certified with a Department of Corrections EMT certification that is authorized under KRS 311A.200. EMT's and paramedics take a national standardized examination called the National Register Examination. Felons are not eligible for testing through the national registry of EMT's. The facility has the ability to train the individuals that are incarcerated and they do take a similar assessment examination, but it is not the National Registry Exam. Senator Berg said the National Registry of Emergency Technicians has the ability to deny a paroled felon permanent licensure. This bill will allow specifically designated parolees the option to apply for licensure, but they will have to be selected. It gives them the chance to be trained and keep providing their talents as EMT's once released from jail. It does not guarantee the right for them to keep the temporary license once released.

Responding to a question from Representative Koenig regarding flexibility for individuals who were previously certified as EMT's prior to incarceration, Senator Berg said most medical boards have a way for incarcerated EMT's to appeal to their board and go under supervision depending on the nature of the crime and keep their license, however certain crimes would not meet this criteria and the license would be removed. This bill provides flexibility and an option for hand-selected individuals who have been proven to be successful EMT's while incarcerated, and who are seen as highly probable as being successful when released to obtain a license.

Chairman Schickel thanked Senator Berg for her testimony, said he will work with her to find common ground, and believes there is room for flexibility and individual attention. He noted that EMT's in an institutional setting that provide care to other inmates saves taxpayer money, but should not automatically mean the license should transfer to certification outside the jail. He does believe having more people working outside incarceration is a great thing, but Kentucky must protect its most vulnerable citizens.

Senator Berg said she is unaware of any other certification individuals earn while incarcerated that they are not allowed to keep upon release.

21RS HB 224 – AN ACT relating to CPA Licensure.

Representative Kim Banta, sponsor, said this bill passed 85-1 in 2021 in the House of Representatives, and then due to the short session, did not make it through the Senate before Sine Die of the General Assembly. This bill does three things: 1) it allows the State Board to grant scholarships using its own money so it is no cost to the state; 2) the Board would like to be allowed immunity from lawsuits for state board members as long as they acting in good faith in performance of normal duties, and 3) eliminates the requirement that out-of-state CPA's seeking a Kentucky license via reciprocity must have obtained the one year of accounting or test experience within five years of successfully passing the CPA exam in their home state. The current system puts an unintended burden on CPAs attempting to locate in Kentucky, where there is a shortage.

Senator Schickel said he looks forwarding to

ushering HB 224 through the Senate in the upcoming legislative session. He said it is a good piece of legislation and it just needs to be passed earlier in the session.

21RS HB 346 – AN ACT relating to cremation.

Representative Buddy Wheatley said the concept of alkaline hydrolysis is a sophisticated cremation technique that has become more available. Members received a handout of a map that shows different states that have adopted alkaline hydrolysis as a form of cremation, including 20 states and several provinces in Canada.

Anthony Noll said financial and environmental costs of flame cremation and traditional burial prompted his research into alkaline hydrolysis while planning his end-of-life wishes. Kentucky had no statutes that defined the practice. After consulting with regulators and local funeral home operators, he contacted Representative Wheatley to pursue statutory changes that would make the technology legal in Kentucky. His goal is to capitalize and operate facilities that will supply this growing option in an industry that one day will serve the citizens of Kentucky. He plans to combine financial resources by allowing local funeral homes to be co-owners of a facility they can patronize, such as a cooperative. Kentucky operators could also provide these services to bordering areas that have not taken a proactive stance to legislate this opportunity.

Samantha Sieber, Vice President of Research, Bio-Response Solutions, Inc., testified via Zoom in support of the bill. She is a biologist in the field for over 16 years, and has helped over 40 states (along with many other jurisdictions worldwide) draft legislation to make this option available to families. She reviewed in detail the proposed language revision for Kentucky's statute to accommodate alkaline hydrolysis, and said it is well-written.

States that have already approved alkaline hydrolysis have not had issues with licensing or financial burden. Licensing and inspections have been nearly identical to crematories so there has been no additional burden placed upon regulatory boards. This gives families end-of-life choices and data analysis has shown that 80 percent of families desiring cremation select this option over flame cremation. Right now, Kentucky families are having to arrange transport to neighboring states for this option which adds further hardship (emotionally and financially) to the family during an already devastating time.

There are numerous points of regulation that will apply in order for an alkaline hydrolysis system to be used: 1) the law must allow it; 2) the business must be licensed by the Board; 3) the equipment must be compliant with state health and environmental regulations; 4) the locale must approve the location of the equipment (municipal planning and zoning); and 5) the release of the process water must be done with permission (written approval from the wastewater authority).

There are no emissions from alkaline hydrolysis into the environment. Family options for services and memorialization are unchanged. Most families still hold a viewing and service to honor their loved one. The body may still be embalmed for transport home

from another state or country. In fact, the family still receives ash remains, approximately 20 – 30 percent more. The ashes are completely sterile and safe to handle.

Responding to a question from Senator Buford regarding the average cost to process a body and funeral home charges, Ms. Sieber said the cost to consumers is very similar to regular flame cremation. It may be \$300 - \$400 more to families, but not a significant hardship cost. Mr. Noll agreed and added that \$795 is the cost of the basic service that can expand to \$3,500 for embalming and viewing, as estimated by an experienced provider in Illinois.

Responding to a question from Representative Burch regarding who is opposed to this legislation, Representative Wheatley responded said he has been in continuous contact with the Kentucky State Board of Embalmers and Funeral Directors and the Funeral Directors Association of Kentucky. Mr. Noll has also contacted these two organizations and said the issue has been scheduled for an upcoming board meeting. Responding to Representative Koch regarding New Hampshire legalizing alkaline hydrolysis and then overturning the decision, Ms. Sieber said that New Hampshire has legalized alkaline hydrolysis as a form of cremation again. New Hampshire was one of the earlier states to approve this, and while there were disagreements, there was nothing found wrong with the technology.

Chairman Schickel has been contacted by several funeral homes and discussed the importance of interim hearings and vetting issues. He encouraged funeral home directors to contact committee members with concerns.

21RS HB 279 – AN ACT relating to school facilities.

Representative Josh Branscum, sponsor, said the bill passed the House of Representatives 97-0 during the last General Assembly Legislative Session and then ran out of time to get through the Senate. Chairman Schickel said it is his intent to get this passed in the next legislative session. He is pleased that it targets high growth districts and apologized the bill was not properly vetted last session.

Chuck Truesdell, Director of Government Relations, Kentucky Department of Education (KDE), testified in support of the bill. Most of the complaints from local school districts involve school facilities. KDE is looking at internal improvements it can make to streamline the school facilities process and remove bureaucratic red tape. The committee substitute incorporates these changes and makes necessary statutory changes.

With no further business before the committee, the meeting adjourned at 12:00 p.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 1st Meeting of the 2021 Interim June 15, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee

on Local Government was held on Tuesday, June 15, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Michael J. Nemes, Wil Schroder, Adrienne Southworth, Damon Thayer, and Phillip Wheeler; Representatives Danny Bentley, Josh Bray, George Brown Jr., Jonathan Dixon, Jeffery Donohue, Ken Fleming, Deanna Frazier, Regina Huff, Mary Beth Imes, DJ Johnson, Adam Koenig, Matt Lockett, Brandon Reed, Rachel Roberts, and Walker Thomas.

Guests: Rick Rand, Max Fuller, and David Moore, Department of Housing, Buildings, and Construction; Adam Jones, Buechel Fire Protection District; J.D. Chaney, Kentucky League of Cities; Jim Henderson, Jennifer Burnett, and Shellie Hampton, Kentucky Association of Counties; Jim Gray and Kenny Bishop, Transportation Cabinet; Sandy Williams, Kentucky Infrastructure Authority; Ray Perry, Public Protection Cabinet; John Hicks, Office of State Budget Director; and Billie Johnson and Matt Stephens, Department for Local Government.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, and Cheryl Walters.

Consideration of Administrative Regulation

The committee considered referred Administrative Regulation 815 KAR 020:150, promulgated by the Department of Housing, Buildings, and Construction, which related to the Division of Plumbing's inspections and tests. Commissioner Rick Rand, Deputy Commissioner Max Fuller, and David Moore, Director of the Division of Plumbing, represented the Department and discussed the proposed changes.

Local Administration of the American Rescue Plan Act (ARPA) of 2021

Chief Adam Jones, Buechel Fire Protection District and Jefferson County Fire Chiefs Association, told the committee that Chapter 75 Fire Protection Districts have taken financial hits on many fronts over the past 16 months related to the pandemic. Coronavirus funding programs in the past did not provide specific eligibility for Chapter 75 Fire Protection Districts throughout the Commonwealth. Most Chapter 75 fire districts in Kentucky did not receive CARES money or other funds due to the lack of defined eligibility. Fire districts and ambulance districts faced increase personal protection equipment costs and delayed property reassessments from the PVA provided no additional tax revenue.

Fire Protection Districts appear to be specifically eligible for all of the ARPA, but need the legislature to enact it. Chapter 75 districts continued to operate in the communities throughout the pandemic without delay, and ask for the legislature's help to recover some of the loss that was incurred to help communities throughout the state.

It is unclear how Chapter 75 Fire Protection

Districts and employees would be able to access any funds from the ARPA without lawmakers defining it. Also, the Premium Pay for Eligible Employees is only for employees designated by the Governor as those needed to maintain continuity of operations of essential critical infrastructure. The first responders were as essential as anyone during the past year, as the work never stopped or was delayed when called upon.

Chapter 75 Fire Protection Districts across the state are asking the legislature to help them recover some of their losses with funding from the ARPA. J.D. Chaney, Executive Director/CEO of the Kentucky League of Cities (KLC), told the committee that cities were very grateful for the ARPA funding. ARPA funds will not be recurring, and cities will not be in a rush to expend the ARPA funds.

The entitlement communities of Ashland, Bowling Green, Covington, Elizabethtown, Henderson, Hopkinsville, Lexington, Louisville, and Owensboro will collectively receive a total of over \$607 million. Funding will be based on the community development block grant formula nationally, and received from and reported to the U.S. Department of the Treasury. All other cities will collectively receive \$324 million. Funding will be based solely on population within the state, received from the Kentucky Department for Local Government, and reported to the U.S. Department of the Treasury.

The eligible uses for ARPA funds include: supporting the public health response; addressing the negative economic impacts of the public health emergency; targeting low-income communities; performing government services based on lost public sector revenue; providing premium pay for essential workers; and investing in water, sewer, and broadband infrastructure.

Funds cannot be used to shore up unfunded liabilities in pension plans, pay off outstanding debt that existed prior to the pandemic, settle lawsuits or judgments, finance expenses for the incurrence of new debt, replenish rainy day funds, or match any nonfederal match requirements. There are additional restrictions in the expenditure of funds that the League is communicating to the U.S. Treasury that it would like eased.

Jim Henderson, Executive Director of the Kentucky Association of Counties (KACo), reiterated Mr. Chaney's remarks. Cities and counties are basically the same in regard to ARPA funding, except for the allocations. In contrast to the CARES Act, where Kentucky local governments were fortunate to have had allocations allotted from the executive branch, where many other states did not make such allocations, the ARPA funding was allocated directly to counties and cities in part due to the efforts of the National Association of Counties and the National League of Cities. All 3,069 counties nationally are getting a direct allocation from the U.S. Treasury from a total allotment of \$65 billion. Kentucky's counties get \$868 million of this amount.

KACo is encouraging counties to expend their resources on water, sewer, and broadband projects, as the present U.S. Treasury guidance for these expenditures is clear.

In response to a question from Representative

Meredith, Mr. Henderson replied that he would provide the county allocations to committee members. In response to another question from Representative Meredith, Mr. Henderson said it was not clear yet if the county can give funds to the water and sewer districts. Mr. Chaney added that counties have the general authority to transfer the funds, but there needs to be guidance from the U.S. Department of Treasury. In response to a question from Representative Johnson, Mr. Chaney stated that if an entity had a planned tourism project expansion that was stopped or delayed due to COVID-19, it likely will be able to use the funds to continue that project, but the guidance is still being clarified.

In response to a question from Representative Fleming, Mr. Chaney replied that cities have had an on-going process of cutting expenses. When the pandemic started, there was an intense budget examination. Most cities expected a 20 to 30 percent reduction in revenues. Mr. Henderson added that local government officials need to be trusted to make good decisions.

Senator Mills commended KLC's and KACo's education of local officials regarding the handling of the ARPA funds. He stated that it is important that the funds are not squandered. In response to a question from Senator Mills, Mr. Henderson said that until there is guidance from Treasury, local governments are very cautious as far as how the funds are used regarding the recruitment of medical professionals, as well as any expenditure that is not clearly outlined by the U.S. Treasury. ARPA funds can be used to pay for audits of the funds themselves.

In response to a question from Representative Bray, Mr. Henderson replied that theoretically, counties would likely qualify for help from certain jail revenue decreases, and that lost revenue could be recovered. Some jails who house prisoners with other counties could have experienced less budget expenditures due to the pandemic because they were not sending as many prisoners to other counties and incurring those expenses.

In response to a question from Representative Meredith, Billie Johnson, Director of Federal Grants with the Department for Local Government, stated that 370 out of 405 cities have submitted budget certification applications. DLG will not decline additional cities' applications if they are still trickling in after the deadline.

Transportation Cabinet Secretary Jim Gray told the committee that the Drinking Water and Wastewater Grant Program was the funding source for planning, design, and construction costs for water or sewer related projects that have a social, economic, or environmental impact. The program was funded by the ARPA, and \$250 million was appropriated in the 2021 Session of the General Assembly to be administered by the Kentucky Infrastructure Authority. A pool of \$150 million was allocated by county population; \$50 million for unserved drinking water customers in rural areas and in federal consent decree areas of Lexington, Louisville, Northern Kentucky Sanitation District No. 1, and Winchester; and \$49.9 million to supplement a project grant where the cost is greater than the county's allocation—designated for cost escalations and changed conditions.

There were over 350 potential projects: one in each county; 269 of unserved drinking water projects; and four federal consent decree utilities. There were 713 utilities which include public drinking water utilities and public wastewater utilities.

Utilities apply by using the Water Resource Information System (WRIS) Project Profile information as the application and coordinating with the Water Management Council at the Area Development District. The water service coordinator will help the utility complete the project profile, and the water service coordinator will select the Cleaner Water Program Grant Program as the funding source under the budget tab. Utilities could apply on June 1st. The grant funding will be available after federal program guidelines is finalized, federal funding is received, administrative regulations are executed, and county allocation amounts are released. Coordination with Area Developments Districts and elected officials, review of final federal guidance, finalization of grant commitment letters and grant assistance agreements, and commencement and completion of the projects remain yet to be done.

In response to a question from Representative Meredith, John Hicks, State Budget Director, replied \$2.2 billion was appropriated to the state from ARPA, and so far the state has appropriated around \$1.2 billion.

In response to another question from Representative Meredith, Mr. Hicks said any governmental unit can apply for state allotments.

Mr. Hicks stated that \$300 million was appropriated in the 2021 Session of the General Assembly for the Broadband Deployment Fund with \$250 million designated for unserved/underserved broadband areas. The awards are limited to \$50 million before April 1, 2022. The first \$50 million will be targeted to unserved areas. \$50 million will be used for securing economic development opportunities for commercial and industrial customers.

The Broadband Deployment Fund was designed to construct broadband infrastructure to serve underserved and unserved areas and to provide broadband services to residential and commercial customers.

Local governments can use federal moneys toward a 50 percent match for broadband deployment projects.

Federal guidance on broadband projects was issued May 10, 2021, which sets a minimum download and upload speed requirement of 100 megabits per second (Mbps).

The application process for the grant program is being developed because this is a new program that has never been done before. Service maps are also being developed and refined to determine the geographic location of eligible projects.

In response to a question from Senator Mills, Mr. Hicks stated that local entities receiving a portion of the rural digital opportunity fund (RDOF) will most likely not be eligible for the ARPA grant funds, but that it is not completely out of the question if the RDOF funds are not adequate, and thereby meet the guidelines for the ARPA grants.

In response to a question from Representative Bray, Mr. Hicks said that the first \$50 million targeted

to unserved areas is for construction of broadband infrastructure.

In response to a question from Representative Roberts, Mr. Hicks stated that there will be a surge of project applications, but everyone involved will make sure that the Kentucky Infrastructure Authority will have help.

In response to a question from Representative Johnson, Mr. Hicks said that the first map will portray unserved areas and that they hope to have the initial map soon.

Representative Meredith asked that the map be provided to the committee upon its completion.

In response to a question from Representative Fleming, Mr. Hicks replied that there is no other information that defines underserved other than 3 Mbps upload and 25 Mbps download speeds.

In response to another question from Representative Fleming, Mr. Hicks confirmed that no grant moneys would be transferred to the Kentucky Communications Network Authority.

Representative Meredith announced that the next meeting of the committee would be July 20 at 10:00 a.m.

There being no further business, the meeting was adjourned at 11:50 a.m.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 2nd Meeting of the 2021 Interim

July 8, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, July 8, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Jared Carpenter, C.B. Embry Jr., Denise Harper Angel, John Schickel, Johnnie Turner, Robin L. Webb, and Phillip Wheeler; Representatives John Blanton, Adam Bowling, Randy Bridges, Tom Burch, McKenzie Cantrell, Ryan Dotson, Jim DuPlessis, Patrick Flannery, Chris Fugate, DJ Johnson, Norma Kirk-McCormick, Mary Lou Marzian, Suzanne Miles, Melinda Gibbons Prunty, Attica Scott, Pamela Stevenson, Bill Wesley, and Richard White.

Guests: Jason Dunn, Director, Division of Family Support, Department for Community Based Services, Cabinet for Health and Family Services; Roger McCann, Executive Director, Community Action Kentucky; Rebecca W. Goodman, Secretary, Energy and Environment Cabinet (EEC); Gordon Slone, Commissioner, Department for Natural Resources (DNR); and David Fields, Deputy Commissioner, DNR.

LRC Staff: Stefan Kasacavage, Janine Coy,

Tanya Monsanto, and Rachel Hartley.

Presentation and public hearing on the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application – Federal Fiscal Year 2022

Jason Dunn provided an overview of the Department for Community Based Services (DCBS), which is the largest organizational unit within the Cabinet for Health and Family Services (CHFS). The Low Income Home Energy Assistance Program (LIHEAP) is funded by a federal block grant received by DCBS on behalf of Kentucky. LIHEAP provides assistance to low-income households that pay a high proportion of income for home energy. DCBS anticipates Kentucky's award will be \$51 million for 2022. Less than 10 percent is used for administrative costs.

In response to COVID-19, community action agencies (CAAs) can utilize various means to complete applications including: electronically, by mail, over the phone, and using an office drop box. Some CAAs are offering online scheduling.

Kentucky was awarded \$13,745,001 in supplemental funds for LIHEAP from the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) ACT. The funding was used to implement a new summer cooling program, which will provide year-round utility assistance.

In response to the additional funds, CHFS has changed the household income eligibility for LIHEAP to 150 percent of the federal poverty level. The applicant must be responsible for the home energy costs or pay energy costs as a designated portion of rent.

LIHEAP offers heating and cooling subsidy and crisis assistance year round. Subsidy assistance will be provided to households with the lowest incomes at or below 150 percent of the federal poverty guidelines and the highest energy costs. The crisis assistance is limited to the amount necessary to relieve the crisis not to exceed \$600.

The LIHEAP Weatherization Program prioritizes households containing elderly, disabled persons, children, or high energy burden households where the energy cost exceeds 15 percent of the household's income. The program aims to increase energy efficiency and reduce heating costs by installing insulation, replacing refrigerators, sealing air infiltration, and replacing or repairing heating systems or water heaters.

The Healthy at Home Utility Relief Fund provides relief to Kentuckians affected by COVID-19 that need assistance with their water, wastewater, electric, or natural gas service.

The United States Department of Health and Human Services (HHS) launched the Low Income Household Water Assistance Program, which was established under the Consolidated Appropriations Act of 2021. The program will assist residents with their water bills, help to avoid shutoffs, and support household water system reconnections related to non-payment.

Roger McCann stated CHFS maintains a contractual arrangement with Community Action Kentucky, Inc. (CAK) and the Kentucky Housing Corporation (KHC) to provide support, training, and

monitoring. CAK and KHC have an arrangement with Kentucky's Community Action Network that makes LIHEAP benefits available in all counties.

There are 23 CAAs that cover all Kentucky counties. Each agency allows local control so specific needs can be met. CAK utilizes a continuous process for quality improvement, including review of policy and procedure, committee structure, data collection analysis, use of technology, and training and technical assistance.

In response to Representative Miles, Mr. McCann stated LIHEAP targets households with a fixed income. The households have to reapply annually under the traditional LIHEAP subsidy program. The LIHEAP crisis program has a cap on the amount of funds a household can receive annually.

In response to Representative Gibbons Prunty, Mr. Dunn stated Kentucky anticipates to receive \$51 million for FFY 2022 LIHEAP funding.

In response to Representative Johnson, Mr. McCann stated there are two primary funding streams for weatherization in Kentucky: the United States Department of Energy Weatherization Program and LIHEAP. The LIHEAP weatherization work for the households is provided by the CAA's crews, contractors, or a blend of employees and contractors. In response to Representative Kirk-McCormick, Mr. McCann stated Kentucky is using 150 percent of the federal poverty level which is the maximum income amount allowed by federal regulation.

In response to Representative Wesley, Mr. Dunn stated he will make sure there is outreach with organizations to invite veterans who qualify for LIHEAP to participate.

In response to Representative Burch, Mr. Dunn stated LIHEAP is 100 percent federally funded. In response to Senator Webb, Mr. McCann stated some of the changes made during COVID-19 in regards to accessibility to LIHEAP will be implemented for the future.

In response to Representative Dotson, Mr. McCann stated CAK has no visibility into how a household spends their money. If any fraud in the system is suspected, it is referred to law enforcement. A motion was made to approve the Findings of Fact for the LIHEAP State Plan for Federal Fiscal Year 2022, including that the block grant application does meet the standards and criteria set out in KRS 45.353, by Representative Blanton and seconded by Representative Bowling. Upon roll call vote, the motion passed with 21 yes votes.

Update on new mines in Kentucky and the role of the Division of Mine Safety

Rebecca W. Goodman stated the Energy and Environment Cabinet had their first meeting of the Energy Affordability Work Group in June 2021. Gordon Slone stated since 2014 Kentucky has experienced a significant decline in the number of mines licensed. There is currently an increase in the number of new mines opening or idled mines reopening, which has resulted in the hiring of new miners.

The Division of Mine Safety (DMS) annually conducts six regular underground inspections. At the

discretion of the commissioner, three of the inspections can be replaced with a mine safety analysis, and one is required to be an electrical inspection. DMS also annually conducts two regular inspections at every surface mining operation.

DMS places an emphasis on behavior-based safety analysis and assessments along with providing training and mine rescue assistance, in contrast to the federal Mine Safety and Health Administration's (MSHA) regulatory enforcement approach to safety. DMS acts as a safety department and miner rescue team for all mines in Kentucky and conducted 8,875 trainings and certified 546 miners in 2020. Mines are required to have a mine rescue team in order to operate and will be shut down by MSHA if there is none. Smaller mines cannot provide this coverage without the assistance of DMS.

The EEC is requesting that future budget bills not include language that prohibits DMS from hiring Mine Safety Specialists. DMS does not intend to hire more employees than are needed to maintain mine rescue coverage and training needs.

In response to Senator Webb, Mr. Fields stated there is a need for experienced, certified miners. Mr. Slone stated there are training opportunities and certification programs for inexperienced miners.

In response to Senator Wheeler, Mr. Slone stated the Kentucky Reclamation Guaranty Fund (KRGF) annually conducts an actuarial analysis of the fund. KRGF currently has sufficient funds to cover a worst possible case scenario.

In response to Senator Smith, Mr. Slone stated that most of the permits involved with coal mining bankruptcies have been sold.

In response to Representative Gooch, Mr. Slone stated Kentucky is a member of the Interstate Mining Compact Commission. There are 22 coal producing states.

In response to Representative Gibbons Prunty, Mr. Slone stated most of the coal that is mined in Kentucky is exported.

In response to Representative Wesley, Mr. Fields provided a brief overview of the qualifications for new miners.

Representative Miles is concerned with having a high number of inspectors with mining sites decreasing. Mr. Slone stated mine safety inspectors are critical to crew the mine rescue teams. Most small mining companies with 35 employees or less cannot afford to staff a mine rescue team. There are seven state and five company mine rescue teams in Kentucky.

There being no further business, the meeting was adjourned.

UNEMPLOYMENT INSURANCE REFORM TASK FORCE

Minutes of the 1st Meeting

of the 2021 Interim

June 22, 2021

Call to Order and Roll Call

The 1st meeting of the Unemployment Insurance

Reform Task Force was held on Tuesday, June 22, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Michael J. Nemes, Co-Chair; Representative Russell Webber, Co-Chair; Senators Ralph Alvarado, Brandon J. Storm, Mike Wilson, and David Yates; Representatives Josh Branscum, McKenzie Cantrell, Phillip Pratt, and Scott Sharp.

Guests: Courtney Meador, Human Resources Director, Houchens; George McFarland, Owner, UCCS; Kate Shanks, Vice President of Public Affairs, Kentucky Chamber of Commerce; Larry Roberts, Secretary, Labor Cabinet; Buddy Hoskinson, Executive Director, Office of Unemployment Insurance, Labor Cabinet; Morgan Eaves, Director of Legislative Affairs, Labor Cabinet; Amy Staed, Executive Director, Kentucky Association of Private Providers; Tom Underwood, State Director, National Federation of Independent Business/Kentucky; Dan Withrow, CEO, CSS Distribution Group; and Eddie Kraft, President, Nanz & Kraft Florist.

LRC Staff: Andrew Manno, Audrey Ernstberger, Drew Baldwin, Sasche Allen, and Helen McArthur.

Unemployment Insurance Fraud

Kate Shanks, the Vice President of Public Affairs for the Kentucky Chamber of Commerce, made remarks about the challenges the business community has faced combating the filing of fraudulent unemployment insurance claims. The U.S. Department of Labor has estimated that over \$63 billion was paid out across the country in improper or fraudulent unemployment insurance claims in the first 12 months of the COVID-19 pandemic. Ms. Shanks said that employers are ultimately being held responsible for paying out the benefits of these fraudulent claims since employers pay into the unemployment insurance trust fund. George McFarland, owner of UCCS, stated that his firm assisted clients with 400 to 500 unemployment insurance claims a day during the pandemic and a large amount of those were fraudulent. UCCS is an unemployment compensation firm that helps employers with unemployment compensation taxes, costs, and hearings. Mr. McFarland added that phishing emails, debit card scams, job seeker scams, and phone scams are plaguing an outdated system that is not equipped to handle the large volume of claims. Answering a question from Representative Russell Webber, George McFarland stated an employer has 10 to 12 days to respond by mail or electronically to an unemployment insurance claim with a claimant's employment separation information. Due to staffing shortages and ongoing issues with the U.S. Postal Service during the pandemic, information was often delayed being reported back to the Office of Unemployment Insurance and benefits were issued when they should not have been.

Replying to Representative McKenzie Cantrell, Kate Shanks said that phishing scams are difficult to prevent. The Chamber has training for employers on how to avoid falling victim to the scams.

Addressing a question from Senator Ralph Alvarado, Ms. Shanks and Mr. McFarland said they

were not familiar with employers that have experienced data breaches. Replying to a follow up question, Mr. McFarland stated that in order to properly process the influx of unemployment insurance claims, his UCCS staff of nine would have needed at least an additional 40 staff members.

Representative Phillip Pratt commented about data breaches on the state level at the Office of Unemployment Insurance.

Answering a question from Representative Russell Webber, Labor Cabinet Secretary Larry Roberts clarified that due to HB 413, claims were not paid out of the employers' unemployment insurance account. Therefore, there was no negative impact on employers due to fraudulent claims. Responding to a follow up question, the Executive Director of the Office of Unemployment Insurance, Buddy Hoskinson, confirmed that employers have 10 to 12 days to respond to a claim and are entitled to an appeal process.

Responding to Representative Phillip Pratt, Secretary Roberts stated that any data breaches that have occurred were limited and did originate within the Office of Unemployment Insurance. Executive Director Hoskinson further explained that adjustments were made to prevent future breaches that included installing a new front door interface and changing the PIN code system. Any person that has filed an unemployment insurance claim in the last 20 years was required to reset their PIN number and verify their identity. Representative Pratt briefly discussed a specific unemployment insurance claimant.

Addressing questions from Senator Ralph Alvarado, Morgan Eaves, Director of Legislative Affairs for the Labor Cabinet, stated employees of the Legislative Research Commission were not approved to assist with adjudicating unemployment insurance claims during the pandemic due to privacy and legal constraints.

Replying to Representative Scott Sharp, Secretary Roberts said the Ernst and Young firm was utilized to adjudicate unemployment insurance claims, because there was already an existing contract with the firm. Its employees had the clearance necessary to adjudicate claims. The decision to contract with Ernst and Young was made by the Labor Cabinet in conjunction with the Governor's Office. There were two separate contracts with the firm that totaled about \$14.5 million.

Answering a question from Senator Mike Nemes, Secretary Roberts explained the RFP for upgrades to the unemployment insurance system is currently in the latter stages. The General Assembly passed legislation in the 2018 Regular Session that allowed for the Service Capacity Upgrade Fund (SCUF) to be used for the RFP. It was estimated that the new system would cost around \$60 million dollars. The current amount in the SCUF account is \$40 million. Senator Nemes clarified that Ernst and Young employees did not have federal approval to adjudicate claims at the start of its contract with the state but later obtained the necessary credentials. Employees of Ernst and Young were initially gathering preliminary information from claimants. Secretary Roberts confirmed that the Ernst and Young contracted ended in January

2021. Additional federal funds have been allotted as needed to hire permanent employees for the Office of Unemployment Insurance. Legislation passed during the 2021 Regular Session made it easier for Labor Cabinet employees to obtain federal clearance. Executive Director Hoskinson said the Cabinet is still struggling with hiring employees.

Responding to Representative Scott Sharp, Secretary Roberts discussed a previous task force on unemployment insurance that was comprised of legislative members and citizen members from the labor and business communities that he served on as a labor representative. The task force did not recommend upgrades to the unemployment insurance system be made at that time due to the stipulation that federal funds would be allotted for the upgrades based on the expansion of benefits.

Addressing Senator Ralph Alvarado, Secretary Roberts listed improvements that are necessary including the modernization of the unemployment insurance system, cross training of staff, and changes to some of the restrictions on federally funded time limited positions within the Office of Unemployment Insurance.

Replying to Representative Phillip Pratt, Secretary Roberts explained that the Office of Unemployment Insurance is expanding and opening additional locations due to the backlog of claims that need to be adjudicated and processed. As the backlog begins to dissipate, then the funds for those federally funded time limited positions will no longer be allocated. However, career services will continue to be made available to the public.

Secretary Roberts pointed out that the unemployment insurance trust fund deficit of \$505 million will be paid at the start of the new fiscal year as a result of the General Assembly approving the use of \$575 million of federal funds. Due to employers' first quarter unemployment insurance taxes and the contribution CARES Act funds appropriated by the Governor, the unemployment insurance trust fund will have a positive balance of \$345 million.

Representative Russell Webber requested that the Labor Cabinet collaborate with the Kentucky Chamber of Commerce and the National Federation of Independent Business to make improvements to the unemployment insurance system.

Private Providers Perspective

The Kentucky Association of Private Providers (KAPP) is a trade association that represents about 100 providers of community based support services to individuals with intellectual and developmental disabilities through Medicaid waiver programs. KAPP members totally operate based on Medicaid reimbursement and any unexpected increases in costs, such as unemployment insurance, could potentially be devastating to the providers' budgets. Many KAPP members provide adult day services and are still operating under limited capacity due to COVID-19 restrictions which has significantly affected available services and staffing. The workforce shortage has also been a tremendous issue for providers that has led to increased overtime costs. Amy Staed, the Executive Director for KAPP, explained that expanded federal pandemic unemployment assistance payments

have made it difficult for providers to hire staff. Medicaid reimbursements allow most providers to pay employees about \$10 an hour when the federal pandemic unemployment assistance payments amount to about \$15 an hour. In addition, she discussed issues with employees being approved for unemployment insurance benefits that had been terminated based on allegations of abuse.

Replying to Senator Ralph Alvarado, Amy Staed said there have not been any increases in liability insurance for residential providers but it is a possibility. About 25 day service providers across the state are struggling with combating increased costs. Representative Russell Webber made remarks about providers having issues with individuals receiving unemployment insurance benefits after being accused of abuse and neglect.

Issues Related to Small Business

National Federation of Independent Business/ Kentucky (NFIB) represents about 4,000 small businesses that have less than 50 employees. The NFIB conducted a statewide survey of its members and found that about 90 percent of its members had job openings. Tom Underwood, the State Director of NFIB, explained that some small businesses struggle with unemployment insurance, because they do not have a dedicated human resources staff that are knowledgeable about the area. He suggested that a staff person be available at state career centers to counsel small businesses about unemployment insurance rights and procedures for employer. Dan Withrow, CEO of CSS Distribution Group and Eddie Kraft, President of Nanz & Kraft Florist, discussed challenges experienced by small business owners with the workforce shortage and competing with the expanded federal pandemic unemployment assistance payments. Mr. Underwood concluded with a list of areas that need to be improved including the outdated unemployment insurance system, the employer reporting functions within the unemployment insurance system, and counseling of employees and employers within the state career centers. He also advocated for the halt of the expanded federal pandemic unemployment assistance payments.

Representative Phillip Pratt commented that his small business was a member of NFIB. He said to his knowledge, the percentage of small businesses with job opening may be greater than 90 percent.

Representative Russell Webber remarked that he, as Chair of the House Economic Development and Workforce Investment Committee, along with Representative Phillip Pratt, as Chair of the House Small Business and Information Technology Committee, submitted a letter to the Governor's Office asking to end the state's participation in the federal pandemic unemployment assistance program. There being no further business before the task force, the meeting adjourned at 2:38 p.m.

SCHOOL FUNDING TASK FORCE

Minutes of the 1st Meeting of the 2021 Interim June 14, 2021

Call to Order and Roll Call

The 1st meeting of the School Funding Task Force was held on Monday, June 14, 2021, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative James Tipton, Co-Chair; Senators Reginald Thomas and Mike Wilson; Representatives Kim Banta, Tina Bojanowski, and DJ Johnson.

LRC Staff: Joshua Collins, Cynthia Brown, Lauren Busch, and Christal White.

Guests: Dr. Bart Liguori, Sabrina Cummins, and Allison Stevens, Office of Education Accountability (OEA); Robin Kinney, Chay Ritter, and Chuck Truesdell, Kentucky Department of Education (KDE) staff; Superintendents Mike Borchers, Ludlow Independence; Robbie Fletcher, Letcher County; Paul Mullins, Logan County; and local school board members, Brenda Jackson, Shelby County; Tom Haggard, Covington Independent; and Davonna Page, Russellville Independent.

Chairman Wise introduced participants invited to assist on the School Funding Task Force (SFTF): Independent Davonna Page, Russellville Independent Board Member; Brenda Jackson, Superintendent, Shelby County; Tom Haggard, Covington Independent Board Member; Paul Mullins, Superintendent, Logan County; Robbie Fletcher, Superintendent, Lawrence County; Mike Borchers, Superintendent, Ludlow Independence, and Chuck Truesdell, KDE staff.

A preview of the OEA Report on School Funding was presented by Dr. Bart Liguori, OEA Research Division Manager; Sabrina Cummins, OEA Research Analyst; and Allison Stevens, OEA Research Analyst. Dr. Liguori gave a brief summary of the Support Education Excellence in Kentucky (SEEK) report to be presented to the SFTF in October 2021.

The study will examine how SEEK transportation funding is distributed among districts; equitable funding between districts, regions, and rural versus urban areas; district contributions; and funding in other states.

The report will provide an overview of education formulas in surrounding states including: base-funding models and local share contributions (property taxes, taxes levied by districts and other allowable taxes); funding for specific classifications of students including students of poverty, Limited English Proficiency (LEP) and students with exceptional needs; funding for districts that are small, isolated, and rural and remote districts; and student transportation funding. The report will consider possible alterations to the SEEK funding formula to determine how changes may impact equity. For each specific element change, any associated state cost increase will be offset based on the 2020 SEEK guaranteed base of \$4,000. Increases or decreases in district costs will be included in a comparison study of equity between poor and wealthy districts before and after SEEK alterations.

Co-Chair Tipton said Kentucky's population shift affected school districts in rural parts of Kentucky, resulting in lower property assessments. Dr. Liguori

indicated adjusted assessments may be considered in recommendations.

Staff from KDE Office of Finance and Operations, Robin Kinney, Associate Commissioner, and Chay Ritter, Director, Division of District Support, presented an overview of the SEEK funding model.

In the 1989 Kentucky Supreme Court case of *Rose v. Council for Better Education*, the court ruled the school system was unconstitutional and failed to provide an efficient, equal, and adequately-funded public school system. As part of the Kentucky Education Reform Act (KERA), Ms. Kinney said SEEK was thoughtfully developed at the time. However, components of any formula must align change with current needs. To qualify for and receive SEEK funding local school districts must have minimal requirements, as outlined in KRS 157.350.

Because of the changing need for various instruction modes during the pandemic, districts were allowed to use attendance data from School Year (SY) 2018-2019 or SY 2019-2020 for funding purposes. In 2021-2022, districts will use actual attendance for SEEK formula funding purposes.

The attendance-driven model is set by the General Assembly and becomes an important component as add-ons are calculated into the equation. Free lunch or at risk students increase the formula by 15 percent, roughly amounting to \$600 per student. Exceptional students are divided into severe, moderate, and high incidences can range from .24 percent to 2.35 percent, and can provide add-ons from \$960 - \$9,400 per student. Home and hospital students provide \$3,900 per student in add-ons and LEP students encompass 9.6 percent of the add-ons and provide an additional \$384 per student. Mr. Ritter said a large portion of the \$2 Billion SEEK budget is funded for exceptional children.

Responding to a question from Representative Bojanowski, Mr. Ritter clarified that the free lunch students in the SEEK formula do not include reduced-cost lunch students.

District assessments and taxes impact the budget's trajectory as an increase in the school's district funding and a reduction in SEEK funds. An increase of a million dollars in assessments roughly equates to a \$3,000 reduction in SEEK funding. Small communities are sensitive to assessment fluctuations. Mr. Ritter said the Department of Revenue (DOR) and Property Valuation Administrator (PVA) offices certify the assessments and provide the information to help KDE determine school district tax rates.

Responding to a question from Mr. Truesdell, Mr. Ritter said 30 cents for every \$100 of assessment value goes toward local effort. SEEK participation requires local districts to tax 30 cents per \$100 of assessed property value. No less than a nickel per \$100 of assessed property value is mandated to participate in the Facilities Support Program of Kentucky (FSPK). Tiers I and Tier II are authorized but not required and provide 15 and 30 percent add-ons, respectively. As tax-levying authorities, county and independent districts tax real estate, tangible property, and motor vehicles. Districts may also levy taxes on utility gross receipts and occupational, excise, aircraft, and watercraft taxes.

In response to a question from Representative Johnson, Mr. Ritter explained SEEK funding decreases as property wealth increases. Communities with decreasing assessments may have an increase in SEEK funding. Increases in per-pupil funding will increase spending as long as assessments remain stagnant.

Ms. Kinney noted the important difference between tax collections and tax assessments. In that nonpayment of taxes shifts the funding.

In response to a question by Representative Bojanowski, Mr. Ritter said the nickel tax is an annual tax versus a one-time tax.

Responding to a question from Senator Wilson, Mr. Ritter said legislation creating SEEK ensured the state provided equal funding in both rural, less wealthy districts and wealthy districts. Local boards of education are responsible for implementing taxes and funding for districts.

In response to a question by Senator Thomas, Mr. Ritter said SEEK funding is reduced roughly \$3,000 for per every \$1 Million increase in property assessment.

Responding to a question from Representative Tipton, Mr. Truesdell said a \$1 increase in SEEK aggregate average daily attendance (AADA) would cost the State Treasury approximately \$800,000.

In response to a question from Mr. Borchers, Mr. Ritter said the SEEK formula does not change regardless of actions taken by the board. Fewer at-risk students or drastic increases in property assessment may cause a district to experience a loss in state funding. Local funding may increase due to the cost of insurance, utilities, and salaries. Mr. Ritter said swift reactions to budget decreases must be addressed in a timely manner.

Mr. Ritter said property assessment determines the 30 cent local effort and the amount restricted for facilities maintenance includes real estate, tangible property, and motor vehicle assessments. While districts tax real estate, tangible property, and motor vehicles, districts have the option to levy utility taxes, occupational taxes, and additional district taxes.

Mr. Ritter compared two counties and explained how SEEK input, nickel calculations, local SEEK calculation and state SEEK calculation variables affect the total SEEK dollars and how local efforts and adjustments play into the SEEK state amount for each school.

Inputs that affect the SEEK formula are property assessment, per pupil property assessment, unprorated transportation, levied equivalent rate, current year's 2nd month growth percentage, prior end-of-year AADA, growth, at-risk students, previous year December 1st child count, at-home and hospital students; LEP students, and early graduation.

Responding to a question from Representative Tipton, Mr. Ritter said huge real estate increases of more than 4 percent require a sub-calculation of the local effort but not on a dollar for dollar basis. Local efforts grow as assessed value increases. However, because appeals are a timely process, a district's assessed value does not equate to immediate revenue until taxes are paid by property owners.

Responding to a follow-up question from Representative Tipton, Mr. Ritter said a large

percentage of communities have government-owned buildings. Exempt properties include religious and post-secondary institutions; city, state, and county government-owned properties; federal wildlife areas and national forests; army bases, and other entities. Mr. Ritter said the DOR details may not go far enough to determine these properties in each community and may be a possible recommendation by the task force. In response to a question from Senator Thomas, Mr. Ritter said per pupil assessment value is determined by dividing assessed property value by the AADA. On a follow-up question, Mr. Ritter said tax-exempt entities in the community affect economic impact. While industrial revenue bonds may impact a community where a factory is exempt, it is important to remain competitive against other states, towns, communities, or other countries in bringing jobs to a community.

In response to a question by Ms. Page, Mr. Ritter said PVA offices are challenged to ensure the accuracy and reassessment of properties remain valid over an extended period of time.

Responding to a question from Senator Wise, Mr. Ritter said taxing watercraft has been controlled by local districts but tax implications in the manner in which watercraft is registered has been deferred to the DOR. Representative Tipton said larger watercraft registered as a coastguard vehicle can be exempt from taxation at the local level and although tangible taxes are required, a collection method has not been established. He said this impacts school boards within the community significantly.

Mr. Ritter said school bus transportation budgets are a complex formula. Some of the issues are that only to and from school are considered; field trips are not included; a depreciation formula has fallen short for the last 10 years; there is no growth adjustment; additional funding for deaf, blind, and vocational; and a significant budget decrease in 2021.

In response to a question by Representative Bojanowski, Mr. Ritter explained how local effort is subtracted in the SEEK calculation. Each district receives 15 percent times \$4,000 for free-lunch students. In a follow-up question by Senator Thomas, Mr. Ritter said at-risk or free lunch students are included in add-ons before local effort is subtracted. Superintendent Fletcher stressed the importance for schools to determine the number of exceptional students or students receiving free lunches to reach an accurate computation for add-ons. Ms. Kinney said feedback from districts suggests that there is a varying level of need from English Language Learner students based on the degree of their English proficiency.

Responding to a question from Representative Bojanowski, Mr. Ritter deferred the question as to what extent the federal government funds cover special education costs. Superintendent Borchers said federal dollars must be matched by local dollars. Because there are no call backs for SEEK funds, a school to which a student transfers after December 1, must carry the weight of a student for a period of time before funding will kick in.

Mr. Ritter said the nickel tax is the mechanism for which districts either construct new buildings or renovate existing structures. In 1990, the General

Assembly introduced growth nickels for districts that meet certain criteria. The equalized facility funding (EFF) nickel can be directed to one facility or open for all facilities. The recallable nickel is the only available nickel legislated for districts although some districts adopted two nickel taxes to meet facility needs. With enough signatures, the recallable nickel is subject to a public vote.

In response to a question by Mr. Truesdell, Mr. Ritter explained the difference between nickel equivalent versus nickel gap in collections, specifically in areas where jobs are lost. The "hold harmless" rule applies when a district's per pupil percentage is lower and the state will give that district additional funds. Tier I is an additional source or money that contributes 15 percent of the adjusted revenue from SEEK based funding. He said KDE works closely with the Governor's Office of Policy Management and the LRC Budget Office to map estimates to determine budgetary needs for the following two-year cycle. The General Assembly works to compute the per-pupil amount and the amount for each line item in the budget. Without an accurate budget, a SEEK shortfall creates an issue where districts may not receive the allocated funds. On the other hand, excess funds are directed by the budget bill for specific purposes such as transportation costs.

Responding to a question from Senator Wilson, Ms. Kinney said it is possible for districts to have varied amounts in per pupil funding due to more aggressive districts raising local taxes to meet educational needs. She said all local taxes go directly to the district. In response to a follow-up question, Ms. Kinney said the CARES ACT emergency funds have come through KDE and are appropriated to local school districts. She said at least 90 percent must go out to local school districts and the remaining 10 percent is reserved at the state level for statewide efforts. Responding to another follow-up question, she told Senator Wilson that SR 1 provided \$193 Million; SR 2 provided \$928 Million; ARP-ESSR funding, provided \$2 Billion; public local school districts received \$30 Million and were appropriated elsewhere as administered from the Governor's office to FRYSCs; and \$8 Million was received from the Virus Relief Fund and also administered by the Governor's office and provided some broadband connectivity relief initiatives.

In response to a question from Representative Tipton, Ms. Kinney said on June 1, the USDE produced a document to answer questions regarding the rules and regulations for disbursement of the AARP money. Generally AARP/ESSR funds can be used similar to the first two rounds of ESSR funding. Local school districts must reserve 20 percent of those funds to address learning loss issues for students. The state provides guidelines on how those dollars can be expended. Ms. Kinney said it is challenging and confusing for KDE to attempt to get more clarification on the use of funds for school facilities, renovations, or new construction. The use of federal funds requires specific guidelines and reporting.

Representative Tipton said the General Assembly appropriated \$127 Million for facility construction. Ms. Kinney said those funds came from Capital Construction and the funds are governed by the US Treasury. KDE is seeking more clarification on the use

of wiring in buildings and connectivity for broadband purposes.

Mr. Truesdell said the original passage of KERA directed a study to determine the original weights based on the relative costs of educating students at that time and said he will provide additional information to the committee. He said the budget cycle and property increases by district level will add an extra burden on each PVA office during the next budget cycle. Additionally, HB 563 allows students to transfer to non-resident districts on a much wider scale than in the past. He asked the budget committee to extend a great amount of grace to the KDE staff as they calculate projections for next year.

Mr. Fletcher commended KDE for their work. He said of the \$127 Million facility construction from Capital Construction, some districts were not eligible due to not implementing the recallable nickel tax. Ms. Kinney said the appropriation of these funds was for the School Facilities Construction Commission and eligibility requirements were crafted by the commission in accordance with standard and customary practices.

In response to a question by Representative Johnson for requirements for state compensating teachers on the basis of a single salary schedule, Mr. Ritter said every district publishes a salary schedule containing a sliding scale as teachers achieve additional degrees. He confirmed the disparity among teacher salaries across the state.

Responding to Representative Banta's question with increases in inflation, Mr. Ritter said the SEEK per pupil amount has increased over time and will provide the committee with the information to determine if the factors are still applicable.

Responding to a question by Representative Tipton, Mr. Ritter said a significant portion each year of state expenditures is for employer match for the Teacher's Retirement System. The amount does not flow through SEEK and is a separate line item.

In response to a question from Representative Bojanowski, Mr. Ritter said the levied equivalent rate is a good resource for the tax level in your community. SEEK looks behind the graphic data provided by the districts to determine student count and ADA in the prior year while at the same time factoring in economic growth calculation to offset the cost of hiring additional staff for the current year. On a follow-up question, the local effort rate and capital outlay are subtracted from the total guaranteed base including the at-risk amounts. Computing free-lunch students is the same amount for each district, 15 percent times \$4,000.

Mr. Fletcher said parents must provide districts with updated information for at-risk student population for the formula to be calculated correctly. Ms. Kinney said KDE will require additional funding for an improved system or calculate funding for a new system with updated changes.

A large portion of Mr. Ritter's presentation was previously addressed through questions from task force members and participants throughout the course of the meeting. KDE's presentation provided links to resources and can be found on the LRC website.

Senator Wise discussed the directives of the SFTF

and announced scheduled meeting dates. He seeks recommendations, possible changes, and a road map ahead for the task force to review.

Senator Thomas said he would like to explore more deeply Mr. Ritter's findings that the number of students has decreased over the years while the number of exceptional students has increased.

Representative Banta suggested the task force look at unfunded and under-funded mandates on schools.

Senator Wise announced the next meeting will be Monday, July 19, 2021, at 10 a.m. Representative Tipton said learning how the funding formula works was informative and welcomed input from the superintendents and school board members to gather perspectives from the local level.

There being no further business before the task force, the meeting adjourned at 11:50 a.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Minutes of the 1st Meeting

of the 2021 Interim

June 15, 2021

Call to Order and Roll Call

The first meeting of the Interim Joint Committee on State Government was held on Tuesday, June 15, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Kevin D. Bratcher, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Morgan McGarvey, Michael J. Nemes, Wil Schroder, Adrienne Southworth, Brandon J. Storm, Damon Thayer, and Phillip Wheeler; Representatives John Blanton, Adam Bowling, McKenzie Cantrell, Jennifer Decker, Jim DuPlessis, Joseph M. Fischer, Kelly Flood, Jim Gooch Jr., Derrick Graham, Richard Heath, Samara Heavrin, Mary Beth Imes, DJ Johnson, Matthew Koch, Derek Lewis, Scott Lewis, Savannah Maddox, Patti Minter, Kimberly Poore Moser, Jason Nemes, Attica Scott, Tom Smith, Pamela Stevenson, Nancy Tate, James Tipton, Ken Upchurch, Russell Webber, and Buddy Wheatley.

Guests: Wendy Underhill and Ben Williams, National Conference of State Legislatures.

LRC Staff: Alisha Miller, Daniel Carter, Michael Callan, and Peggy Sciantarelli.

Redistricting – Legal Environment

Guest speakers from the National Conference of State Legislatures (NCSL) were Wendy Underhill, Director, Elections and Redistricting, and Ben Williams, Policy Specialist, Elections and Redistricting. Their testimony included a slide show presentation, outlined in two parts: Part I (Census) and Part II (Redistricting).

Ms. Underhill reviewed Part I of the presentation. She discussed the role of the Census and its importance in relation to funding, apportionment in Congress, redistricting, and the crafting of policies

for the people of Kentucky. Based on the Census, \$15.8 billion in federal funds has been distributed to Kentucky annually for the last 10 years. There are two releases of data in the year following the census. The first data release, which has already arrived, provides total population counts for all 50 states, governing how many seats each state will receive in Congress for the next decade. Growth trends of prior decades continue, with states in the South and West growing at the expense of states in the Midwest and Northeast. The second data release will provide demographic information and the details of population growth within the states. It is expected by August 16. The Census Bureau has said it will release detailed data on September 30 but will release the data on August 16 in a different format. This has raised the question in some states whether the August 16 release can be considered the official release from the Census Bureau. On September 30, the bureau will send data to the states in a more easily interpretable fashion.

Reapportionment for 2021 shows that Kentucky neither gained nor lost a seat in Congress. Population growth in Texas, North Carolina, Florida, Oregon, Montana, and Colorado will result in added congressional seats in those states. Texas is the only state that gained two additional seats in Congress. New York, Illinois, Ohio, Pennsylvania, California, Michigan, and West Virginia will lose a seat.

National population has grown 7.4 percent since 2010—the lowest growth rate since the Great Depression. All states but three saw population growth this decade, with population shrinking in Illinois, Mississippi, and West Virginia. Kentucky population grew by 3.7 percent (slow growth) between 2010 and 2020.

The May 17, 2022, primary date in Kentucky is tied for eighth earliest in the nation. Kentucky's deadline for completing redistricting is in 2022.

No two censuses have been managed exactly the same. In the 1920s, Congress never reapportioned itself. The 1960 census was the first in which the census form was sent by mail, but enumerators picked up the completed forms from residences. Legal requirements have changed. NCSL helped get P.L. 94-171 enacted by Congress in 1975. The 2020 census for this decade is different because of its delays and the fact that there will be two releases of data. This was the first year there was an online option, which was more successful than the Census Bureau had anticipated. People were also counted by mail, phone, and in-person. About 500,000 people are hired as Census enumerators to knock on doors. People are also counted by imputation.

The 2020 Census experienced delays due to the pandemic, fires, floods, and policy changes. There was also a decision to use a new system for avoiding release of private information. Delays result in less time being available for redistricting. Filing deadlines, residency requirements, and elections are also affected. To date, some states are addressing delays by asking the courts for relief (California, Oregon, and Michigan); altering legal deadlines (New Jersey and New York); altering filing deadlines or primary election dates (Wisconsin and North Carolina); extending legislative sessions (Arkansas and Indiana); or by turning redistricting into a "two-step" process that would use the best data

currently available to redistrict on schedule, with the understanding that amendments will need to be made once the P.L. 94-171 data is available (Oklahoma and Illinois).

Concluding her part of the presentation, Ms. Underhill spoke about concerns and uncertainty regarding the quality of the 2020 census data and the possibility that there was an undercount due to the pandemic. A federal lawsuit was filed in Ohio on the ground that the Census Bureau has not met its statutory deadline. Alabama sued in federal court on the same ground, also alleging that the use of differential privacy is unconstitutional. Two separate federal lawsuits were filed in Illinois challenging the state's use of alternative data for redistricting.

Senator Thayer thanked Ms. Underhill for her overview. In response to her statement that Kentucky has a November filing deadline, he explained that Kentucky's filing deadline is the first Friday after the first Tuesday in January, although candidates may begin filing in November.

Senator Thayer said that in order to properly accomplish redistricting for the General Assembly's constituents—while conforming with the spirit and letter of the 14th Amendment to the U.S. Constitution—a special legislative session will be needed during the fourth quarter of 2021. The Governor has been made aware of the need for a special session. Without a special session, when the General Assembly convenes in January, it will need to pass a bill to temporarily move the filing deadline back to late January or February. The filing deadline had previously been moved from late January to early January.

Senator Thayer said there is a huge population shift occurring in the Commonwealth, and the General Assembly will face some difficult decisions. Redistricting will likely result in fewer Senate and House districts in eastern and western Kentucky. He noted that filing for office can begin in early November but that the districts will not be yet established unless the Governor calls a special session.

Senator Thayer discussed the rules and law governing the splitting of counties in congressional and state redistricting. Based on population trends, he estimated that redistricting of the state Senate will probably add Boone and Warren counties to the number of counties that are currently split—Fayette, Jefferson, and Kenton. He again emphasized the need for a special redistricting session in the fourth quarter of 2021, in advance of the 2022 Regular Session, during which a new budget will have to be enacted. He also expressed appreciation to Senator Mills for devoting the committee's first interim meeting to discussion of redistricting.

Senator Alvarado recognized in the audience Mr. Mick Bullock, Director of Public Affairs in NCSL's Washington, D.C. office. He commended NCSL for its assistance and resources and said that Kentucky is looking forward to hosting the Legislative Summit in Louisville in 2024.

Representative Bratcher asked about differential privacy, which is an issue in a federal lawsuit in Alabama. Ms. Underhill said there is a federal law that requires respondents' information to be kept private. She then discussed at length how the Census Bureau

has changed its approach to the privacy question over the decades.

Representative Bratcher said he recalled reading that after California raised objections to data that would cause that state to lose two congressional seats instead of one, the Census Bureau had subsequently revised the data. Ms. Underhill said she had not heard that, and she questions it. She said the Census Bureau has released only one set of data so far—for state population.

Responding to a question from Representative Flood regarding community involvement, Ms. Underhill said that holding public hearings for redistricting is common practice. Whether Kentucky needs to do it is strictly a decision to be made in Kentucky. It is not required but may be something to consider if it is felt that there is public interest.

Representative Nemes said that judicial district maps will also need to be redrawn. Supreme Court and Court of Appeals districts have not been redrawn for more than three decades. Trial court redistricting is also needed. He noted that he was the lawyer for House Republicans when 2012 district maps were deemed unconstitutional by the Kentucky Supreme Court.

Representative Nemes said he has met with members of the League of Women Voters and welcomes their input regarding redistricting. He went on to say that racial diversity is important to him and other members of the House majority party. They believe that in the past there should have been more minority majority districts—in Louisville in particular—and would like to maximize the number of minority majority districts. When he asked about best practices relevant to creation of those districts, Mr. Williams explained at length how Section 2 of the Voting Rights Act and the 14th Amendment of the Constitution might apply.

Senator Thayer agreed with Representative Nemes that it is time to enact judicial redistricting, which will likely involve massive changes. He also clarified that the aforementioned 2012 map ruled unconstitutional by the Supreme Court was for House districts. Senator Thayer repeated his hope that, when the time is right, the Governor will call a special session on redistricting. He said that public comment is warranted and is expected when legislative and congressional districts are redrawn but that the General Assembly is clearly imbued with sole discretion to draw the maps. They will be drawn under statutory and constitutional guidelines. Senator Mills said that judicial redistricting will also be a topic of discussion for the committee during the interim.

Mr. Williams reviewed Part II of the NCSL presentation. He discussed federal and state laws and principles relating to redistricting. He explained that racial gerrymandering is one of the key doctrines of federal law related to redistricting. A racial gerrymander is a legal claim emerging from the 14th Amendment to the U.S. Constitution, and it was first recognized by the Supreme Court in the 1993 case *Shaw v. Reno*. The racial gerrymandering claim has evolved over time and has changed every decade. Partisan gerrymandering—which seeks to arrange electoral districts to benefit the political party that controls drawing the map—has been a major focus

of the U.S. Supreme Court this decade. Claims are based on the 1st and 14th Amendments to the U.S. Constitution. In 2019, these cases were deemed no longer judicable in federal courts, but theories from federal cases have successfully been used in state courts.

The Equal Protection Clause, part of the 14th Amendment to the U.S. Constitution, governs the “one person, one vote” principle, which requires equal weight of votes for legislators and members of Congress. Its application varies, depending on district type, with different types of deviation applied to congressional districts and state legislative districts. Section 2 of the federal Voting Rights Act (VRA) prohibits vote dilution nationwide. The burden of proof is discriminatory effect. Plaintiffs do not need to prove discriminatory intent. A 1986 case, *Thornburg v. Gingles*, set three preconditions or principles for application of Section 2: that the minority group is sufficiently large and geographically compact to constitute a numerical majority; that the minority group is politically cohesive; and that white voters act as a block to defeat the minority group's candidate of choice. The second and third principles are referred to as racial polarization. If *Gingles* preconditions are satisfied, the court then considers the Senate Factors—named for a 1982 U.S. Senate committee report that accompanied 1982 VRA legislation.

Section 5 is another commonly cited section of the VRA, which requires states to get preclearance from the federal court or the Department of Justice in Washington D.C. in order to change voting law, which includes redistricting plans. In *Shelby County v. Holder*, a landmark 2013 decision of the U.S. Supreme Court, the coverage formula which determined the jurisdictions covered by Section 5 were struck down for being unconstitutional. For all intents and purposes, Section 5 is no longer valid law. However, in theory, Congress could reenact Section 4 of the VRA, the coverage formula for Section 5. There are bills currently in Congress to do that, but the prospect of passage does not seem good.

Free and Equal elections clause provisions are included in 30 state constitutions—to require elections to be some combination of free, equal, and fair. Kentucky Constitution Section 6 states that all elections shall be free and equal. In 2018, the Pennsylvania Supreme Court struck down the state's entire congressional redistricting plan for being an unconstitutional partisan gerrymander under state law, because its “free and equal” provision had within it a prohibition from excessive partisanship in redistricting. There is a doctrine of the U.S. Supreme Court called the Adequate and Independent State Grounds doctrine—that is, if there are adequate and independent state grounds for interpreting a state's own constitution and there is no federal analog, the U.S. Supreme Court considers it to be outside its jurisdiction to interpret a state law. As a result, the U.S. Supreme Court did not intervene in the Pennsylvania case. Later that year, a North Carolina case was filed under the same legal argument, and the North Carolina panel of judges struck down the state's entire congressional redistricting plan for violating that state's “free and equal” clause. That was not appealed to the North Carolina Supreme Court and was not

sent to the U.S. Supreme Court. There are 36 state constitutions that could have claims similar to what occurred in Pennsylvania and North Carolina. This is one area in which NCSL expects to see significantly more litigation this decade. It is a large and unique area of the law that has emerged.

Mr. Williams discussed two Kentucky-specific cases. *Fischer v. State Board of Elections (1994)*, which held that legislative redistricting must not split more counties than necessary to comply with the “one person, one vote” principle. *Legislative Research Comm’n v. Fischer (2012)*, when applying the 1994 case, struck down legislative redistricting plans for (i) failing to minimize county splits, and (ii) having a population deviation greater than +/- 5 percent, despite the overall range being 10 percent.

Mr. Williams said the only federal criteria for congressional districts is that they be single member districts. District compactness is a common traditional state principle in 40 states. There are a myriad of ways to measure compactness, but two common ones are Polsby-Popper and Reock. Contiguity is the most common state principle (all 50 states). The general rule is that someone must be able to go to every part of a district without leaving it. Contiguity becomes an issue only when there are noncontiguous locality boundaries or bodies of water. “Preserving political subdivisions” is a common traditional principle in 45 states. There is no agreed-upon definition of “preserving communities of interest,” which is a common traditional principle in 25 states. “Preserving cores of prior districts” is a somewhat infrequent traditional principle (10 states) that is usually permitted but not required. Arizona is one of the states that explicitly rejects this principle. Emerging state principles include prohibition on favoring or disfavoring an incumbent, candidate, or party (17 states); prohibition on using partisan data (5 states); competitiveness (5 states); and proportionality (2 states).

Concluding his presentation, Mr. Williams said that the NCSL publication “Redistricting Law 2020” is an excellent resource and is available upon request, free of charge. Also, registration is open for NCSL’s final redistricting seminar, to be held July 14-16 in Salt Lake City.

Representative Wheatley said that his personal experience with NCSL has been fantastic and that the webinars have been very helpful. He asked about the origin of the emerging principles. Mr. Williams said they have emerged through changes in state laws or state constitutions; some have been included as part of shifts to commission systems. They are termed emerging because if you look back through the amalgam of American history you would not see them. They tend to emerge from 1970 and beyond.

Representative Wheatley asked whether there have been any legal cases or declarations relating to the emerging “free and equal” clause in state constitutions, for the purpose of establishing that concept prior to the redrawing of districts. Mr. Williams said he is not aware of any such cases, but it is possible that local cases may be filed this decade in various states.

Representative Nemes said he believes at least two Kentucky county boundaries meet in a point. He asked whether federal law addresses point contiguity.

Mr. Williams said there is not a lot in federal law. The issue would be entirely up to state interpretation, and some state courts have held that point contiguity is not permissible. In general, if it is not expressly prohibited under state law, it is permissible.

Senator Mills advised that committee members who have questions are welcome to e-mail Ms. Underhill and Mr. Williams. He also announced that the committee’s meeting materials link on the LRC website includes correspondence from the Kentucky League of Women Voters regarding their redistricting concerns.

There was no further business, and the meeting was adjourned at 2:17 p.m.

INTERIM JOINT COMMITTEE ON TOURISM, SMALL BUSINESS, AND INFORMATION TECHNOLOGY

Minutes of the 1st Meeting of the 2021 Interim June 17, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, June 17, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Phillip Pratt, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representatives Kim King, Co-Chair, and Phillip Pratt, Co-Chair; Senators Robby Mills, Brandon J. Storm, Reginald Thomas, Phillip Wheeler, Mike Wilson, and David Yates; Representatives Shane Baker, Lynn Bechler, Tina Bojanowski, Josh Branscum, George Brown Jr., Josh Calloway, Jeffery Donohue, Ryan Dotson, Daniel Fister, Deanna Frazier, Chris Freeland, Chris Fugate, Robert Goforth, Jim Gooch Jr., David Hale, Richard Heath, Norma Kirk-McCormick, William Lawrence, Charles Miller, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Rachel Roberts, Steve Sheldon, Cherlynn Stevenson, Ashley Tackett Laferty, Nancy Tate, Killian Timoney, Bill Wesley, and Richard White.

Guests: Tod Griffin, President, Kentucky Retail Federation; Kevin Cranley, Chairman, Kentucky Retail Federation; Cassie Grigsby, Senior Vice President of Operations and Development, Kentucky Retail Federation; Ashli Watts, President and CEO, Kentucky Chamber of Commerce; Winston Griffin, Chairman, Kentucky Chamber of Commerce; Karen Cecil, Human Resources Director, Century Aluminum; Kenneth Calloway, Corporate Director of Human Resources, Century Aluminum; Chad Harpole, Director of Government and Community Affairs, Century Aluminum; and Joe Horvath, Senior Fellow, Foundation for Government Accountability.
LRC Staff: Andrew Manno, Audrey Ernstberger, Sasche Allen, and Helen McArthur.

Labor Shortage and New Certification Program

The retail industry is the state’s largest private

sector employer with 56,000 retail establishments and almost 430,000 employees, but the COVID-19 pandemic created a seismic shift in the industry. The retail workforce adjusted to fit new business models within retail, such as the buy online/purchase in store model. Retail employers were also forced to reduce hours and utilize automation. The Kentucky Retail Federation (KRF) found that many employers permanently adopted new business models and many customers find the new practices more convenient. The National Retail Federation recently revised its retail sales forecast and it’s estimated that retail sales across the country will increase by 10 to 13 percent; however, retailers across the Commonwealth are facing significant challenges. The current labor shortage led employers of different sizes to begin offering signing bonuses, pay increases, and additional benefits which makes it difficult for some employers to balance increased labor costs with operating budgets. The KRF surveyed its members and found that a majority have open positions with an average starting wage of \$10 to \$15 an hour. The membership survey also revealed that 80 percent of the time an applicant does not accept an offer of employment the reason pertained to the federal pandemic unemployment assistance, 40 percent of the time the reason pertained to childcare, 23 percent had COVID related health concerns, and 10 percent declined because of a required drug test. Kevin Cranley, KRF Chairman and President of Willis Music Company, testified about the obstacles his business overcame during the pandemic and current challenges.

Cassie Grigsby, the Senior Vice President of Operations and Development for the KRF, detailed a new certification program offered by the Kentucky Retail Institute. The Kentucky Retail Institute is a 501 (c)(3) organization created by the KRF that focuses on workforce development. KRF membership surveys show that, within the labor market, employees with various skill levels are needed throughout the retail industry, and oftentimes qualifications needed by employers do not match up with the skill set level of applicants. As a result, the Kentucky Retail Institute is forming a nationally recognized apprenticeship and training program which was approved by U.S. Department of Labor, and it will include a wide range of areas within the retail industry.

Answering a question from Representative Baker, Mr. Tod Griffin, President of the KRF, stated the Federation is a member of a small business caucus that formally requested the Governor to halt the expanded federal pandemic unemployment assistance payments.

Replying to Representative Timoney, Mr. Griffin explained that the KRF’s membership survey did ask for the business’s regional information but the businesses were allowed to choose multiple reasons for employees not returning to the workforce.

Representative Donohue commented that if people across the Commonwealth are not returning to work due to the federal pandemic unemployment assistance payments, then maybe wages need to be examined. He also pointed out that many of his constituents expressed their personal issues with childcare keep them from returning to the workforce. Addressing a question from Representative Bechler,

Mr. Griffin said the value of employment benefits being offered by the KRF's members may vary depending on the benefit level but he would estimate 20 to 30 percent.

Representative Hale described a business in his district that started offering increased wages and now also offering additional benefits, is still struggling with hiring employees. He believes that the federal pandemic unemployment assistance payments and childcare play a key role in individuals returning to the workforce. Mr. Griffin explained that it is his understanding that the federal pandemic unemployment assistance payments will end in September 2021.

Senator Thomas made comments regarding the federal pandemic unemployment assistance payments bringing over \$4 billion into the state, and stated that these funds provided food, housing, and other necessities for families across the Commonwealth.

Representative White described a company in his district that struggled with its workforce and increased its payroll, as a result.

Responding to a question from Representative Roberts, Mr. Griffin stated the annual membership dues of the KRF are based on sales volume but the minimum amount is \$225 per year. Answering a follow up, Mr. Griffin said that he would estimate that half of the KRF's membership is comprised of small businesses. Representative Roberts requested that the KRF make available how many of its members responded to the survey that was discussed, what questions were asked of the members, and how many of the business owners received federal pandemic unemployment assistance payments.

Labor Shortage and Pandemic Relief Plans

Ashli Watts, President and CEO of the Kentucky Chamber of Commerce, detailed the labor market trends and challenges that the pandemic caused. The pandemic heightened many preexisting shortages in the Commonwealth such as workforce participation. In 2020, the state ranked 50th in the nation for workforce participation and currently ranks 48th. There are presently 100,000, fewer people in the state's workforce compared to March 2020. In response to the current state of the economy and workforce, the Chamber partnered with the University of Kentucky to compile quarterly economic reports. These reports have shown that Kentucky has a workforce participation rate that is 4.8 percent lower than the national average. Ms. Watts also highlighted that the state's average education attainment levels trail the national average and with a decreasing trend in the last 10 years. Ms. Watts stated there may be a correlation between workforce participation and education attainment levels.

The Chamber has around 90,000 job postings listed on its website for employers across the state and about 10,000 of those are second chance employers. Due to the labor shortage, employed people are statistically working more hours compared to before the pandemic, and there has been significant wage growth. The U.S. Chamber of Commerce reports 88 percent of employers are having some difficulty with hiring, 24 percent report it is very difficult

to find employees, and 71 percent report it is more difficult to hire than five years ago. In addition, it has been reported that 50 percent of individuals that lost their employment during the pandemic are not actively seeking employment. Ms. Watts explained that factors contribute to the labor shortage, such as the federal pandemic unemployment assistance payments, childcare issues, and COVID-19 related safety concerns. Although there is not a definite solution to the labor shortage across the state, the Chamber is in favor of phasing out the federal pandemic unemployment assistance payments and offering incentives to individuals reentering the workforce. Winston Griffin, the Chairman of the Chamber's Board of Directors and owner of Laurel Grocery Company, testified about the obstacles his business overcame during the pandemic and current challenges.

Responding to comments made by Representative Bojanowski, Ms. Watts pointed out that statistics discussed from the U.S. Chamber of Commerce are based on a national survey and are not specific to Kentucky. Answering a follow up question, Ms. Watts explained that the enhanced unemployment benefits, paycheck protection program loans, and other pandemic related relief mechanisms were much needed during the pandemic but with restrictions being lifted, vaccines being readily available, and the COVID-19 positivity rate being 2 percent, it is time for those pandemic related benefits to be phased out.

Representative Stevenson made remarks regarding individuals receiving the federal pandemic unemployment assistance payments who are unable to find employment with wages comparable to their pre-pandemic wages. Ms. Watts responded by saying that there are two jobs for every one person looking for employment across all workforce sectors. A key component of the matter is ensuring the state has a well trained workforce. She pointed out some other states are using federal funds for workforce training for individuals reentering the workforce. Mr. Griffin, Chairman of the Chamber's Board, added that the federal pandemic unemployment assistance payments have increased the number of underemployed people, which are those who may choose not to work because of government benefits received.

Senator Thomas pointed out that about 14,000 individuals receiving the federal pandemic unemployment assistance payments across the state are business owners. Replying to a question, Ms. Watts said the Chamber is open to having a discussion about incrementally increasing the minimum wage but could not definitively support the matter. Responding to other comments made by Senator Thomas about a wage shortage, Mr. Griffin explained that a large increase of wages in lower level positions within his company would also mean increases in upper level positions as well which could be difficult.

Addressing a question from Representative Tackett Laferty, Ms. Watts stated she was unsure of the number of businesses that are now offering benefits such as flexible spending accounts for childcare. She explained that the lack of childcare is a major workforce issue and that three times as many women left the workforce during the pandemic compared to

men.

Representative Dotson made comments regarding other government benefits that individuals may receive besides the federal pandemic unemployment assistance payments, such as supplemental nutrition assistance program benefits and childcare assistance. He also stated the entire system needs to be reevaluated.

Representative Gooch made remarks about individuals in the workforce investing in education and training to attain better job opportunities.

Century Aluminum

Century Aluminum has two smelter factories in the Commonwealth, one in Hawesville and the other in Sebree. The factories produce aluminum which supplies the military defense and aviation industries. The starting wage for most production employees with minimum experience is around \$24 an hour, and each new employee begins with a full benefits package that includes health, dental, and vision. Despite the high wages, Century Aluminum is struggling to hire new employees in its Kentucky plants. Karen Cecil, the Human Resources Director for Century Aluminum's North American plants, explained that one major challenge is finding applicants that can successfully pass a drug screening. Another problem has been finding employees that can fill the more technical, mechanical, and electrical related positions. As a result, Century Aluminum will be participating in the KY FAME apprenticeship program. Ms. Cecil pointed out that, in addition to the federal pandemic unemployment assistance payments, federal stimulus funds, and additional food supplement funds create an incentive for individuals to remove themselves from the workforce.

Answering a question from Representative Bojanowski, Ms. Cecil stated that the company does recruit employees from other states with closing smelters because that experience in aluminum is a valuable asset to the Kentucky plants. Replying to another question, Mr. Chad Harpole, the Director of Government and Community Affairs for Century Aluminum, explained that a new smelter has not opened in the U.S. in over 30 years. Due to the cost and labor associated with opening a smelter, relocating to another state is not an option.

Representative Timoney commended Century Aluminum for its work and competitive wages. Commenting on additional remarks, Ms. Cecil said that in the past the company did consider moving its South Carolina operation to Kentucky due to power contract issues. Mr. Harpole added that the Sebree location does have a footprint that would allow for expansion.

Responding to a question from Representative Kirk-McCormick, Ms. Cecil said that drug use is a safety hazard due to the nature of work required by Century Aluminum. There was a fatality at the Sebree location in 2020, and testing showed drugs in the employee's system. Century Aluminum does require initial hiring and random drug testing. She added that the company adopted new hiring policies in an effort to increase its workforce like reducing the felony conviction number of years from seven to five.

Representative Calloway made remarks about the crucial role the company plays in his district where one of the Century Aluminum plants is located. He also expressed appreciation for the speakers highlighting the drug use issue in the workforce.

Representative Pratt made remarks regarding drug use and the possible liability for employers.

Foundation for Government Accountability

The Foundation for Government Accountability (FGA) is a nonpartisan nonprofit 501 (c)(3) organization that promotes policy reform in many states across the country. Mr. Joe Horvath, a Senior Fellow with FGA, testified about traveling throughout the U.S. to assess how states manage their unemployment insurance, COVID-19 responses, the fraud related responses, and reopening processes. He highlighted that continuation of federal pandemic unemployment assistance payments is an issue that Kentucky, as well as other states, are struggling with. According to Mr. Horvath, 26 states opted out of the federal pandemic unemployment assistance payments after deducing that these funds were adding to the issues with workforce participation. Businesses across the state made adjustments to safely reopen and unemployment insurance work search requirements were put back into place. Mr. Horvath stated that the pandemic related relief incentivizes people not to return to the workforce.

There being no further business before the committee, the meeting adjourned at 2:56 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 1st Meeting of the 2021 Interim

June 1, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Transportation was held on Tuesday, June 1, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Ken Upchurch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Karen Berg, C.B. Embry Jr., Brandon Smith, Brandon J. Storm, Johnnie Turner, Phillip Wheeler, Mike Wilson, Max Wise, and David Yates; Representatives Tina Bojanowski, Josh Branscum, Randy Bridges, Jonathan Dixon, Ken Fleming, Robert Goforth, David Hale, Samara Heavrin, Regina Huff, Thomas Huff, Derek Lewis, Savannah Maddox, Bobby McCool, Shawn McPherson, Charles Miller, Sal Santoro, Tom Smith, Cherlynn Stevenson, Ashley Tackett Laferty, Walker Thomas, Susan Westrom, and Buddy Wheatley.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Mike Hancock, Deputy Secretary, KYTC; Sarah Jackson, REAL ID Project Manager, KYTC; and Matthew Cole, Commissioner, Department of Vehicle Regulation, KYTC.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Christina Williams

Update on Driver's License Issuance and Establishment of KYTC Regional Offices

Sarah Jackson, REAL ID Project Manager, KYTC, gave a brief overview of driver's license issuance and the establishment of KYTC regional offices. Ms. Jackson reminded the committee that the Division of Driver Licensing is juggling two major projects simultaneously; the REAL ID implementation, as well as transitioning Circuit Court Clerks off of driver's licensing functions.

Ms. Jackson stated that due to delays caused by the COVID-19 pandemic, the REAL ID enforcement deadline has been moved to May 3, 2023. This decision was made by the Department of Homeland Security and states were notified in late April. The websites and all information statewide has been updated to reflect the new enforcement date.

Ms. Jackson encouraged citizens of the Commonwealth to make their REAL ID plan now. She reiterated that citizens do not have to have a REAL ID credential; however, they must have an ID as well as a REAL ID compliant document, such as a birth certificate or other accepted documents, to be REAL ID compliant.

Kentuckians with a driver's license have been placed on a staggered four-year cycle, meaning that approximately one-fourth of Kentucky's drivers renew their driver's license every year in a four year cycle. Because of that, over the next two years, Kentucky has the ability to cycle through 50 percent of scheduled license renewals within the next two years, and those people will be offered and educated on REAL ID. The extra time will help in the setting up of additional regional offices, acquiring staffing for those offices, and further education of the public on REAL ID. She added that the additional time will also allow for the Department of Homeland Security (DHS) to expand their list of acceptable documents. Noting that most recently, the Veterans Health Identification Card (VHIC) has been added to the list of acceptable documents.

The driver licensing regional offices that are open include Bowling Green, Burlington, Catlettsburg, Columbia, Elizabethtown, Frankfort, Jackson, Lexington, Louisville (Bowman and Hurstbourne), Madisonville, Morehead, Owensboro, Paducah, Prestonsburg, Richmond, and Somerset. The Bowman location is a temporary location and available by appointment only. These regional offices are open for REAL ID credential issuance, but they will also be issuing standard driver's licenses and IDs.

Matthew Cole, Commissioner, Department of Vehicle Regulation, KYTC, gave a brief overview of the Circuit Court Clerk transition and the deadline for that transition. The transition includes issuance of IDs and driver's licenses from the Circuit Court Clerk offices to the KYTC regional offices. The deadline for this transition is June 30, 2022. Commissioner Cole stated that Indiana, which has a similar land mass size to Kentucky, and a population of 6.8 million people, only has 18 regional offices. While Kentucky, at 4.4 million in population will have at least 25 regional

offices, and may be possibly closer to 30 regional offices eventually.

Over 20 counties have transitioned into regional credential issuance effective May 24, 2021, with ten additional counties transitioning by June 28, 2021. Those ten counties that are expected to transition by June 28, 2021, are Elliot, Fleming, Hancock, Hard, Knott, Lee, Owen, Owsley, Rockcastle, and Wolfe Counties. All 120 counties will complete the transition by the June 30, 2022, date. Commissioner Cole stated in choosing which regional offices will become active next, bandwidth and the capacity to handle the volume of clientele is taken into consideration.

Commissioner Cole briefed the Committee on the online renewal program, which will allow anyone in their six month renewal window to renew online as long as there are no material changes to their license, such as a name or address change.

The Cabinet is also continuing to work on the pop-up portable driver's licensing units. Those units are to allow citizens to make appointments in counties that do not have regional offices and may not be as comfortable with technology, to be able to obtain credentials.

Kentucky State Police (KSP) has also decided to transition their driver testing program to something that closely resembles the regional model. Commissioner Cole stated KYTC will continue to work with KSP in any way necessary.

In conclusion, KYTC is ahead of schedule in arranging regional offices and transitioning the Circuit Court Clerks from ID issuance. The pop-up portable units will begin later in 2021.

In response to a question asked by Chairman Upchurch concerning the opening of the regional offices and the criteria that is used to decide where a regional office goes, Commissioner Cole stated that travel patterns are taken into consideration as well as population and geographic coverage. Commissioner Cole reiterated that a citizen may go to any office to renew their credentials, it does not have to be in the county they reside in.

Co-Chair Jimmy Higdon stressed the importance of the pop-up credential sites and was glad to see they were included in the transition model.

In response to a question asked by Co-Chair Higdon concerning the online renewal program, Commissioner Cole stated that the program will be up and running within the next week (June 2021) and will be monitored closely for areas of effectiveness and user friendliness. Ms. Jackson reiterated that every Kentucky citizen may renew online provided there is no name or address change. She added the mail-in renewal process will end at the end of June 2021 as there has been seen no-need to further that process, due to online renewals.

Co-Chair Higdon requested for consideration an extension of the mail-in renewals due to a population of Kentucky people who may not be as computer literate. Commissioner Cole stated such an extension would continue to involve Circuit Court Clerks, therefore that process needs to be come to a conclusion in order to complete the renewal transition, however, it is a topic that could be reconsidered later in the program.

In response to a question asked by Co-Chair

Higdon concerning including renewing not just driver's licenses, but IDs as well online, Ms. Jackson stated the request has been made to include IDs as well, and it may be a few months before a definitive response is given.

In response to a question asked by Representative Fleming concerning the number of REAL IDs issued versus standard credentials, Commissioner Cole stated there are currently 3.8 million credential holders in the Commonwealth. He added that over 190,000 of those holders now have been issued REAL IDs. He added that it is predicted with a state the size of Kentucky, that 30 to 40 percent would acquire REAL IDs. Currently, over 65 percent are being issued REAL ID credentials.

In response to a question asked by Representative Cherlynn Stevenson, Ms. Jackson stated some of the backlog that is being seen in the process of obtaining a REAL ID credential is due to the COVID-19 Pandemic, however, other backlog is due to the recent education on REAL ID and where and how that credential is to be acquired. Another aspect of the backlog is due to the inability for office to return to full staffing numbers, however that is changing. Commissioner Cole stated as online renewals ramp-up, foot traffic and wait times will be reduced in some offices.

Representative Buddy Wheatley stated he would like to see more regional offices in his area. Senator Johnnie Turner also stated he would like to see more regional offices in his area due to travel time and restrictions placed upon his constituents.

Ms. Jackson and Commissioner Cole stated all areas of the state are still being considered for future credential offices.

In response to a question asked by Senator Turner, Commissioner Cole stated he would keep in mind the idea of allowing Circuit Court Clerks to assist uneducated citizens in obtaining their credentials in the planning process until the transition deadline is reached.

Representative Samara Heavrin complimented the Bowling Green regional office on their assistance in helping her obtain her REAL ID.

Update on Transportation-Related CARES Act Funding

Jim Gray, Secretary, and Mike Hancock, Deputy Secretary, KYTC, updated the committee on transportation-related CARES Act Funding. Secretary Gray stated on Friday, March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law. He stated while most Americans are familiar with the stimulus checks the CARES Act authorized, the CARES Act also provided emergency assistance and health care response for individuals, families, and businesses affected by the COVID-19 pandemic and provided emergency appropriations to support Executive Branch agency operations during the pandemic.

During the pandemic, transportation nationwide was hard-hit. With safety measures to encourage Americans to quarantine and reduce unnecessary interactions, a drastic dip in travel was realized on the roads and in the air, which impacted road fund

revenues dependent on motor fuel tax and vehicle fees.

The federal dollars provided through the CARES Act for transportation in Kentucky were desperately needed to sustain the operations of Kentucky's transit systems and airports, as well as the livelihoods of the Kentuckians that keep those systems moving.

Secretary Gray stated the CARES Act provided \$25 billion to transit agencies nationwide to help prevent, prepare for, and respond to the COVID-19 pandemic.

Kentucky's \$60.5 million appropriations were earmarked exclusively for the Section 5311 rural transit funding program. Rural transit operators serve a non-urbanized region with a population of 50,000 or less. The KYTC's Office of Transportation Delivery applied for and administered the grant funding.

The \$60.5 million rural transit program does not fund the big three transit agencies (Lextran, TARC, TANK) and small urban transit systems. They were eligible to apply directly with the Federal Transit Administration to draw from a different pot of CARES funding. Secretary Gray stated for many public transit agencies, federal transit grant programs are the difference between staying in business and going out of business.

The CARES funding was beneficial for rural transit because it required no local match, unlike traditional Federal Transit Administration grants. Much like other public modes of transportation, the pandemic left transit agencies hard hit due to lost ridership and lost revenue. Transit drivers and other transit system employees remained on the frontlines of the COVID-19 battle to maintain essential services for Kentuckians.

Of the \$60.5 million, the Office of Transportation Delivery has applied for and received \$55 million to date. Pending National Environmental Policy Act (NEPA) approval, which is required by the Federal Transit Administration, is \$5.5 million. Secretary Gray stated KYTC was encouraged by the Federal Transit Administration to use these funds quickly and to get funds out to transit providers who need them during Kentucky's State of Emergency.

The Office of Transportation Delivery first focused on issuing funds to agencies to support operational and administrative expenses to ensure transit systems could remain in business in rural areas, including Appalachia. Intercity bus services were also supported to allow routes to run that connect rural areas with the larger regional system of intercity bus services.

Operational expenses included administrative leave for employees required to self-isolate because of exposure to people infected with COVID-19. Other eligible operational expenses included the purchase of fuel and procurement of personal protective equipment such as masks, gloves, disinfectant wipes, disinfection services, and protective barriers between drivers and passengers.

The Office of Transportation Delivery accepted requests and issued funding for capital expense projects for new construction and renovations, and equipment upgrades, such as onboard security cameras, GPS, transit vehicles, electronic ticketing, and office supplies. This funding was a lifeline to

keep the wheels turning for Kentucky's 25 public transit agencies that kept Kentuckians employed and connected to critical services, like medical appointments, the grocery, and even vaccine locations. Secretary Gray updated the Committee on the aviation industry in regards to CARES Act funding. He stated Kentucky received approximately \$77 million in April 2020 to provide relief to the aviation industry. The money was intended to offset losses and expenses incurred by general and commercial airports, while keeping workers employed and airport credit ratings stable. This funding was above and beyond the annual Airport Improvement Program grants issued by the Federal Aviation Administration.

Kentucky has 57 airports, five of which are commercial airports that provide ticketed passenger service, and 52 are general aviation airports that serve private aircraft and small charter operations. The five commercial airports are located in Cincinnati/Northern Kentucky, Louisville, Lexington, Owensboro, and Paducah.

Secretary Gray stated approximately 95 percent of the \$77 million was appropriated by Federal Aviation Administration (FAA) for commercial airports, leaving roughly \$2 million for general aviation and state airports.

The Kentucky Department of Aviation (KDA) received \$72,000 for use at its four state-owned airports: Capital City Airport in Frankfort, Lake Barkley State Park in Cadiz, Rough River State Park in Falls of Rough, and Kentucky Dam State Park in Calvert City. Secretary Gray added that Calvert City is unique in that management for the airport has been turned over to Calvert City but KDA still administers their grants due to FAA restrictions regarding land ownership.

Of the \$72,000 earmarked for the four state-owned airports, the majority of the money went to the Capital City airport in Frankfort (\$69,000). The other three state parks each received \$1,000. The entire \$72,000 was spent on aviation fuel on Dec. 4, 2020. Secretary Gray reiterated the bulk of the CARES funding was allocated for Commercial Airports (98 percent) and general aviation airports (1.97 percent). He stated KDA does not provide or have oversight of how that money is spent at these airports. Classified general aviation airports are owned mainly by local governments, so the money is granted directly to the airport board. The CARES funding is a reimbursement program, and federal funding covered 100 percent of the projects.

Secretary Gray stated this is a huge win for Kentucky airports as they normally must provide a 10 percent local match. KDA typically funds 7.5 percent of the 10 percent match for all general aviation airports. Secretary Gray stated for context, in 2019, KDA spent \$1.4 million providing this match. Thanks to the relief from local matching funds, KDA has programmed an additional \$1 million for projects across the state.

While the pandemic hit the aviation industry hard, there are promising signs of recovery. Domestically, airlines are back to about 90 percent of pre-COVID numbers. This is far ahead of industry predictions. Secretary Gray stated without the CARES Act money, Kentucky would be in the process of rebuilding,

resuscitating, or resurrecting much of the transit and aviation industries in the Commonwealth. He expressed his appreciation for the funding to keep critical modes of transportation in operation during the pandemic and poised for future growth as the conclusion of the pandemic draws nearer.

Secretary Gray also added that in 2020, even with the effects of the COVID-19 Pandemic, KYTC was able to award \$632.6 million in new highway construction contracts. He also added that Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) from late December 2020 provided \$164,749,950 in highway funding to KYTC. Of that amount, \$14,647,075 had to be allocated to Kentucky's Metropolitan planning organizations (MPOs), leaving \$150,102,875 available for KYTC's statewide use. The Cabinet is planning to use \$150 million to support federally-funded "FED" projects in the Highway Plan. The \$14.6 million MPO allotment is pending funding decisions in each of those areas. Those metro areas are Louisville, Lexington, Northern Kentucky, Ashland, and Henderson.

In conclusion, Secretary Gray stated Kentucky received \$30,491,911 in CRRSAA funding in February 2021. The CVG airport received the highest amount (\$12.3 million). Combined with the CARES money, Kentucky received \$107,721,168 in COVID related federal funding. All the CRRSA funds for Statewide Rural and Elderly have been awarded and under contract.

Representative Fleming stressed the importance of the aviation industry. He stated he was pleased that CARES Act funds went to commercial airports. In response to a question asked by Representative Fleming concerning funding for general aviation and ancillary funds, Deputy Secretary Hancock stated that it is important to look towards the future for general aviation airports. He reiterated that general aviation airports did not receive much funding from the CARES Act, however, the need for funding is still there. He stated that virtually all of the state aviation fuel tax gets channeled back into projects for general aviation airports, however, that is not a large amount. Deputy Secretary Hancock stated he remained encouraged and hopeful as recent numbers have surfaced for the funding of the general aviation industry.

In response to a question asked by Representative Fleming concerning an aviation consortium, Secretary Gray stated he is unaware of the consortium, but he is willing to acquire more information.

Co-Chair Higdon stated in past budget sessions, some funds have been pulled out of the transportation budget to fund things outside of transportation. He stated this trend started several years ago when the road fund contained the extra available funds, but that is no longer the case. He stated there is approximately over \$200 million per budget cycle coming out of the road fund. He added that this year the general fund picked up the majority of KSP funding, and approximately another \$180 million was given to the transportation budget, (\$60 million in the current year for pavement maintenance, and \$120 million in next year's budget for road fund projects.)

In response to Co-Chair Higdon, Secretary Gray expressed appreciation for the maintenance funds given to KYTC, as the needs have been great

and the revenues have been challenged. He stated those funds are being utilized for the backlogged maintenance, which is the first priority. He added the backlogged maintenance needs could reach as high as approximately \$1 billion.

Deputy Secretary Hancock expressed his appreciation for the funds as well. He stated the funds are being used for paving projects, as well as rock fall and landslide projects around the state.

Co-Chair Higdon reiterated that Kentucky has not increased the amount of fuel tax that is to be collected since 2011. He also stated consumption is approximately the same as it was in 2011, therefore there has not been an increase in revenue since that time. Secretary Gray stated that at the same time that revenues have been flat, highway construction costs have increased at least 35 percent in the last ten years. He added that if escalations continue at the current rate, the construction cost is likely to increase another 10 percent.

Representative Smith expressed his full support in fixing the Brent Spence Bridge and stated he is willing to help the project along in any way he can. With no further business to come before the committee, Chairman Upchurch adjourned the meeting at 2:13 P.M.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 2nd Meeting

of the 2021 Interim

July 6, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Transportation was held on Tuesday, July 6, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll. The minutes from the June 1, 2021 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Karen Berg, C.B. Embry Jr., Brandon Smith, Brandon J. Storm, Johnnie Turner, Phillip Wheeler, Mike Wilson, and David Yates; Representatives Tina Bojanowski, Josh Branscum, Kevin D. Bratcher, Randy Bridges, Jonathan Dixon, Ken Fleming, Robert Goforth, David Hale, Samara Heavrin, Thomas Huff, Derek Lewis, Savannah Maddox, Bobby McCool, Shawn McPherson, Charles Miller, Tom Smith, Cherlynn Stevenson, Ashley Tackett Laferty, Walker Thomas, Susan Westrom, and Buddy Wheatley.

Guests: Sarah Jackson, REAL ID Project Manager, Kentucky Transportation Cabinet (KYTC); Matthew Cole, Commissioner, Department of Vehicle Regulation, KYTC; Steve Coffey, Office of Information Technology, KYTC; Captain Marshall Johnson, Commander, Driver Testing Branch, Kentucky State Police (KSP); Major Nathan Day, Director, Division of Commercial Vehicle Enforcement, KSP; James Nelson, Group Controller, Bluegrass Group, Enterprise Holdings; John McCarthy, Founder, Managing Partner, McCarthy

Strategic Solutions; Ethan Wilson, Counsel on Behalf of Turo; Jon Van Arsdell, Head of Government Relations, Avail, an Allstate Company; James Higdon, Consultant, MML&K Government Solutions; Chris Nolan, Consultant, MML&K Government Solutions; and Seth D. Cutter, Director, Communications and Government Affairs, CVG Airport; and Godwin Onodu, Director, Department of Vehicle Regulation, KYTC.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Christina Williams.

Update on Driver's License Issuance / Establishment of KYTC Regional Offices

Sarah Jackson, REAL ID Project Manager, KYTC updated the committee on the transition from county-by-county driver license issuance to the establishment of KYTC regional offices. To date, 18 regional offices have been established throughout the Commonwealth. There are two additional regional offices opening soon, one in Hopkinsville and one in Manchester. The KYTC is in various stages of developing a final wave of regional offices that should consist of an additional 10 to 11 more offices. Those locations will be revealed once leases are signed. Many factors go into selecting a regional location such as population, geography, location in relation to other regional sites, access from nearby counties, out-of-county workforce numbers, access to main roads, and available space and timelines. Originally, there was a plan set in place for a total of 15 regional offices. That number has since grown and there is a plan to establish a total of 30 regional offices. Ms. Jackson stated even when the establishment of the offices has been completed, KYTC will constantly monitor and evaluate if more are needed, budget permitting.

Matthew Cole, Commissioner, Department of Vehicle Regulation, KYTC updated the committee on the transitioning of Circuit Clerk duties. The rate at which the transition is occurring is approximately ten counties per month. The goal is to have 60 of the 120 Circuit Clerk's duties transitioned by September 2021. The KYTC is now issuing more than half of the licensing documents. The Circuit Clerks seem to be pleased with the progress and transition.

Steve Coffey, Office of Information Technology, KYTC gave a brief demonstration on how to renew credentials online.

In response to a question asked by Senator Berg, Commissioner Cole stated the online renewal system could be utilized by students who are out of state for school, but their license will be mailed to their residential license address.

In response to a concern raised by Chairman Higdon, as well as Senator Berg, Commissioner Cole stated there is not currently a system in place for someone to walk people through the online renewal process who may not be comfortable utilizing the internet, or may not have internet access, however, it is something that can be evaluated for the future. Commissioner Cole also stressed the online renewal system is as easy as ordering products online from such websites as Amazon. He stated KYTC is coordinating with local officials to have already owned computers set up with internet access for renewals if needed. He also reiterated people can use the online renewal

system from their cell phones. There is also a phone number that shows up if the pages fails for any reason. If that occurs, that number could be used to help walk people through the renewal process.

In response to a concern voiced by Senator Smith, Ms. Jackson stated the regional offices are currently set up to take only debit or credit cards. It is understood that the statute requires the KYTC to accept cash and checks. However, they have not yet been able to set up for that, mainly because of the use of temporary staffing at these locations. The KYTC is working earnestly towards providing those accommodations. In response to questions asked by Representative Bratcher, Ms. Jackson stated you can still currently fly domestically without REAL ID compliant documents. The REAL ID deadline has now been pushed back to May 2023, and that the initial REAL ID issuance must be done in-person with the proper documentation, however, after the initial issuance, REAL ID renewals will be able to be made online, if none of the applicant's information has changed.

In response to a concern raised by Representative Branscum, Ms. Jackson stated KYTC is working diligently to fill the geographical gaps that exist in regional office locations.

In response to a questions asked by Representative Smith, Ms. Jackson stated requests for regional offices have been made by legislators and constituents alike, and those requests are considered and Commissioner Cole stated travel time is taken into consideration as well as population and geographic location.

Representative Smith voiced his concern on having constituents driving three to five hours in order to renew their credentials. Commissioner Cole stated they will not have people driving that far as the rest of the regional offices are built and the portable pop-up units are utilized.

In response to a question asked by Representative Tackett Laferty concerning the mobile pop-up units and where and how often they will be visiting locations, Commissioner Cole stated they are currently coordinating that program with local officials so there is a collaborative approach in finding the best places to go. Ms. Jackson reiterated that House Bill 453 did set a minimum number of times a pop-up unit must visit each county annually, based on population. In response to a question asked by Senator Smith, Commissioner Cole stated the REAL ID information that is being collected is stored in the Kentucky Driver License Information System (KDLIS), which is maintained by KYTC and the Commonwealth Office of Technology (COT).

Update on Driver Testing / Establishment Regional Testing sites

Captain Marshall Johnson, Commander, Driver Testing Branch, Kentucky State Police (KSP) and Major Nathan Day, Director, Division of Commercial Vehicle Enforcement, KSP, updated the committee on driver testing and the establishment of regional testing sites. Captain Johnson stated the establishment of regional driver testing sites is heavily tied into the Circuit Clerks handing their issuance responsibility over to KYTC. Driver testing, including vision screening, road testing, and permit testing, will remain the responsibility of KSP. In an effort to support

KYTC and streamline the transitioning process, KSP is also going to regionalize their testing services. It is the goal of KSP to have a driver testing presence at each of the KYTC regional sites. In some cases, KSP has already made the decision to regionalize testing in advance of the transition of licensing services, which allows for the maximization of resources and to provide a more efficient testing process. It is the hope of KSP that by doing so, the result is greater efficiency and expanded availability as it relates to testing appointments. The regional model allows for testing to be offered all day Monday through Friday. The KSP has announced regional testing sites in Catlettsburg, Columbia, Frankfort, Elizabethtown, Jackson, Morehead, Prestonsburg, and Somerset. Additional offices are under development in connection with KYTC. Just as it is the goal of KYTC to have regional offices within reasonable traveling distances, it is the goal of KSP as well, so that constituents and testing administrators do not have to drive long distances for testing. While the transition is occurring, KSP will continue to work with local officials so there is no interruption in testing services. In response to a question asked by Chairman Higdon, Captain Marshall stated constituents will begin to move into the issuance process after they are done testing with KSP.

In response to a question asked by Chairman Higdon concerning consideration to allow people to take their permit test online, Captain Marshall stated KSP is in the process of implementing a large scale update to the auto test system which will increase efficiency. He added that many counties only offer a written test on paper, and KSP will be moving to an electronic version of that all over the state as well as implementing the use of tablets.

In response to a concern voiced by Representative McCool, Captain Marshall stated the road test course is not specific to a road, street, or highway, however, it is specific to standards provided by the American Association of Motor Vehicle Administrators.

Discussion on Peer to Peer (P2P) Vehicle Rental

James Higdon, Consultant, MML&K Government Solutions introduced Chris Nolan, Consultant, MML&K Government Solutions; Ethan Wilson, Counsel on Behalf of Turo; and Jon Van Arsdell, Head of Government Relations, Avail, an Allstate Company who all spoke on P2P vehicle rental.

Mr. Van Arsdell stated Avail currently operates 11 P2P car sharing platforms across the country and is looking to expand that number. Mr. Van Arsdell stated that P2P car sharing is similar to Airbnb but for vehicles. Avail's platforms allow for individuals who own vehicles to put them on a platform so that they can be borrowed by neighbors, travelers, or businessmen for a temporary period of time, while the owners of the vehicles get to earn income for the sharing of their vehicle that they have paid for.

Mr. Van Arsdell stated an issue that has been discussed is the proper regulatory structure for P2P car sharing. In 2020, the General Assembly considered House Bill 494, which would have established an insurance and consumer protection framework for P2P rentals. The proposal, which is based off of the National Council of Insurance Legislators (NCOIL)

model, was developed by a consensus among P2P car sharing companies, insurance companies and their trade associations, the car rental industry, and insurance regulators. House Bill 494 would have ensured that during this process that there will never be an insurance gap. The bill provides flexibility that the coverage required under a state law would be covered by either the driver's policy, the owner's policy, the platform's policy, or some combination of the three. Avail includes coverage within their pricing model.

In dealing with consumer protection, Avail ensures that they have recall notification requirements, license verification requirements, and requires our platforms to buy roadside assistance for the drivers of the vehicles. In closing, Mr. Van Arsdell stated the industry is requesting proper regulation, but he believes it's important to enact this across the country so that protection is put into place for everyone during the sharing process.

Mr. Wilson addressed the committee concerning P2P sharing on behalf of Turo. Turo is an internet-based, P2P car sharing platform that connects car owners with those in need of transportation such as neighbors, families, students, workers, vacationers, or anyone with the need or desire, for transportation. On the Turo platform, car owners, or "Hosts," have 100 percent pricing power over their vehicles and can earn extra income while at the same time allowing more drivers, or "guests" to have access to an existing supply of vehicles in Kentucky. Guests can choose from hundreds of different makes, models, and price points to find the perfect car for their specific transportation needs.

In previous legislative sessions, there has been discussion about what the tax structure for P2P car sharing looks like compared to traditional rental car services in the Commonwealth. Mr. Wilson stated there has been much misinformation and confusion as to tax parity and how tax is applied to P2P car sharing. Mr. Wilson stated KRS 138.460 levies a 6 percent motor vehicle usage (MVU) tax on the retail price of motor vehicles at the time the vehicle is titled or registered. Turo hosts in Kentucky have paid MVU tax when purchasing their vehicles. Rental car companies are also subject to this same 6 percent MVU tax; however, these companies have an option as to how this 6 percent tax is paid. Pursuant to KRS 138.463, traditional rental car companies, defined in statute as "U-Drive-Its", can either: pay the 6 percent MVU tax upon the retail price of the motor vehicle at the time of purchase or they may collect the MVU tax of 6 percent from their customers as calculated on the gross rental charges paid by the customer (on a per-transaction basis.)

Mr. Wilson raised concerns that assessing 6 percent MVU tax on P2P car sharing, when the MVU tax on those vehicles has already been paid at the time of purchase, would almost certainly be viewed as double taxation and draw a legal challenge. Mr. Wilson stated that making P2P car sharing subject to Kentucky's MVU tax twice, once on the front-end at the time of purchase and again on the back-end on a per-transaction basis, would represent a huge competitive advantage for traditional rental car companies. In reality there is taxing parity right now

between P2P car sharing and traditional rental car platforms with regards to the MVU tax. Kentucky is one of very few states that does not apply a separate excise tax on the rental car industry. If a new, separate tax is contemplated by the legislature next session, it would only make sense to apply it to both P2P car sharing and traditional rental car on a go-forward basis.

In response to a concern voiced by Senator Wheeler regarding the lack of taxes being paid by the rental services, particularly taxes that would help the Road Fund, Mr. Higdon responded that the MVU tax is just one component on the whole tax spectrum. He added that “hosts” who receive income from the rental platforms receive a 1099 at the end of the year and report that as taxable income on an individual basis. He also added that the gasoline that is used in these rental vehicles are subject to motor fuels tax, therefore they are contributing to the Road Fund.

In response to a question asked by Representative Fleming regarding costs associated with P2P transactions, Turo charges a 3rd party service fee between the platform and the hosts that would be customer paid. The host is paying a fee for the insurance coverage that is provided. No sales taxes are charged on these transactions.

James Nelson, Group Controller, Bluegrass Group, Enterprise Holdings, spoke to the committee on P2P vehicle rentals. Mr. Nelson stated Enterprise Holdings employs over 950 Kentuckians, have more than 90 locations around the Commonwealth, and have a fleet of nearly 12,000 cars and trucks. Enterprise Holdings has invested \$3 billion in the last several years in technology to better and more seamlessly serve their customers. All rental car companies make their vehicles available through online applications. The difference between Enterprise and a P2P platform is the source of the vehicles. Car rental places own the vehicles, Whereas P2P platforms outsource vehicles owned by others. Mr. Nelson stated P2P platforms are to car rentals what Airbnb is to hotels. Unlike Airbnb, P2P companies are not committing or remitting any taxes or airport related fees.

Mr. Nelson stated that in his opinion, while an individual vehicle owner may pay a 6 percent MVU tax in Kentucky when purchasing a vehicle, the intent behind that purchase is largely to use that vehicle as one’s personal use, not for revenue generating purposes. Also, P2P vehicle rentals can increase the amount of time and number of vehicles on the road. The renters of these private vehicles should therefore also contribute to the Road Fund the same way as they would if they were renting from rental car companies. Enterprise is advocating that Kentucky should apply that 6 percent MVU tax to P2P transactions because a vehicle purchased for private use is now being used for a completely different purpose, a revenue generating purpose. This fee would be applied to the transaction and ultimately paid by the renter. No additional responsibility would be placed to the vehicle owner. These revenues would also go to the Road Fund. Other states such as Nevada, Florida, and Arizona have recently enacted laws with taxes applicable to P2P transactions.

Chairman Higdon stated in his research 18 states have passed the NCOIL legislation that deals with the

insurance portion of the transaction. He added five states currently do tax the rental of the P2P vehicles. Chris Nolan, Consultant, MML&K Government Solutions said states that addressed taxation in their legislation did so because they levied an excise tax on rental car companies. Currently, in Kentucky, rental car companies and P2P vehicle owners are only paying usage tax. Kentucky does not have an excise tax on rental car transactions, so there is no need to level the playing field in this area.

Representative Thomas raised a concern for electric vehicles being used on the P2P sharing platforms, therefore no gasoline is being used for in vehicles and their fair share of motor fuels tax is not being paid or going towards the Road Fund.

In response to a question asked by Representative Thomas as to the safety requirements for P2P rental vehicles, Mr. Wilson stated all vehicles on the Turo platform have to undergo a safety check and that a safety component is also part of the NCOIL legislation. In response to a question asked by Senator Berg, Mr. Nelson stated the 6 percent MVU tax that Enterprise charges on each rental may accumulate to the point where it exceeds the MVU tax it would have paid, if paid at the time of purchase.

In response to a question asked by Representative Heavrin, Mr. Nelson stated not to his knowledge has Enterprise ever asked for a refund on “U-Drive-Its”, or usage tax. Representative Heavrin requested to know if this has ever happened in the past before Mr. Nelson began employment with Enterprise.

Seth D. Cutter, Director, Communications and Government Affairs, CVG Airport spoke on behalf of the Chief Executive Officers (CEOs) of the Commonwealth’s three largest commercial service airports, CVG, Louisville Muhammad Ali International Airport, and Lexington’s Blue Grass Airport. On behalf of those three CEOs, Mr. Cutter shared the joint perspective and position of the airports where P2P car rental companies are concerned, since many of these types of transactions take place on or at airports.

Airports in Kentucky operate within the provisions of KRS Chapter 183. Within these statutes, the Commonwealth has given airports the authority and responsibility to regulate commercial activity on airport property. The state has not regulated the way in which airports structure specific transactions with private operators on airport properties, primarily because airports and the airport business is highly regulated by the federal government, the state has not been involved in the specifics of commercial airports’ business transactions. Because of existing state statute that gives airports authority to regulate business activity at the airports, they are committed to creating a level playing field for all companies seeking access to and offering services at the airport. The airports work collaboratively and closely with all businesses, including car rental companies to plan, finance, and implement capital improvements for which debt has been issued in some cases.

Mr. Cutter stated there may be interest to create minimum standards for P2P car rental companies to operate at Kentucky airports, but the CEOs of the three major airports do not believe state statute needs to detail provisions applicable to airports and these

companies. These P2P car rental companies, like any other commercial operators, are already required to enter into an agreement with each airport operator

Other states have adopted legislation that outlines P2P operations at airports. If the General Assembly pursues legislation on this topic and elects to include provisions related to P2P car rental companies at airports, the airports urge the General Assembly to remain broad and high-level in any proposed statutory language. Three general provisions would be sufficient and stipulate that:

P2P car rental companies seeking to operate on an airport must enter into an agreement with each airport operator before commencing activity;

Such agreements would stipulate there be a financial exchange for the privilege of operating at the airport. P2P car rental companies should be treated in a manner similar to other like businesses. If airports and P2P car rental companies desire to designate areas where P2P transactions take place, standard airport rental and lease rates would apply; and

In order to protect the traveling public, P2P car rental companies should meet industry-standard requirements for insurance and indemnification coverage. These agreements would also require P2P car rental companies to regularly provide airport operators with adequate data for audit and compliance purposes (such as vehicle and transaction information).

In response to a question asked by Senator Berg, Mr. Cutter stated Transportation Network Companies (TNCs) have operating agreements at each airport. Chairman Higdon stated P2P is an important discussion, and as technologies progress and things evolve, it is an issue that needs to be addressed sooner rather than later.

Administrative Regulations 601 KAR 001:113 and 601 KAR 023:030 were reviewed by the committee. Neither regulation was found to be deficient or deferred. No objections were raised. In response to a question asked by Representative Huff concerning speed title exceptions in 601 KAR 023:030, Godwin Onodu, Director, Department of Vehicle Regulation, KYTC, stated the speed title exceptions are for the 48 hour requirement by statutes which is in KRS 186.170. The exception is because of instances such as holidays or postal services delays. Refund requests were being received because the individual said they did not receive the certificate of title within three days, when the issue was researched they realized maybe it was because of long holiday weekends or postal service issues.

With no further business to come before the committee the meeting was adjourned at 2:55 P.M.

INTERIM JOINT COMMITTEE ON VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION

Minutes of the 1st Meeting

of the 2021 Interim

June 16, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Wednesday, June 16, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Walker Thomas, Co-Chair; Senators Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Robby Mills, Dennis Parrett, Brandon Smith, Whitney Westerfield, Mike Wilson, and David Yates; Representatives John Blanton, Kevin D. Bratcher, Myron Dossett, Jim DuPlessis, Chris Freeland, Chris Fugate, Al Gentry, Jim Gooch Jr., Mark Hart, Matthew Koch, Scott Lewis, Savannah Maddox, Bobby McCool, Patti Minter, Scott Sharp, Pamela Stevenson, Ashley Tackett Laferty, Bill Wesley, and Buddy Wheatley.

Guests: Kristen Jones, President, Military Spouse JD Network; Erin Ramey, Military Spouse, Military JD Network; Eric Sherman, Southeast Regional Liaison, Defense – State Liaison Office, Department of Defense; Brigadier General (USAF Ret.) Steven Bullard, Executive Director, Kentucky Commission on Military Affairs; Dr. Dallas Kratzer, Lieutenant Colonel (USAF Ret.), Grant Program Manager, Kentucky Commission on Military Affairs; Colonel (Ret.) M. Blaine Hedges, President and CEO, Government Solutions and Services; Thomas Ferree, Chairman and Chief Executive Officer, Connected Nation; and Chris Pederson, Executive Vice President for Developing and Planning, Connected Nation.

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

Military Spouse JD Network

Erin Ramey, a member of the Military Spouse JD Network (MSJDN), testified that she advocates for streamlined bar licensing processes for military spouses because military spouses must move significantly more frequently than the average American, which creates financial and administrative pressure on spouses who have to maintain occupational licenses.

Ms. Ramey stated that she has moved to follow her spouse in the military every two to three years for thirteen years. She has had a different job at each station, and only the most recent job utilized her law degree.

MSJDN President Kristen Jones testified that she has practiced law in four different states as a result of moving with her spouse in the military. MSJDN is a ten-year old organization which confers with state supreme courts and legislative bodies to advocate for changes to bar licensing rules. One such proposed change was House Bill 251 from the 2021 legislative session.

Ms. Ramey provided demographic information for military spouses, including that there are approximately 7,000 military spouses living in Kentucky, that military spouses are on average more highly educated than the general population, that military spouses experience unemployment at seven times the national average and are also regularly underemployed, and that military spouses make less

money than members of the general population with the same level of education. Ms. Ramey added that military members consider their spouse's employment as a top issue when considering when to reenlist or retire.

Ms. Jones stated that HB 251 is a step towards MSJDN's goal of alleviating pressures on military spouses. The bill would remove the expense of maintaining occupational licenses in Kentucky on military spouses, which would allow servicemembers to stay in active duty for longer and also build goodwill towards Kentucky when the member decides to retire. Responding to a question from Representative Minter, Ms. Ramey stated that Kentucky is the first state to consider waiving occupational license fees for military spouses.

Responding to a question from Representative Bratcher, Ms. Ramey stated that their data about military spouses is not broken up by the servicemember's branch of the military.

Responding to a question from Representative Pamela Stevenson, Ms. Jones stated that men make up about eight percent of military spouses and between five and ten percent of MSJDN's membership. Ms. Ramey added that social media has strengthened participation by military spouses in advocacy organizations like MSJDN because it lessens the challenge of communicating within the group while also frequently relocating.

Department of Defense

The Department of Defense State Liaison Office (DSLO) Southeast Regional Liaison Eric Sherman testified that DSLO was established in 2004 to provide continuity in communications on military readiness and quality of life for servicemembers between the Department of Defense and state governments. DSLO researches quality of life issues and works with states to fix them. DSLO creates a list of ten priorities each year and tracks legislation and policies aimed at those priorities.

Mr. Sherman stated that spouse employment is a top priority for 2021. Kentucky has consistently been a leader in this area, as evidenced by passing HB 323 in 2019, which improved license portability by granting expedited temporary licenses to applicants who hold active licenses in other states. Despite this, applicants still have trouble accessing all relevant information on the reciprocity process and keeping up with multiple states' licensing standards simultaneously.

Interstate compacts regarding licensing reciprocity provide both short- and long-term solutions to the problems faced by military spouses. Short-term solutions include those like the expedited temporary licenses discussed previously, which could be enacted by Kentucky without input from other states. These short-term solutions require an active license in another state to be maintained, and requires the applicant to pay fees to multiple states at once. Interstate compacts provide superior long-term portability but require multiple states to agree. Compacts create uniform standards and qualifications, so that spouses don't have to keep track of multiple sets of standards.

Kentucky has one of the highest rates of interstate compact participation, but still does not participate in

the Emergency Medical Service Officials Licensure Compact, the Occupational Therapy Interstate Licensure Compact, or the Counseling Interstate Licensure Compact.

The compacts of which Kentucky is already a member typically allow an applicant to designate a home state for the purpose of qualifications and standards, and then use that license in all member states, therefore only having to pay dues to maintain a single license. DSLO considers the EMS Compact to be particularly important because so many of Kentucky's neighbor states are already members.

DSLO is working to develop compacts for cosmetologists and barbers, massage therapists, teachers, social workers, and dentists and dental hygienists.

Responding to a question from Representative Wheatley, Mr. Sherman stated that it is typically recommended to use individual bills to enter into compacts as opposed to an omnibus bill.

Responding to a question from Representative Hart, Mr. Sherman clarified that because the EMS Compact was one of the first drafted, its language is not as standardized as later compacts.

Kentucky Commission on Military Affairs

Executive Director of the Kentucky Commission on Military Affairs (KCMA) General Bullard testified that while KCMA supported HB 251, the bill was secondary in importance to the interstate compacts. The average number of interstate compacts joined by states is 34, while Kentucky has joined 38. Kentucky is not a member of the EMS Compact, but the Kentucky's standards for EMS licensure already align with those in the EMS Compact, so the only substantive change required for Kentucky to join is to accept reciprocity from other states. KCMA also wants to see Kentucky join the Military Interstate Children's Compact to support students in military families transferring schools between states.

General Bullard stated that the real challenge with interstate compacts is not changing the law or regulations to join, but to ensure that affected organizations are fully educated on how to implement the privileges and responsibilities of the compact. KCMA's priorities this year include reaching out to administrative bodies to educate them on how to comply with compacts, what needs to be on their website, and best practices for publicizing information about the portability of occupational licenses.

General Bullard then segued to discuss Fort Campbell and Fort Knox's websites and spouse employment centers and how they assist military families in finding stable employment. Fort Knox has cooperated with the Knox Regional Development Alliance to create their website, which has been recognized by the Association of Defense Communities as a best practice website.

Dr. Dallas Kratzer, Lieutenant Colonel (USAF Ret.), Grant Program Manager, KCMA, discussed the Cybersecurity, Certification, Career and Communities Training Program (C4 Program) and the Department of Defense grant that funds it. The program has two goals: to educate students on cybersecurity and to develop the workforce. KCMA is working with

the Society for Human Resources Management to advertise the program and its goals. One of the goals is to educate employers on the strengths of recently separated veterans and how best to recruit them. The C4 Program is also working on policies which will encourage recently separated veterans to choose to move to Kentucky, particularly by making the transition to civilian life easier for the veteran's family. One promising area is teacher education: Kentucky has programs that allow veterans into teaching environments to get their high school teaching certification.

Dr. Kratzer stated that the C4 Program wants to work with the Education and Workforce Development Cabinet in its next phase of development to train and equip military spouses with occupational opportunities while their family is stationed in Kentucky, so that the transition back to Kentucky as a veteran is easier. Dr. Kratzer stated that of the more than 200,000 veterans who leave service every year, only 3,000-4,000 return to Kentucky. In order to increase this number, Kentucky needs resources which get veterans and their families connected with jobs quickly once they return. Dr. Kratzer stated that improved communication between government agencies is needed to meet this goal, and that KCMA is positioning itself as the hub for occupational information for agencies and veterans to meet this goal.

Government Solutions and Services & Connected Nation

Connected Nation Chairman and CEO Thomas Ferree testified that the mission of Connected Nation is to help families get jobs by leveraging widespread broadband internet access. The COVID-19 pandemic made the need for developed internet infrastructure readily apparent.

Government Solutions and Services President Colonel M. Blaine Hedges testified that military spouse unemployment is a national security issue, as it increases the turnover of servicemembers. Kentucky partnered with Connected Nation in 2018 for a pilot Digital Works Program funded by the Kentucky Veterans Trust Board. The Digital Works Program placed over 1,000 information technology telework employees during the COVID-19 pandemic. Despite this, Kentucky's funding for the Digital Works Program is running out.

Mr. Ferree stated that the Digital Works Program is training and placing people in telework jobs despite the geographic or personal restraints that person has. Telework is very convenient for military spouses specifically since relocating frequently does not prevent the spouses from doing their telework. Connected Nation encourages governments to use funds from the American Rescue Plan Act to expand broadband.

Connected Nation Executive Vice President Chris Pederson described the format of the Digital Works Program as a community-based job creation program which trains military spouses for long-term remote work positions. Connected Nation has a network of over 70 employers looking for remote workers. The program has placed over 1,000 employees. The program is two to four weeks long, depending on the proficiency of the cohort. Once the program is

completed, job placement begins one to three weeks later. Graduates have access to a co-working facility upon graduation if they want camaraderie or to speak with program instructors.

Mr. Pederson stated that the goal of the Fort Campbell iteration of the Digital Works Program specifically is to create an on-ramp for spouses to enter telework. He stated that while office workers can typically transition to telework easily, spouses coming from schools or from service industry jobs generally have difficulty securing telework positions without the training provided by the Digital Works Program. The Digital Works Program secures its funding from KDVA, the Education and Workforce Development Cabinet, and the United States Department of Agriculture's Rural Business Development Grant.

The next meeting will be Wednesday, July 21, 2021 at 10:00 AM in Room 154. With no further business, the meeting adjourned at 11:46 AM.

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 2nd Meeting of the 2021 Calendar

June 23, 2021

Call to Order and Roll Call

The 2nd meeting of the Capital Planning Advisory Board was held on Wednesday, June 23, 2021, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Adrienne Southworth, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Adrienne Southworth, Co-Chair; Representative Bobby McCool, Co-Chair; Senator Phillip Wheeler, Representative Derek Lewis, Rocky Adkins, Carole Henderson, Patsy Jackson, Holly Johnson, Ryan Neff, Mark Overstreet, and Katie Shepherd.

Guests: Ruth Day, Chief Information Officer, Commonwealth Office of Technology; Brigadier General Haldane Lamberton, Adjutant General, Kentucky National Guard; Benjamin F. Adams, III, Executive Director, Joe Sanderson, Director, Facilities Division, Corey Jackson, Legislative Liaison and Policy Specialist, and Roberta McCann, Budget Specialist III, Department of Military Affairs; Commissioner Keith L. Jackson, Lieutenant Colonel, US Army (Ret), Deputy Commissioner Whitney P. Allen, Jr., Mark Bowman, Executive Director, Office of Kentucky Veterans Centers, Alvin Duncan, Executive Director, Office of Veterans Services, Stephanie Belt, Budget Manager, and Martha Workman, Department of Veterans Affairs; Jamie Link, Executive Director, Mike Hayden, Chief Operating Officer, Mitch Powers, Chief Network Engineer, and Doug Hendrix, General Counsel, Kentucky Communications Network Authority; Sandy Williams, Deputy Executive Director, and Meili Sun, Treasurer, Kentucky Infrastructure Authority; Chris Reece, Executive Director, Will Adams, Deputy Commissioner, and Lincoln Farmer, Division Director, Department of Parks, Tourism, Arts and Heritage Cabinet; Robin Brewer, Executive

Director, Office of Budget and Fiscal Management, Scott Shannon, Assistant Director, Department of Aviation, Pat Grugin, Executive Director, Office of Support Services, Heather Stout, Executive Director, Office of Information Technology, Danny Peake, Division Director, Dave Harmon, Assistant Director, Amanda Dees, Geologist Supervisor, Rick Durham, Assistant Director, and Ken Sperry, Executive Advisor, Department of Highways, Transportation Cabinet.

LRC Staff: Shawn Bowen and Jennifer Luttrell.

Approval of Minutes

A motion to approve the minutes of the May 20, 2021, meeting was made by Senator Wheeler, seconded by Representative Lewis, and approved by voice vote.

Welcome New Co-Chair

House Leadership appointed Representative Bobby McCool to replace Representative John Blanton as co-chair. Representative Blanton now serves on the Appropriations and Revenue Committee, and in accordance with the House Rules, a member of the Appropriations and Revenue Committee shall not serve as chair of a standing or statutory committee.

Information Items

Ms. Bowen said three information items were included in the meeting materials in response to questions raised at the board's May 20 meeting regarding proposed capital projects for the Cabinet for Health and Family Services, the Finance and Administration Cabinet, and the Justice and Public Safety Cabinet.

Amended Capital Plans

Ms. Bowen said the capital planning system is open for a period of ten days after the monthly board meeting. During that time, agencies may amend their capital plans as needed. The Finance and Administration Cabinet made the following changes to its capital plan: KEWS Fiberglass Shelter Replacement/Construction project-category changed from IT to construction-other; Enterprise Content Management project-deleted; and eMars Upgrade and System Enhancements project-scope increased from \$9 million to \$14 million.

Presentation – Commonwealth Office of Technology (COT)

As part of the capital planning process, COT is responsible for the review and evaluation of information technology (IT) projects submitted in the agency capital plans. Ruth Day, Chief Information Officer, COT, discussed the results of the review and presented the IT project recommendations.

The review process for IT capital projects began with an assessment of criteria from previous biennia. An eight member scoring committee team was formed consisting of representatives from the Office of State

Budget Director, the Cabinet for Health and Family Services, the Transportation Cabinet, the Energy and Environment Cabinet, the Public Protection Cabinet, and the Finance and Administration Cabinet.

Members of COT's staff and agency representatives performed the review, focusing specifically on IT projects for the 2022-2024 biennium, utilizing an automated prioritization methodology that promotes an objective view. The goal was to determine systems with the highest value and least potential risk to the Commonwealth. Each capital project submission provided value and the projects identified with the highest score best support the strategic direction of the Commonwealth and provide the greatest returns on investments.

For the 2022-24 biennium, COT reviewed 22 IT projects with a value of \$196.6 million. Three reports were generated based on the projects reviewed: All Funds Capital IT Projects (22 projects valued at \$196.6 million), General Fund High-Value IT Projects (12 projects valued at \$120 million), and the CIO's Additional Priority Projects (3 projects valued at \$13 million).

Responding to a question from Senator Southworth, Ms. Day said she would follow-up with COT staff to determine if the revised project scope for the eMars Upgrade and System Enhancements project will alter the project's score.

Consideration of Agency Capital Plans

The Capital Planning Advisory Board received testimony regarding six state agency capital plans: Department of Military Affairs; Department of Veterans Affairs; Kentucky Communications Network Authority; Kentucky Infrastructure Authority; Tourism, Arts and Heritage Cabinet; and the Transportation Cabinet. The testimony included discussion of capital construction, IT, and equipment needs for the period 2022-2028.

Department of Military Affairs (DMA)

General Lamberton said DMA's capital plan addresses all known and anticipated needs of the Kentucky National Guard and the quasi-commercial facilities operated by DMA for the next three biennia. For the six-year period, DMA's plan includes proposed projects totaling \$493,054,000. The funding sources include \$57,327,000 general funds, \$255,477,000 federal funds, \$13,250,000 restricted funds, \$500,000 cash, and \$166,500,000 long-term financing.

In response to questions from Senator Southworth, General Lamberton said an enhancement project, comprised of six individual capital projects, is planned for Bluegrass Station in Lexington during the 2022-2024 biennium. The following projects are included: Construct and Extend Electric, \$6,500,000; Construct Runway, \$65 million; Construct and Improve Sewer System, \$5 million; Construct Road Improvements, \$7 million; Construct Two MC 130 Hangars, \$28 million; and Improvement of Landfill, \$5 million. Additional subprojects will include upgrades to facilities, construction of new facilities, and land acquisition near Bluegrass Station that extends into Bourbon County. The project will be structured as a public-private partnership, commonly known as a P3. The completion of these projects will attract

additional tenant activities to Bluegrass Station, making it a more profitable entity. General Lamberton said the completion of the Construct Runway project is contingent upon the completion the Improvement of Landfill project. The landfill currently sits on the proposed site for the new runway, and must be moved to another location at Bluegrass Station before work on the runway can begin.

In response to a question from Senator Southworth regarding the Construct Civil Support Team Facility Addition project (\$6 million federal funds), General Lamberton said the civil support team is presently located at the Air National Guard Base in Louisville in an under-sized facility originally designed for other purposes. The unit will be relocated to Boone Center in Frankfort, and a facility pertinent to the unit's mission and purpose will be constructed. The current facility in Louisville is state-owned and utilized by various units of the Kentucky Air National Guard.

Responding to questions from Senator Southworth, Mr. Adams said the agency spends \$48,000 annually to lease space for a field maintenance shop in Burlington. The Construct Field Maintenance Shop project (\$14.8 million) will build a few facility adjacent to the Burlington Armory. The project is part of an ongoing effort to upgrade the field maintenance shops across the state and eliminate privately leased space.

In response to a question from Senator Southworth, General Adams said a study on the utility costs savings associated with the Install Solar Energy Panels at Armories Statewide project (\$2 million) was conducted, and he would provide the board with the results at the July meeting.

In response to a question from Representative McCool, General Lamberton said the capital budget authorizes about \$1.5 million for maintenance pool funding, and the agency request is about \$8 million, and the projects included in the pool typically have reoccurring costs associated with them.

Department of Veterans Affairs (DVA)

Commissioner Jackson, Mr. Bowman, and Mr. Duncan discussed the department's capital needs, which focused on veterans centers, veterans cemeteries, and maintenance pool funding. For the six-year period, DVA's capital plan includes proposed projects totaling \$17,050,000. The funding sources include \$14,050,000 general funds and \$3 million federal funds.

In response to a question from Senator Southworth regarding the Western Kentucky Veterans Center Heating and Cooling project (\$2,100,000), Mr. Bowman said if the heating and cooling system stops working before funding for a replacement system is authorized, available restricted funds would be utilized to repair the system. If the restricted funds are not available, the department would seek approval to initiate an emergency repair project. Mr. Duncan said this project is considered a preventive measure, and if the system were to continue functioning beyond its estimated useful life, a new system will still be purchased and installed if the funding is authorized. Responding to another question from Senator Southworth, Mr. Duncan said the Kentucky Veterans Cemetery Central (KVCC) Raise and Realignment project (\$3 million) in Radcliff is funded through

a federal grant from the National Cemeteries Administration. The grant stipulates that headstones and markers may be rehabilitated only in completed sections of the cemetery. In this case, eight of the 14 sections of KVCC are complete, and qualify for the remediation project.

Kentucky Communications Network Authority (KCNA)

Mr. Link, Mr. Hayden, and Mr. Hendrix provided a brief overview of KCNA's capital plan. For the six-year period, KCNA's plan includes proposed projects totaling \$51 million general funds.

In response to a question from Senator Southworth, Mr. Link said the total cost of the project to date is about \$360 million. He said he would confirm this figure and follow-up with the board at the July meeting.

Responding to additional questions from Senator Southworth, Mr. Link said new equipment purchases and construction services will be procured utilizing existing contracts or through a competitive procurement process.

In response to another question from Senator Southworth, Mr. Link said the KentuckyWired project is being built in accordance with the original scope of work. Any additional work would be based on demand in different areas of the state as more customers come online. Additional cable infrastructure may be needed to reach those areas and provide the network connection or access points that will allow for inclusion of additional customers.

In response to a question from Senator Wheeler, Mr. Link said the original cost estimate was \$250 million, and additional project costs include \$93 million for pole attachment agreements, and \$17 million for change orders.

Senator Wheeler said the cost of the pole attachment agreements should have been factored into the initial project cost. He asked if there has been any consideration of legal action against the project developers to recover for the taxpayers money spent on cost overruns. Mr. Hendrix said no civil actions or contract claims have been initiated against the parties that developed the project; they are focused on working with the contractor, Macquarie Infrastructure Developments LLC, and its various subcontractors. Mr. Link responded that KCNA is re-examining aspects of the project to determine if additional efficiencies can be realized.

In response to another question from Senator Wheeler, Mr. Hendrix said Macquarie Infrastructure Developments was awarded the initial contract in 2014, developed the project estimates, and the timelines. The company has created an LLC known as KentuckyWired Operations Company, and now serves as the prime contractor for the project.

Senator Wheeler asked why Macquarie Infrastructure continues to be involved in the development of the project considering the problems with the company. He said it would be hard to mitigate damages against a party if that party was still involved in the development of the project. Mr. Hendrix responded that it is difficult to prove breach of contract, and KCNA's focus has been ensuring the network is built as quickly and as inexpensively as possible. Mr. Link agreed with Senator Wheeler and

assured him KCNA is exploring ways to mitigate the expense of the project to the taxpayers, as well as deliver a world class fiber network.

In response to questions from Senator Southworth, Mr. Hendrix said the 30-year contract with Macquarie Infrastructure Developments runs through 2045. Mr. Link added that KCNA is funded through the general fund, and pays approximately \$32 million annually for the debt service component of the project, along with other contractual obligations. The ultimate goal is for the revenues generated by the project to fund the bulk of KCNA's operating budget, but this will take time.

In response to a question from Senator Southworth, Mr. Link said he did not have the information available as to how much money agencies have not spent after transferring services over to KentuckyWired. He said he would find out and provide that information to the board the July meeting.

Kentucky Infrastructure Authority (KIA)

Ms. Williams and Ms. Sun provided a brief overview of the agency's capital plan. For the six-year period, KIA's plan included proposed projects totaling \$538,884,000. The funding sources include \$124,482,000 general funds, \$234,402,000 federal funds, and \$180 million agency bonds.

In response to questions from Senator Southworth, Ms. Williams explained that federal funds derived from the American Rescue Plan Act (ARPA) of 2021 Coronavirus State Fiscal Recovery Fund are not included as a funding source for any of the KIA loan and grant programs. Additionally, ARPA funding was not included in the current KIA capital plan because the funds were appropriated for this current fiscal year. Ms. Sun clarified that the loan and grant programs and the Cleaner Water Program are separate programs.

Tourism, Arts, and Heritage Cabinet (TAHC)

Mr. Reece presented the cabinet's capital plan which focused mainly on asset preservation. The following agencies within the cabinet submitted capital plans: Department of Fish and Wildlife Resources, Department of Parks, Kentucky Artisan Center at Berea, Kentucky Center for the Arts, Kentucky Heritage Council/State Historic Preservation Office, Kentucky Historical Society, Kentucky Horse Park, and the State Fair Board. For the six-year period, the agency plan includes proposed projects totaling \$733,189,000. The funding sources include \$492,662,000 general funds, \$2,610,000 federal funds, \$216,605,000 restricted funds, \$10,500,000 road funds, and \$10,812,000 cash.

Responding to a question from Senator Southworth as to how the revenue was calculated for the Kentucky Horse Park Expand Campground project, Mr. Reece said the department will review and potentially revise the project scope and the cost elements included in the return on investment, and follow-up with the board at its July meeting.

In response to a question from Senator Southworth regarding the Kentucky Exposition Center (KEC) Security System and Cameras project (\$5 million), Mr. Reece said he did not know if long-term maintenance and operational costs were included in the cost of the project. He said he would follow-up with KEC staff and provide details to the board in July.

In response to a question from Representative

Lewis regarding the decision-making process for prioritizing capital projects for the Department of Parks, Mr. Adams said projects that protect the structural integrity of facilities are of utmost importance, followed by life safety improvement projects, and projects that provide a return on investment.

Transportation Cabinet

Ms. Brewer discussed the Transportation Cabinet's capital needs. In addition to the Secretary's Office, the Department of Aviation and the Department of Highways reported proposed capital projects. For the six-year period, the Transportation Cabinet's plan includes proposed projects totaling \$287,055,000. The funding sources include \$22,660,000 general funds, \$58,750,000 federal funds, \$320,000 restricted funds, and \$205,325,000 road funds.

In response to questions from Senator Southworth, Mr. Grugin said regional salt storage structures eliminate the need for salt trucks to travel long distances to the main salt storage facility in Louisville, and the county maintenance garages provide the storage space for the salt. In regard to the possibility of the shared use of state salt facilities and maintenance facilities between the state and the county governments, Mr. Grugin said he would provide a follow-up response for the board's July meeting.

Referring to the Construct Sixteen New T-Hangars project, Senator Southworth noted the annual revenue is estimated to be \$21,000 for a project costing \$2 million. She asked if there is an additional benefit other than the revenue. Ms. Brewer said the construction of the t-hangars will provide additional economic development opportunities to the state as more out of state people come to Kentucky to conduct business or rent hangars. Ms. Brewer said she would follow-up with the Capital City Airport staff and provide additional information as to the economic development benefits of the project.

Other Business

Senator Southworth said the board will convene its next meeting on July 21, 2021, in Room 169 Capitol Annex at 1:00 p.m.

Adjournment

There being no further business, the meeting was adjourned at 3:15 p.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

June 17, 2021

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Thursday, June 17, 2021, at 3:30 PM, in Room 169 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 Robin L. Webb; Representatives Jason Petrie and Walker Thomas.

Guests: Elizabeth Baker, Senior Director, Strategic Capital Planning and Legislative Analysis, University Budget Office, University of Kentucky; Janice Tomes, Deputy State Budget Director, Office of State Budget Director; 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.

Senator Girdler announced Ms. Wells Lathrem's retirement and said she will be missed. Ms. Wells Lathrem thanked Senator Girdler and the members.

Approval of Minutes

Representative Thomas moved to approve the May 18, 2021, meeting minutes, seconded by Representative Senator Howell, and approved without objection.

Information Items

Ms. Halloran referenced two information items. Pursuant to KRS 13A.190(14), the Administrative Regulations compiler notified legislative committees that the Kentucky Infrastructure Authority (KIA) filed a new emergency administrative regulation, 200 KAR 17:110E Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program. Section 6(2) of the regulation included committee review of Senate Bill 36, wastewater and drinking water projects. Pursuant to KRS 45.812(1), through their fiscal agents, five school districts reported upcoming debt issues. The Bowling Green Independent (Warren County), Madison County, Marshall County, and Owen County school districts, none of them needed an additional tax levy to pay debt service, and they plan to finance new projects. The Daviess County school district reported a refunding component to its Apollo High School Phase IV financing transmitted for the April 2021, committee meeting.

Representative Thomas mentioned that Section 6(2) of KIA's new emergency administrative regulation specified approval by KIA's chair, rather than by KIA's board. [KIA's Board delegated its Senate Bill 36 approval authority to KIA's chair through the emergency administrative regulation. KIA's board wished to expedite the process as the majority of Senate Bill 36 projects are selected through coordination between cities and counties, with available funding based upon county population and allocated directly to the utilities.]

Lease Report from the University of Kentucky

Ms. Baker submitted a new lease for UK Internal Audit space; 10,203 square feet at \$19.24 per square foot for a \$196,407.75 annual cost. Internal Audit will be moving from Coldstream to provide space for Summit Biosciences's expansion.

Representative Thomas moved to approve the new UK lease, seconded by Senator Webb, and unanimously approved by roll call vote.

Project Report from the Finance and Administration Cabinet

Janice Tomes reported a \$1.4 million emergency repair, maintenance, or replacement project; funded with \$700,000 each from Kentucky State Police (KSP) (half restricted funds and half general fund) and the capital construction Emergency Repair, Maintenance, and Replacement account. The Kentucky State Police's helicopter acquisition was necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make an item of equipment usable as specified by KRS 45.750(1)(g).

Report from the Office of Financial Management Kentucky Infrastructure Authority

Representative Thomas moved to roll the eight KIA transactions into one roll call vote, seconded by Senator Howell, and approved without objection.

Ms. Williams submitted three Clean Water Revolving Fund (Fund A) program loans, two Fund A program loan increases, one Infrastructure Revolving Fund (Fund B) program loan, one Drinking Water State Revolving Fund (Fund F) program loan, and one Fund F program loan increase. For its \$3,219,970 Wastewater Treatment Plant Expansion and Sanitary Sewer Collection Improvements project, the City of Tompkinsville, Monroe County, requested a \$848,822 Fund A loan increase to its \$861,148 previously approved Fund A loan [of which KIA will apply \$430,574 in principal forgiveness] for a \$1,709,970 total Fund A loan amount. [A \$1 million Community Development Block Grant; \$500,000 Appalachian Regional Commission grant; and \$10,000 Monroe County Board of Education grant will finance the remaining project costs.] Replacement of two failing influent pumps comprises the additional scope. The loan term is thirty years at a half percent interest rate, with around \$48,500 estimated annual debt service. For its \$4,088,045 Wastewater Treatment Plant Improvements project, the City of Burkesville, Cumberland County, requested a \$256,675 director level (200 KAR 17:050) Fund A loan increase to its \$2,831,370 previously approved Fund A loan [of which KIA will apply \$1 million in principal forgiveness] for a \$3,088,045 total Fund A loan amount. The additional scope includes WWTP screening room roofing, trusses, and trim replacement; yard hydrants; lighting protection; and sludge removal. [A \$1 million Community Development Block Grant will finance the remaining project costs.] The loan term is thirty years at a half percent interest rate, with around \$79,200 estimated annual debt service.

The City of Frankfort, Franklin County, requested a \$19.725 million Fund A loan for its \$29.725 million East Frankfort Interceptor Phase III Wet Weather Facility project, which will address state enforcement action and provide additional capacity, allowing the Farmdale Sanitation District to convey its sanitary flow to the city's system. [\$10 million in local funds,

potentially through grants, will finance the remaining project costs.] The loan term is twenty years at a one percent interest rate, with around \$1.13 million estimated annual debt service.

The City of Kuttawa, Lyon County, requested a \$223,000 Fund A planning and design loan for its [anticipated \$1.264 million] Phase V Sanitary Sewer Evaluation System and Rehabilitation project. This phase includes the inspection of two collection system basins and subsequent sewer rehabilitation design in those areas [as well as the replacement sewer design in an additional area.] The loan term is five years at a two and half percent interest rate, with around \$48,200 estimated annual debt service.

The City of Nicholasville, Jessamine County, requested a \$817,000 Fund A planning and design loan for its [anticipated \$3 million] Nicholasville Sanitary Sewer Evaluation System and Sewer Rehabilitation Phase I project, which will address state enforcement action. This phase includes the inspection of selected collection system basins and subsequent sewer rehabilitation design in those areas. The loan term is five years at a two and half percent interest rate, with around \$176,500 estimated annual debt service.

The City of Berea requested a \$256,200 Fund B loan for the Madison County Airport Sewer Line Extension project, approximately 12,000 linear feet of new sewer. The loan term is twenty years at a one percent interest rate, with around \$14,700 annual debt service.

For its \$11.4 million New Water Treatment Plant project, the City of Lancaster, Garrard County, requested a \$400,000 director level (200 KAR 17:070) Fund F loan increase to its previously approved \$4 million Fund F loan [of which KIA will apply \$1 million in principal forgiveness] for a \$4.4 million total Fund F loan amount. [A \$4.5 million and \$1.5 million USDA Rural Development loan and grant; \$500,000 Appalachian Regional Commission grant; and \$500,000 state (House Bill 265 - 2012 Regular Session) grant will finance the remaining project costs.] The additional work involves a new maintenance building and additional instrumentation as well as intake, pump, and SCADA system upgrades. The loan term is thirty years at a half percent interest rate, with an estimated \$130,700 annual debt service. The City of Albany, Clinton County, requested a \$2.68 million Fund F loan [of which KIA will apply \$680,000 in principal forgiveness] for the Water Treatment Plant (A & B) Improvements project; various plant upgrades including improvements to flocculators, pumps, lagoons, filters, electrical systems, buildings, and SCADA system as well as new master meters. The loan term is thirty years at a half percent interest rate, with around \$74,200 annual debt service.

Representative Thomas moved to approve the eight KIA transactions, seconded by Senator Howell, and unanimously approved by roll call vote.

Office of Financial Management Previous Kentucky Housing Corporation (KHC) Conduit Debt Issue

Mr. Barrow reported the KHC Conduit Multifamily Housing Revenue Bonds (The Alcove

at Russell), Series 2021, applied towards the state's private activity volume cap and affecting neither the commonwealth's nor KHC's financials as the developer pays the debt service. The property was located on Russell Cave Road, Lexington, \$30 million net proceeds with a \$56.7 million total project cost.

Office of Financial Management School District Debt Issues with School Facilities Construction Commission Debt Service Participation

Senator Howell moved to roll the two SFCC school district debt issues into one roll call vote, seconded by Senator Webb, and approved without objection.

Mr. Barrow submitted two debt issues with SFCC participation for new projects. The Lewis County and Middlesboro Independent (Bell County) school districts, neither of which needed an additional tax levy to pay debt service, planned issuances totaling \$16.36 million. Urgent needs, district, and SFCC respective debt service support is 79.04 percent, 16.29 percent, and 4.67 percent. The urgent needs component will finance \$12.9 million of the Lewis County school district's Garrison Elementary School project. Senator Webb said that the project was much needed.

Representative Thomas moved to approve the two SFCC school district debt issues, seconded by Senator Howell, and unanimously approved by roll call vote. Senator Girdler announced the upcoming meeting at 3:30 p.m. on July 22.

With there being no further business the meeting adjourned at 3:57 p.m.

HOME & COMMUNITY BASED SERVICES WAIVER REDESIGN TASK FORCE

Minutes of the 1st Meeting

of the 2021 Interim

June 21, 2021

Call to Order and Roll Call

The 1st meeting of the 1915c Home & Community Based Services Waiver Redesign Task Force was held on Monday, June 21, 2021, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Steve Riley, Co-Chair; Senators Danny Carroll, Stephen Meredith, and Dennis Parrett; Representatives Daniel Elliott, Norma Kirk-McCormick, and Pamela Stevenson.

Guests: Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Pam Smith, Division Director, Division of Community Alternatives, Cabinet for Health and Family Services; Steve Shannon, Executive Director, Kentucky Association of Regional Programs; Amy Staed, Executive Director, Kentucky Association of Private Providers; Diane Schirmer, Chair, Brian Injury Association of America, Kentucky Chapter;

and Mary Haas, Advocate, Brain Injury Association of America, Kentucky Chapter.

LRC Staff: Chris Joffrion and Hillary Abbott
Navigant Consulting's 2018 Assessment Report of Kentucky's 1915(c) Home and Community-Based Waivers

Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services and Pam Smith, Division Director, Division of Community Alternatives, Cabinet for Health and Family Services presented an overview of the six waiver programs and discussed key takeaways from the 2018 Navigant assessment. Ms. Smith stated that waiver redesign would need to address the waitlist and increasing expenditures to better serve the waiver population.

In response to questions from Senator Parrett, Ms. Smith stated that she did not have the data on hand of the recipients who have dropped off the waiting list. In response to questions and comments from Senator Meredith, Commissioner Lee stated that additional funding in the amount of \$43 million per year would be needed to even out provider reimbursement rates without reducing specific waiver reimbursement rates. In response to questions from Senator Adams, Commissioner Lee stated that the cabinet is proceeding with waiver redesign efforts that have minimal impact on the budget due to the shortage of funding necessary to undertake the more robust changes outlined in the 2018 Navigant Report. Commissioner Lee stated that she will provide the task force with a breakdown of specific funding needs.

In response to questions from Senator Carroll, Commissioner Lee stated that she will provide the task force with a list of services broken down by waiver. Ms. Smith stated there are 10,200 Michelle P waiver slots allocated of the 10,500 total slots and that the Cabinet reserves 30-50 slots for emergency circumstances. Ms. Smith stated that she will provide the task force with the number of members who have been removed from the list in the past year. Ms. Smith stated that the waitlist for the Michelle P waiver includes individuals who originally applied for services six years ago and the cabinet is just now processing waitlist members from 2015.

Senator Carroll commented that the Cabinet's presentation stating that the average time on the waitlist is three years long is misleading and that the Cabinet should update their materials to reflect the six to seven year long wait times.

Kentucky Association of Regional Providers' Response to the 2018 Navigant Assessment Report

Steve Shannon, Executive Director, Kentucky Association of Regional Providers presented an overview of the waiver programs from the perspective of regional care providers. Mr. Shannon discussed the need for a Severe Mental Illness (SMI) waiver to help support community based living for people whose primary diagnosis is a SMI. Mr. Shannon also provided the task force with the following waiver redesign recommendations:

The waiver redesign should not be budget neutral. There has to be new money brought into the waiver programs if results are going to be improved;

Workforce needs to be a priority investment in any redesign efforts;

The application process must be improved and there needs to be a shift of focus from output forms and checklists to a greater emphasis on quality outcomes for members; Evaluate Participant Directed Supports (PDS) and invest in a competent and trained PDS workforce;

Explore fiscal intermediaries which will provide the Commonwealth with an interest free revolving line of credit for PDS payroll as PDS payroll needs stretch many regional care providers' resources thin; resources that could be used to serve members;

Focus redesign efforts within specific waivers as opposed to redesigning across all waivers at once; Redesign efforts should include consistent language, definitions, and service names across all waivers to aid in continuity of care from providers and transparency for members;

Develop a standardized assessment tool that gauges acuity and member specific level of support needs to ensure appropriate level of care; and

The redesign must be a collective effort with collaboration from members, providers, families, and policy-makers.

In response to questions from Senator Meredith, Mr. Shannon stated the waiver participants and providers are not costing the commonwealth money. The waiver programs are designed to ensure a more cost efficient delivery of needed services. Failure to redesign the waivers will cost the state money. Mr. Shannon stated that the redesign should address workforce first, waiting list second, universal assessment tool third.

Senator Carroll asked the chairs of the task force what the scope of the task force will be, stating that issues raised like workforce and reimbursement initiatives should be prioritized due to the limited interim period.

Kentucky Association of Private Providers' Response to the 2018 Navigant Assessment Report

Amy Staed, Executive Director, Kentucky Association of Private Providers (KAPP), presented an overview of the waiver programs from the perspective of private providers, highlighting the following concerns and recommendations:

The 2018 Navigant Report was not transparent, and KAPP believes that incomplete data was used to make recommendations. Therefore, KAPP believes ongoing redesign efforts must use updated reimbursement rate data;

Workforce investment remains a priority need and should be a priority with waiver redesign efforts. Low wages for direct support providers and a demanding client base are some of the reasons why there is a provider shortage. KAPP believes that redesigning other areas of the waiver programs without addressing the workforce needs will be foolish because there will be few providers to give redesigned services to participants. KAPP believes an investment in providers is also an investment in the participants;

There is a need for a standardized assessment tool which would help with all waiver participant needs but would help fill gaps in care from those with

Exceptional Supports;

The waitlists for SCL and MPW are a problem and only seem to be getting longer. Remedies for these waitlists must be addressed;

There needs to be consideration of a "supports-across-lifespan" approach to the waiver upon application and assessment so that potential increases in care needs are anticipated; and

KAPP would like to see the easing of restrictive regulations that hinder provider's ability to provide continuity of care and more efficiently address crises. KAPP understands that this may be a CMS issue but it needs to be addressed.

In response to questions and comments from Senator Meredith, Ms. Staed stated that Kentucky is in-line with other states in terms of money spent on waiver populations however, we do not have the flexibility other states do to keep members on a waiver if their level of care needs change or they have a co-occurring issue. Ms. Staed stated that the lapse in service for some participants costs the state a great deal more money and is damaging to the participant. Ms. Staed stated that identifying and anticipating all potential needs of a person at their entry to the waiver program would help in creating a life plan of care for participants, limiting potential lapse in care.

In response to questions from Senator Meredith, Ms. Staed stated that some residence providers are going out of business and they are declining in number due to reimbursement rates not being sufficient and lack of workforce to staff them.

Brain Injury Association of America, Kentucky Chapter's Response to the 2018 Navigant Assessment Report

Diane Schirmer, Chair, and Mary Hass, Advocate, Brain Injury Association of America (BIAAKY), Kentucky Chapter provided an overview of what an Acquired Brain Injury (ABI) is and how it effects injured persons before describing the ABI and ABI-Long Term Care waiver programs. Ms. Schirmer and Ms. Hass discussed the following waiver redesign concerns and recommendations:

The 2018 Navigant report recommends a reduction in funding for the ABI waiver to be able to fund other waivers, and BIAAKY does not think a one-size-fits-all approach to rate adjustments should be utilized as it runs counter to the person-centered approach of the waiver program;

A lack of a competent and trained workforce remains an issue with the ABI waiver programs, and BIAAKY recommends that workforce investment be a priority of this task force and any waiver redesign efforts. A long term funding plan must be in place for the waiver programs that trains and helps sustain compassionate and effective personnel to serve all of the waiver participants. An immediate rate increase could also help to quickly address workforce shortages;

Gaps in care across all waivers must be addressed but also for participants with neurobehavioral challenges and those with medically complex needs. BIAAKY believes that gaps in care can be eliminated if there was a "follows-the-person" approach to waivers so that transition from one waiver to another

is seamless and no participant loses waiver coverage due to a change in care needs; and

BIAAKY recommends making the COVID-19 emergency Appendix K changes to access to care permanent as they have expanded flexibility to participants and providers alike.

In response to questions from Senator Meredith, Ms. Schirmer stated the primary causes of traumatic brain injuries in Kentucky are motor vehicle accidents, falls, and domestic violence.

In response to questions from Senator Carroll, Ms. Schirmer stated that services unique to the ABI waiver include occupational, physical, and speech therapy and direct behavioral counseling.

There being no further business, the meeting was adjourned at 3:30 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the July Meeting

July 8, 2021

Call to Order and Roll Call

The July meeting of the Administrative Regulation Review Subcommittee was held on Thursday, July 8, 2021, at 3:00 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 David Yates; Representatives Randy Bridges, Deanna Frazier, and Mary Lou Marzian.

Guests: Eden Davis and Larry Hadley, Board of Pharmacy; Leah Boggs, Board of Examiners of Psychology; Dr. C. Shawn Oak and Kevin R. Winstead, Board of Marriage and Family Therapists; Karyn Hascal and Kevin R. Winstead, Board of Alcohol and Drug Counselors; Dave Dreves, Steven Fields, Chris Garland, and Rich Storm, Department for Fish and Wildlife Resources; Carlos R. Cassady and Trevor L. Earl, Motor Vehicle Commission; Todd Allen, Department of Education; Erin Bravo and Buddy Hoskinson, Office of Unemployment Insurance; Erin Bravo, B. Dale Hamblin, Robin Maples, Chuck Stribling, and Robert Walker, Department of Workers' Claims; Waqas Ahmed, Marc A. Guilfoil, Chad Thompson, and Jennifer Wolsing, Kentucky Horse Racing Commission; Jonathan Scott, Department of Medicaid Services; Laura Begin, Rachael Ratliff, Dr. Sarah Vanover, Department for Community Based Services; and Julie Brooks and Wes Duke, Department for Public Protection.

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 Thursday, July 8, 2021, and submits this report: The subcommittee determined that the following effective emergency administrative regulation was deficient pursuant to KRS 13A.030(2)(a):

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division

of Epidemiology: Communicable Diseases

902 KAR 2:212E. Covering the face in response to a declared national or state public health emergency. Julie Brooks, regulation coordinator, and Wes Duke, general counsel, represented the division.

In response to questions by Co-Chair Hale, Ms. Brooks stated that this emergency administrative regulation was filed June 16, 2021. Mr. Duke stated that the governor's coronavirus (COVID-19) pandemic orders were lifted June 11, 2021. A health care setting was described in Centers for Disease Control guidelines, and the department had directed the public to that document for a definition of a "health care setting." Mr. Duke stated that he was unsure of the specific definition for "long-term care setting." A nursing home would be included in the definition; however, Mr. Duke was unsure if an assisted living facility would also be included. The division would follow up to the subcommittee with that information. Examples of health care settings included facilities such as hospitals, medical clinics, and pharmacies that were within a medical setting such as a hospital or clinical setting. Retail pharmacies that were not in a clinical setting were not included. This division had advised that retail pharmacies might set their own requirements for face coverings, but the division did not require face coverings in those settings. Ms. Brooks and Mr. Duke stated that this emergency administrative regulation did not establish exemptions. Businesses and other establishments had the ability to mandate their own face covering policies that would be more stringent than this emergency administrative regulation, which established minimum requirements. Ms. Brooks stated that this emergency administrative regulation did not incorporate the Centers for Disease Control guidelines because those guidelines changed frequently, even daily, which was not a situation conducive to incorporation.

Co-Chair Hale stated that this emergency administrative regulation seemed confusing and unnecessary.

In response to questions by Representative Frazier, Mr. Duke stated that the division removed the enforcement provisions from this emergency administrative regulation that had been included in previous versions of emergency administrative regulations related to this subject matter. The goal of this emergency administrative regulation was to protect vulnerable populations in accordance with Centers for Disease Control guidance. This emergency administrative regulation did not include fines or penalties for violations.

In response to questions by Representative Bridges, Mr. Duke stated that the division's intention was to focus on certain, vulnerable populations, such as those who were immunocompromised or the elderly with underlying health conditions. The Centers for Disease Control guidance was clear and targeted. The coronavirus (COVID-19) pandemic featured continually changing circumstances and new information, making dynamic standards necessary. The division sought to establish clear and narrowly targeted provisions. The Centers for Disease Control clearly stated that face coverings protected vulnerable populations.

In response to questions by Senator Raque Adams, Mr. Duke stated that House Joint Resolution 77 from the 2021 Regular Session of the General Assembly, which mandated that Kentucky adhere to the Centers for Disease Control standards, was involved in ongoing litigation; therefore, those provisions were in question. The division believed that face coverings were the most effective way to protect vulnerable populations. The division had a small number of reports of health care settings that were noncompliant. Most health care facilities and long-term care facilities were cooperating.

Senator Raque Adams stated that the lack of specificity in this emergency administrative regulation was a concern, especially related to a possibly subjective response to noncompliance.

Representative Bridges stated that this emergency administrative regulation was too vague.

Representative Bridges made a motion, seconded by Representative Frazier, to find this emergency administrative regulation deficient. A roll call vote was conducted and, with six (6) votes to find this emergency administrative regulation deficient and one (1) vote against deficiency, this emergency administrative regulation was found deficient.

Administrative Regulations Reviewed by this Subcommittee:

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:061. Procedures followed by the Kentucky Board of Pharmacy in the investigation and hearing of complaints. Eden Davis, general counsel, and Larry Hadley, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5, 7, 9, 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.

Board of Examiners of Psychology

201 KAR 26:115. Definition of psychological testing. Leah Boggs, general counsel, represented the board.

In response to a question by Representative Marzian, Ms. Boggs stated that some amendments in this package were the result of recent legislative changes, while other revisions were general updates or updates pursuant to sunset provisions for administrative regulations.

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.

201 KAR 26:121. Scope of practice and dual licensure.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:125. Health service provider

designation.

201 KAR 26:130. Grievances and administrative complaints.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 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.

201 KAR 26:155. Licensed psychologist: application procedures and temporary license.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to: (a) reference 201 KAR 26:230; (b) clarify provisions; and (c) delete unnecessary provisions. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:171. Requirements for clinical supervision.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 7, 8, and 11 through 13 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 6 to clarify the reporting period requirements for temporarily licensed psychologists. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:180. Requirements for granting licensure as a psychologist by reciprocity.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to: (a) reference 201 KAR 26:230; and (b) make clarifications as to the type of exam required for reciprocity. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Sections 2 and 3 to: (a) reference 201 KAR 26:230; (b) clarify the type of exam required for licensure; and (c) delete unnecessary provisions. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:190. Requirements for supervised professional experience.

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.

201 KAR 26:200. Education requirements.

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 26:230. Examination and applications.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Sections 1, 3, and 4 to: (a) make clarifications pertaining to the required licensure examinations; and (b) delete unnecessary provisions. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:250. Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist.

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

201 KAR 26:280. Licensed psychological associate: application procedures and temporary license.

A motion was made and seconded to approve the following amendments: to amend 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 26:290. Licensed psychological practitioner: application procedures.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to: (a) reference 201 KAR 26:230; and (b) delete unnecessary provisions. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:310. Telehealth and telepsychology. 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 through 3 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.

Board of Licensure of Marriage and Family Therapists.

201 KAR 32:030. Fees. Dr. C. Oak, chair, and Kevin Winstead, acting commissioner, represented the board.

In response to questions by Co-Chair Hale, Mr. Winstead stated that the board was changing the fee structure and the number of programs included in the application process. Dr. Oak stated that the higher of the two fees was for a two year licensure period in order to streamline the process and encourage more providers to become licensed.

In response to a question by Representative Frazier, Dr. Oak stated that the \$300 fee was for the two year license and the \$100 fee was for courses.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3, 5, and 8 for consistency with 201 KAR 32:06; (2) to amend Section 9 for clarity; and (3) to amend Section 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

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 of the agency, the amendment was approved.

201 KAR 32:060. Continuing education requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 4, 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 Alcohol and Drug Counselors

201 KAR 35:010. Definitions for 201 KAR Chapter 035. Karyn Hascal, board member, and Kevin Winstead, acting commissioner, represented the board.

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 35:020. Fees.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 5, 7, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:025. Examinations.

201 KAR 35:040. Continuing education requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:050. Curriculum of study.

A motion was made and seconded to approve the following amendments: to amend Sections 1 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 35:055. Temporary registration or certification.

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

were approved.

201 KAR 35:070. Supervision experience.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6, 8 through 11, and 13 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 35:075. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

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

201 KAR 35:080. Voluntary inactive and retired status.

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

TOURISM, ARTS AND HERITAGE CABINET:
Department of Fish and Wildlife Resources: Fish

301 KAR 1:400. Assessing fish kill damages. David Dreves, acting fisheries director; Steve Fields, counsel; Chris Garland, wildlife division director; and Rich Storm, commissioner, represented the department.

Co-Chair Hale welcomed Mr. Storm's guests, his daughters, Avery and Phoebe Storm.

In response to questions by Co-Chair Hale, Mr. Dreves stated that the American Fisheries Society published a manual to calculate fish kill damages. In accordance with these standards, samples and investigations were conducted to determine the extent of a fish kill. The manual established a replacement value. Responsible entities often pushed back on paying the full replacement value and settlements were usually developed as part of negotiations.

Game

301 KAR 2:228. Sandhill crane hunting requirements.

TRANSPORTATION CABINET: Motor Vehicle Commission

605 KAR 1:215E. Licensing Fees. Carlos Cassady, executive director, and Trevor Earl, counsel, represented the commission.

In response to a question by Co-Chair Hale, Mr. Cassady stated that the 2021 General Assembly passed legislation that required this administrative regulation in order to replace fees that had been directly established by statute. Mr. Earl stated that House Bill 249 from the 2021 General Assembly became effective with insufficient time in which to complete the administrative regulation process; therefore, this administrative regulation was filed on an emergency basis.

EDUCATION AND WORKPLACE
DEVELOPMENT CABINET: Board of Education:

Department of Education: Office of Chief State School Officer

701 KAR 5:081. Repeal of 701 KAR 5:080. Todd Allen, general counsel, represented the department. School Administration and Finance

702 KAR 3:060. Procedure for payment of employees.

In response to a question by Co-Chair Hale, Mr. Allen stated that the annual national board certification salary supplement was a \$2,000 award to teachers who were nationally board certified. School districts could apply for reimbursement for those supplements; however, that program had not been fully funded. The difference between the state funding and the supplement had been required to be paid by the local board of education. Changes to this administrative regulation, which were the result of legislative changes, required the local board of education to provide the amount funded by the state. The local board of education then had the option, rather than the mandate, to provide the difference.

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

LABOR CABINET: Office of Unemployment Insurance: Unemployment Insurance

787 KAR 1:360E. Overpayment waivers. Erin Bravo, deputy general counsel, and Buddy Hoskinson, executive director, represented the office.

In response to a question by Co-Chair Hale, Mr. Hoskinson stated that, if someone received an overpayment of unemployment insurance between January 27, 2020 and December 1, 2020, the recipient could submit a waiver request. So far, the office had sent out under 14,000 waiver requests. The waiver requests in total could amount to approximately \$17 million.

Co-Chair Hale stated that he appreciated the cabinet's efforts to resolve issues related to unemployment insurance.

Department of Workplace Standards: Division of Occupational Safety and Health Compliance: Division of Occupational Safety and Health Education and Training

803 KAR 2:181E. Recordkeeping and reporting occupational injuries and illnesses. Erin Bravo, deputy general counsel; Robin Maples, occupational safety and health standards specialist; and Chuck Stribling, occupational safety and health federal – state coordinator, represented the department.

803 KAR 2:182E. Repeal of 803 KAR 002:180.

Department of Workers' Claims: Workers' Claims
803 KAR 25:015. Issuance of citations and procedure in workers' compensation enforcement hearings. Dale Hamblin, Jr., assistant general counsel, and Robert Walker, interim commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to: (a) clarify the term "business day"; and (b) alphabetize definitions; and (2) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND

CONFORMITY paragraphs and Sections 2 through 4 and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Horse Racing Commission: General

810 KAR 2:001. Definitions for 810 KAR Chapter 002. Waqas Ahmed, pari-mutuel wagering director; Marc Guilfoil, executive director; and Jennifer Wolsing, general counsel, represented the commission.

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.

Licensing

810 KAR 3:001. Definitions for 810 KAR Chapter 003.

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

Flat and Steeplechase Racing

810 KAR 4:001. Definitions for 810 KAR Chapter 004.

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

Standardbred Racing

810 KAR 5:001. Definitions for 810 KAR Chapter 005.

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.

Pari-Mutuel Wagering

810 KAR 6:001. Definitions for 810 KAR Chapter 006.

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

810 KAR 6:010. Exotic wagering.

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

810 KAR 6:020. Calculation of payouts and distribution of pools.

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

Sections 1, 2, 4, and 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 6:030. Pari-Mutuel wagering.

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 2 through 6, 9, 10, 13, and 15 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3(7)(d) to include drivers. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Medicaid Services

907 KAR 1:038. Hearing Program coverage provisions and requirements. Jonathan Scott, regulatory and legislative advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 2 to specify that the fee schedule shall: (1) comply with existing rate methodologies used by the department as established by state and federal law; and (2) be populated by using the relevant portions of the Medicaid Physician Fee schedule as established in 907 KAR 3:010. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Child Welfare

922 KAR 1:490. Background checks for foster and adoptive parents and relative and fictive kin caregivers. Laura Begin, regulation coordinator; Rachael Ratliff, social services director; and Dr. Sarah Vanover, director, Division of Child Care, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 18 and the material incorporated by reference to make conforming amendments. Without objection, and with agreement of the agency, the amendments were approved.

Day Care

922 KAR 2:300. Emergency child care approval.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4 and 7 to specify language; and (2) to amend Sections 4 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Adult Services

922 KAR 5:020. Batterer intervention provider certification standards.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 8 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend the Application for Batterer Intervention Provider Certification form to: (a) require that application be

made to the cabinet's contracted agency, rather than the cabinet itself; (b) include a required affirmation page; and (c) make a correction to the Clinical Supervision Agreement for Associate Providers; and (3) to amend Section 15 and the Application for Batterer Intervention Provider Certification form to update the edition date. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the July 8, 2021, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Medical Licensure

201 KAR 9:270. Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

201 KAR 9:290. Interpretation and Application of KRS 311.901(1) and KRS 311.903(4).

Board of Licensure for Professional Art Therapists

201 KAR 34:070. Inactive status.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:201. Emergency Medical Responders.

202 KAR 7:301. Emergency Medical Technician.

202 KAR 7:330. Advanced Emergency Medical Technician.

Board of Emergency Medical Services

202 KAR 7:401. Paramedics.

202 KAR 7:540. Emergency Medical Services data collection, management, and compliance.

202 KAR 7:601. Training, education, and continuing education.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 2:233. Kentucky Ignition Interlock Program; participants and device providers.

EDUCATION AND WORKPLACE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:100. School-based decision making guidelines.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:021. Individual self-insurers.

Workers' Claims

803 KAR 25:091. Workers' compensation hospital 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.

803 KAR 25:190. Utilization review – Medical Bill Audit – Medical Director – Appeal of Utilization Review Decisions.

803 KAR 25:220. Guaranty funds.

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 Medicaid Services: Payments and Services

907 KAR 3:005. Coverage of physicians' services.

907 KAR 3:010. Reimbursement for physicians' services.

907 KAR 3:060. Ambulance provider assessment program.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Substance Abuse 908 KAR 1:390. Voluntary Employer Substance Use Program (VESUP).

The subcommittee adjourned at 4:15 p.m. The next meeting of this subcommittee was tentatively scheduled for August 10, 2021, at 1 p.m.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the 2nd Meeting

of the 2021 Interim

July 6, 2021

Call to Order and Roll Call

The 2nd meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, July 6, 2021, at 3:00 PM, in Room 129 of the Capitol Annex. Representative Brandon Reed, Co-Chair, called the meeting to order, and the secretary called the roll.

Members: Senator Max Wise, Co-Chair; Representative Brandon Reed, Co-Chair; Senator Mike Wilson and Representatives Tina Bojanowski and Steve Riley.

Guests: Rhonda Sims, Kentucky Department of Education, Associate Commissioner, Office of Assessment and Accountability and Ashley Lant, Kentucky Department of Education, Office of Legal, Legislative, and Communication Services.

LRC Staff: Joshua Collins, Yvette Perry, and Christal White.

On a motion by Senator Wilson and a second by Representative Bojanowski, the minutes of the June 2, 2021, were approved by voice vote.

Representative Reed announced the election of the Senate Co-Chair will take place at the EAARS meeting in August.

The committee considered Kentucky Board of Education Administrative Regulation 703 KAR 5:270 for review. Speaking in favor of the proposed regulation were Ms. Lant and Ms. Sims, Kentucky Department of Education (KDE). Ms. Sims said the proposed regulation changes create an alignment with SB 158, passed during the 2020 Regular Session.

Responding to a question from Representative Bojanowski, Ms. Sims said although grade point averages (GPA) are not an element of academic readiness, the Council on Postsecondary Education uses GPA for a number of programs.

In response to a follow-up question by Representative Bojanowski, Ms. Sims said KDE used the standards setting process to set the five performance levels, which include a dashboard system identifying schools by colors. She said a separate process is used for teacher assessment and individual student performance. Responding to a follow-up question from Representative Bojanowski, Ms. Sims said federal law requires KDE to identify a number of schools in need of support at various levels but does not require schools to be placed on a bell curve.

On a motion by Representative Riley and a second by Representative Bojanowski, the staff suggested amendment for 703 KAR 5:270 was adopted without objection.

The next meeting will be held August 3, 2021, at 3 PM.

On a motion by Senator Wilson, the meeting adjourned at 3:20 PM.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes of the

2021 Interim

June 16, 2021

Call to Order and Roll Call

The meeting of the Medicaid Oversight and Advisory Committee was held on Wednesday, June 16, 2021, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll. Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Jimmy Higdon, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services.

LRC Staff: Chris Joffrion and Hillary Abbott.

Approval of Minutes

A motion to approve the May 20, 2021, minutes was made by Senator Alvarado, seconded by Senator Meredith, and was approved by a voice vote.

Medicaid Works Program

Lisa Lee, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services provided the committee with an overview of the Medicaid Works Program including background, eligibility requirements, and enrollment statistics. The Medicaid Works program was established in 2007 and has enrolled a total of 15 unduplicated beneficiaries since its creation. The program currently serves five individuals. Commissioner Lee suggested that Medicaid expansion may help to explain the low enrollment numbers.

In response to questions from Senator Meredith, Commissioner Lee stated that this program serves a niche population which is also why enrollment is low.

Budgetary Impacts of Increased Medicaid Enrollment

Steve Bechtel, Chief Financial Officer, Department for Medicaid Services (DMS), Cabinet for Health and Family Services provided an update on the following: enrollment of beneficiaries and providers, an overview of the Medicaid program's budget, and the impact of presumptive eligibility on enrollment and expenditures.

In response to questions and comments from Representative Elliott, Mr. Bechtel stated that unless a person who are presumed eligible completes the traditional application for full Medicaid, they will lose eligibility, three months after their presumptive eligibility is granted. Commissioner Lee stated that the three month presumptive eligibility period will decrease to one month once the state of emergency has ended.

In response to questions from Senator Meredith, Mr. Bechtel stated he would be happy to return to the committee to report the most recent budgetary impact of presumptive eligibility when those numbers are available in September. Mr. Bechtel stated that it is impossible to predict what post-COVID Medicaid enrollment will be.

In response to questions from Representative Sheldon, Mr. Bechtel stated that the 6.2 percent in the federal Medicaid reimbursement rate will end when the federal state of emergency ends.

Representative Gibbons-Prunty commented that she would like to see detailed graphs of presumptive eligibility when Mr. Bechtel comes back before the committee in September.

Application for Temporary Increase in Federal Medical Assistance Percentage for Certain Home and Community-Based Services

Commissioner Lee discussed the state's application for a one year, ten percent increase in the federal medical assistance percentage (FMAP) for certain home and community based services authorized by the American Rescue Plan Act. The Commissioner explained limitations and restrictions on the use of these funds, including that they must be used to supplement, not supplant or replace existing state funds for home and community-based services, and discussed how DMS might use these funds to enhance, expand, and strengthen services.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that DMS will utilize performance metrics for the use of the FMAP funds to see what works.

In response to questions and comments from Representative Willner, Commissioner Lee stated that there are no plans to increase waiver slots with the FMAP funds because the FMAP funds are temporary; new waiver slots would require ongoing appropriations. Commissioner Lee stated that she will provide the committee with the latest data on long-term and institutional care.

In response to questions from Senator Carroll,

Commissioner Lee stated that DMS is working on different ways to address the staffing shortage. Commissioner Lee stated she is aware that this population can be more difficult to serve, which is why DMS is exploring employee recruiting incentives and working with partners to increase the awareness of career pathways. Mr. Bechtel stated that DMS also provides graduate medical education (GME) funding to encourage residents to practice in rural areas that have a majority Medicaid population.

In response to questions from Representative Elliott, Mr. Bechtel stated that the approximate appropriation of restricted funds from the FMAP will be \$104 million.

Update on Medicaid Managed Care Organization Contracts

Commissioner Lee stated the legal dispute over the current managed care contracts is ongoing and cannot comment on the potential rebidding of those contracts. Commissioner Lee stated the request for proposals (RFP) period is a good time to review how programs are running, collect provider feedback, and find areas of improvement and opportunities for accountability of the managed care organizations (MCOs).

In response to comments from Senator Meredith, Commissioner Lee stated it is vital to break performance and quality metrics down by region to be able to see where more oversight and accountability are needed. Commissioner Lee stated that DMS is persistently exploring ways to improve access and member experience in the rural areas.

Senator Meredith stated that when discussing rural healthcare, the focus needs to be equity not equality because the rural healthcare delivery system is vastly different and has different challenges than a metropolitan area. Senator Meredith stated that you may have to pay rural providers more because they are having to work through more barriers than their metropolitan counterparts.

Senator Alvarado stated there needs to be regional improvements and suggested DMS look into a collaborative care model with public health departments and area development districts to strengthen MCO accountability and the rural healthcare delivery system. Senator Alvarado asked the Commissioner to insist that the MCOs show DMS and the legislature their performance metrics.

Representative Willner stated that she echoed her colleagues in requesting that there be accountability for the MCOs. Representative Willner stated that in light of the costly problems the state has had from MCOs over the years, it might be the time to explore another way to serve this population. Representative Willner added that she has yet to see what MCOs have contributed to the commonwealth.

Representative Sheldon stated a lot of states do not use MCO and it would be worthwhile for DMS to look at other states to see how they run their Medicaid program. Representative Sheldon stated that he would like DMS to research pay equity in rural hospitals with the possibility of increasing reimbursement rates to incentivize providers to serve that population.

In response to comments from Senator Meredith

and Representative Sheldon, Commissioner Lee stated that quality matters since the Medicaid program was designed with the members first in mind and that feedback from members will be crucial in determining the quality of care a MCO is or is not providing.

Senator Alvarado stated that the importance of graduate medical education funding cannot be overstated. Senator Alvarado added that DMS might want to look into the success the state of Maryland is having with a program that pays hospitals upfront instead of through reimbursements after services are delivered, eliminating the need for a middle man like the MCO.

There being no further business, the meeting was adjourned at 4:45 p.m.

LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE

Minutes of the 1st Meeting of the 2021 Interim June 10, 2021

Call to Order and Roll Call

The Legislative Oversight & Investigations Committee met on Thursday, June 10, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Jason Nemes, Co-Chair; Senators Karen Berg, Jason Howell, Michael J. Nemes, Wil Schroder, Brandon J. Storm, Reginald Thomas, and Max Wise; Representatives Lynn Bechler, Ken Fleming, Angie Hatton, Joni L. Jenkins, Steve Riley, and Scott Sharp.

Guests: Holly M. Johnson, Secretary, Finance and Administration Cabinet; Libby A. Carlin, Executive Director, Office of Policy and Audit; John Ard, Fleet Operations Leader, Finance and Administration Cabinet; Teresa Lajara, Executive Director, Office of Legislative and Intergovernmental Affairs, Finance and Administration Cabinet; Major Bruce Button, Kentucky State Police; Jim Carpenter, Director, Public Protection Cabinet; Steve Minter, Manager, Kentucky Department of Agriculture; and Jason Glass, Director, Kentucky Department of Agriculture.

LRC Staff: Gerald W. Hoppmann, Committee Staff Administrator; Committee Analysts William Spears, Jeremy Skinner, Greg Daly, Chris Hall, Catherine Moran, and Jacob Blevins; and Ashley Taylor, Committee Assistant.

Senator Carroll commented on the committee's new name and expanded investigative function. He introduced Co-Chair Jason Nemes, Vice-Chair Lynn Bechler, and Vice-Chair Jason Howell. He also recognized Legislative Oversight's new analyst and committee assistant and generally commented on members and staff learning new skills and expanding abilities over the next several months.

Minutes for November 13, 2020

Upon motion by Senator Nemes and second by Representative Nemes, the minutes for the November

13, 2020, meeting were approved without objection.

Staff Report: State-Owned Vehicles

Legislative Oversight staff members William Spears and Jeremy Skinner presented a summary of the draft report, which included six major finding areas and ten recommendations. The presentation stressed the importance of the Finance and Administration Cabinet (FAC) to properly manage and measure the cost effectiveness of the central fleet in order to determine whether independent fleets are justified.

The draft report and presentation slides are available on the Legislative Oversight and Investigations Committee webpage.

Senator Carroll opened by stating it appears that over the years there has been an overall lack of organization with respect to maintaining fleets, tracking records, and complying with statutes and regulations.

Senator Nemes asked about the relative cost of agencies' going through the Finance and Administration Cabinet versus owning or leasing their own vehicles. Mr. Spears stated that the costs were set by the division based on the types of vehicles and mileage driven, but he deferred to the Secretary of FAC for more details. Senator Nemes expressed concern that by going through FAC, agencies may actually spend more money through agency billings than purchasing or leasing their own vehicles. However, if run properly, going through FAC would be less expensive.

In response to a question from Representative Fleming, Mr. Spears confirmed that at the time of staff's analysis, FAC had not collected statutorily required reports from the independent fleets. However, he also stated that officials indicated they intend to do so in the future. He added that FAC could not provide a reason that reports have not been collected. Representative Fleming stated that administering a central fleet is a simple management of assets and contracts and should not be that difficult to oversee.

In response to a question from Representative Nemes, Mr. Spears said that the Kentucky State Police is the only independent fleet that is not required to submit a justification to FAC. However, the Public Protection Cabinet, Kentucky Department of Agriculture, Energy and Environment Cabinet, FAC's Department for Facilities and Support Services, and Office of the Attorney General are required to do so.

In response to a question from Representative Bechler, Mr. Spears said that regulation requires vehicles in the central fleet to be less than three-quarter ton and that he was not aware whether agency requests for specific types of vehicles required justification.

In response to a question from Representative Sharp, Mr. Spears said that staff were not aware of the reason for the steep increase in the cost of vehicle purchases between 2018 and 2020. The statewide accounting system does not provide an explanation, but he recommended asking FAC representatives.

In response to a question from Senator Carroll about the vehicle purchasing process, Mr. Spears explained that vehicles are acquired through regularly updated master agreements that are negotiated with vehicle dealerships. Master agreements include price

lists for specific vehicles and options and are created based on competitive negotiation with different dealerships. Multiple agreements covering different types of vehicles exist. Staff did not find evaluations in the contract files, but the price lists are updated if an agency requests a vehicle not already on them.

Agency Response

Secretary Johnson provided a brief overview of FAC's overall responsibilities and tasks. She stated the cabinet generally agrees with the staff report's findings and recommendations, but that the majority of findings relate to historical practices that began in prior administrations that carried forward into the current administration. She also stated that the number of fleet management staff had declined in recent years, placing additional responsibility on those who are left. However, she said that FAC is committed to addressing the concerns reflected in the report and to implementing improvements.

Secretary Johnson described steps FAC has taken that are not included in the report. She said FAC has identified all statutorily required reports in order to ensure they are submitted in a timely manner moving forward. The fleet division submitted the alternative-fuel vehicles report for the first time in 2020 and will address each reporting element in the future, including a life cycle cost comparison methodology.

FAC is conducting an internal audit of the fleet division, expected to be completed this summer that will identify opportunities for improvement. Management of centralized fleet operations was recently transferred to a newly established fleet operations leader, John Ard. His main focus will be on improved standards for services and work processes, planning and projecting future fleet needs, updating and clarifying regulations, and better tracking of fleet management and agency expenditures. Secretary Johnson stated that the cabinet will be happy to provide an update to the committee in 2022.

Mr. Ard said that he would address the findings of the Legislative Oversight staff report, as well as the internal audit.

In response to Senator Carroll's initial question, Secretary Johnson offered to find an explanation for the excess expenditures in FY 2019 and FY 2020 and will provide that information to the committee.

Senator Carroll also asked why statutes and regulations have not been followed in past years. Secretary Johnson stated she does not want to address the actions or inactions of predecessors at FAC. She also stated that with her background in administration and fleet management, she is committed to improvement going forward and the use of analytics.

In response to Senator Carroll's questions related to remote work and GPS costs, Secretary Johnson stated that the increase in remote work has to factor into any future analysis. She also stated she would need to get back to the committee regarding the cost benefit of GPS, but that the benefit more than likely outweighs the cost, especially related to insurance.

In response to questions from Representative Fleming, Secretary Johnson said all resources should be considered for conducting a cost benefit analysis

related to fleet operations. Budget staff in the cabinet are also reviewing current data and rate structures, and are working on identifying additional cost data for analysis. She stated they are also receiving initial data from the internal audit and will consider that information as well.

Representative Fleming requested a copy of the internal audit report after its completion. Secretary Johnson agreed to provide a copy to the committee. In response to a question from Representative Fleming about the minority, woman-owned, and disabled business program, Secretary Johnson said that FAC ensures that applicants meet the criteria, but she would have to get back with a breakdown of the numbers and comparison with other states. She said she would also put the committee in touch with the program's executive director.

In response to questions from Representative Bechler, Secretary Johnson said that sometimes the use of a vehicle, such as driving in rough terrain, can dictate the type of vehicle requested by an agency. She agreed to provide additional information on guidelines for vehicle requests and assignments. She described the statutory requirement for alternative-fuel vehicles and said she would provide additional details on that definition outside of hybrid and fuel cell vehicles.

Secretary Johnson listed the agencies that are permitted to request nonofficial plates and said that one reason for requesting nonofficial plates relates to undercover operations or fraud investigations. She said she would check on the relative costs of official and nonofficial plates.

In response to a question from Senator Carroll on the uniformity of policies across cabinets, Secretary Johnson stated the fleet and driver's guides, which are incorporated by reference into existing regulation, could provide better guidance related to the use of fleet. Senator Carroll said that he and other legislators were open to statutory changes if needed.

In response to questions from Representative Nemes, Secretary Johnson said that FAC has no concerns of any significance with the staff report but would get back to the committee if any concerns are identified. She said that some statutory changes might be beneficial, but FAC should be able to meet the existing reporting requirements with current staffing levels. She reiterated that FAC would get back to the committee with an explanation of the increase in central fleet cost increases since 2018.

In response to questions from Senator Carroll, Secretary Johnson said she had no analysis of the effect of COVID-19 on fleet costs and inventories, but there are indications that some vehicle usage has gone up because individuals drove separately rather than riding together. However, the number of in-person meetings was lower, and an analysis will probably show that overall utilization went down temporarily. In response to questions from Senator Thomas, Secretary Johnson said that the committee staff's report stated that there were no statutorily required fleet reports issued during the 4 years prior to FAC's November 2020 report, and FAC has not found any. She agreed that vehicle purchase costs doubled during the last year of the previous administration.

In response to questions from Senator Carroll,

Secretary Johnson said that there were many issues related to fleet, but that FAC needs a clear vision on where it should be in a year regarding customer service, sound information, and cost effectiveness in managing fleet operations. She also stated that it might be a good idea to run a pilot with a small number of fully electric vehicles. She stated there is no current policy requiring the purchase of vehicles made in America or in Kentucky and no provision for that exists in procurement law. She also stated that market reciprocity with other countries and states is a consideration.

In response to questions from Senator Berg, Secretary Johnson explained that other state agencies pay FAC to lease vehicles and to service vehicles. Agencies also pay additional fees for excess miles driven. She agreed that if receipts and expenditures are out of balance, it might indicate unnecessary spending or setting rates too low. However, the timing of revenues and expenditures does not always match up by fiscal year, but might balance out eventually as a result of the timing of carryovers, for example. She also stated that all revenues and expenditures are public funds from different sources, such as general funds, fees, and federal funds.

In response to questions from Senator Carroll, Secretary Johnson said that the decision on when to replace a vehicle is based on budget, need, vehicle age, mileage, and repair or accident history. She indicated an interest in having a strong matrix to make decisions on when a vehicle needs to be replaced. When an agency leases a vehicle from FAC, at the end of the lease, the agency receives a replacement vehicle. FAC surpluses many vehicles, but some are repurposed, primarily in state parks.

In response to a question from Representative Bechler, Mr. Spears stated there was no record of cost effectiveness reports and fleet justifications identified during the review, since at least 2007.

Representative Nemes commented on the noncompliance of the Office of the Attorney General as one of five agencies identified over the past few years.

Representative Fleming said that each new administration is responsible for correcting any deficiencies it inherits and proposed that agencies look forward and not back at what previous administrations have done.

Senator Carroll concurred that it is important to look forward and that the committee will continue to monitor FAC's progress on state vehicles.

Senator Nemes suggested that the previous administration reduced the number of underutilized state vehicles, which caused FAC to purchase additional vehicles, but the overall number of vehicles might have gone down.

Representative Bechler moved, seconded by Representative Nemes, that the committee adopt the report, *State-Owned Vehicles*. The motion carried on a roll-call vote.

Senator Carroll welcomed the committee's newest members. He also discussed changes to the committee's statutes, as well as the need to develop processes, policies, and procedures that will allow the committee to meet the intent of the new law. This preparation will also support the committee's new

roles related to legislative oversight. Concurrently, staff will work on previously assigned studies, make reports, and receive additional training.

Senator Thomas proposed that everyone testifying before the committee do so under oath. Senator Carroll agreed.

The meeting was adjourned at 2:41 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 4th Meeting of the 2021 Interim June 24, 2021

Call to Order and Roll Call

The 4th meeting of the Public Pension Oversight Board was held on Thursday, June 24, 2021, at 1:00 PM, in Room 154 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, Robby Mills, Gerald A. Neal, Dennis Parrett, and Mike Wilson; Representatives Derrick Graham, Jerry T. Miller, Jason Petrie, James Tipton, Russell Webber, and Buddy Wheatley; Joseph Fawns, Mike Harmon, John Hicks, and Sharon Mattingly.

Guests: Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, and Angela Rhodes.

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Approval of Minutes

Senator Parrett moved that the minutes of the May 24, 2021, meeting be approved. Senator Wilson seconded the motion, and the minutes were approved without objection.

Senator Higdon commented that, while watching the Teachers' Retirement System (TRS) board meeting, he noted a couple of items of good news, including a very positive return on investments and the results of the experience study which estimated that the additional funds necessary to fully fund the system would be closer to \$300 million rather than \$500 million. It was mentioned in the meeting that the additional monies would not be a heavy lift on the General Assembly. However, Senator Higdon disagreed, commenting that, anytime additional money is requested from the General Assembly, it is a heavy lift, especially when there is the additional \$300 million on top of the already estimated \$629 million to be requested by TRS for next year. The Public Pension Oversight Board (PPOB) will consider, under KRS 7A.250, hiring an auditing firm to audit all of the state-administrated retirement systems to evaluate the reliability of each system's actuarial assumptions and methods.

2021 Actuarial Experience Study Update – Teachers' Retirement System

Beau Barnes, TRS, began his presentation by

explaining that an experience study is a common practice performed on a periodic basis by actuaries in evaluating assumptions that have been projected for a retirement system. TRS's experience study covers the five years ending June 30, 2020. The study is a valuable tool, but the process and models used are predictive in nature and forward-looking, with no guarantee that the actual results will match assumptions. There is also an annual valuation conducted by the actuaries to compare their projections to actual experience (gains/loss analysis) and, based on the results, TRS may make adjustments, including changes to assumptions, every year, if necessary.

Mr. Barnes noted that this particular experience study is a somewhat unique. The current fiscal year (2021) has not yet concluded, and having already completed the study means there is some information that is not yet included, such as the current valuation for 2021, which should be reported in November. Based on the FY 2020 valuation, TRS can report that its budget request for FY 2023 will be \$629 million in additional funding. The budget impact of the new assumptions will not occur until FY 2024, and TRS will report to the PPOB after the close of the fiscal year as soon as those valuation numbers are available. Other unusual aspects to this year's experience study are a high investment return in the first 9 months of FY 2021, resulting in over \$4 billion in additional assets, and the landmark legislation (HB 258) that created a new tier of benefits for new hires beginning in 2022. Neither of these events are included in the study projections, but they will most certainly will have an impact. In relation to the exceptional investment return, the actuaries noted a trend in other states to phase-in changes to assumptions, particularly the return on investment (discount) rate assumption. The proposal of a phased-in approach using the one-time gain in assets is being studied and will be considered by the TRS board at its next regular meeting in September.

In response to questions from Senator Wilson, Mr. Barnes stated that the statutory 13.105 percent of payroll results in almost \$500 million a year in base funding to which the \$629 million additional ARC request is added. Mr. Barnes confirmed that it takes roughly \$1.12 billion to fully fund TRS, and that this experience study did not take into account the new tier created by HB 258, which passed during the 2021 Regular Session.

In response to a question from Senator Higdon, Mr. Barnes stated that the green box dollars are in addition to the \$629 million requested. In response to a follow-up question regarding additional supplemental costs besides the green box dollars, normal cost, and ARC, Mr. Barnes states that there have been payments towards the health insurance trust as well, but believes that the \$629 million also includes the supplemental cost requirements. Senator Higdon requested that TRS provide the PPOB with information regarding the supplemental costs.

Mr. Barnes discussed the summary of changes that include lowering the investment return assumption for all plans to 7.1 percent from 7.5 percent on the pension side, lowering the payroll growth assumption to 2.75 percent from 3.5 percent, and updating to new teacher-specific mortality tables.

In response to a question from Representative Miller, Mr. Barnes stated that in the summary of changes, the investment return and payroll growth assumptions are economic assumptions and the mortality tables update is a demographic factor.

In response to a question from Senator Higdon, Mr. Barnes stated that the payroll growth assumption of 2.75 percent is a long-term assumption and 2.50 percent of the assumption is due to inflation.

Mr. Barnes discussed the investment return assumption as compared to a study of TRS's peer systems. A survey conducted by the National Association of State Retirement Administrators regarding assumed investment returns demonstrated that 37 peer returns are at 7 percent and 36 peer returns are 7 to 7.5 percent. With an investment return assumption set at 7.1 percent, TRS views this as a conservative measure compared to peers.

Mr. Barnes discussed the summary of changes for the retirement annuity trust. The total liabilities as of June 30, 2020, were \$35.58 billion. The study calculated the dollar impact of the assumption changes, including the totals for member withdrawals, service retirements, mortality tables, salary changes, sick leave, and lowering discount factor to 7.1 percent, for a combined net change in liabilities of \$2.95 billion. In response to questions from Senator Mills regarding mortality tables, Mr. Barnes stated that the new mortality tables resulted in an increase in liabilities by \$1.49 billion, with the new tables being teacher specific rather than general population specific. Using the general population gave lower liabilities because the general population does not live as long as teachers. The TRS board did not consider using the general population for the mortality table.

In response to questions from Representative DuPlessis regarding the \$120 million in increased liabilities due to sick leave, Mr. Barnes stated that the actuaries found that teachers who are retiring with sick leave tend to be the higher paid members and, therefore, require higher payouts for retirement calculation purposes. Anecdotally, superintendents and other administrators report that they do advise their teachers about the value of sick leave being used for retirement calculation purposes and do so to discourage absenteeism in the classroom.

In response to questions from Representative Miller, Mr. Barnes stated the board has always adopted the reasonable recommendations presented by the actuaries. Furthermore, the board hires an additional independent actuary to review and audit those recommendations. In response to a follow-up question, Mr. Barnes stated that the experience study report was available to TRS staff a few days before the board meeting for review. The dollar impact on the ongoing ARC is uncertain due to the fiscal year not being closed out.

In response to a question from Senator Higdon, Mr. Barnes stated that TRS was comfortable with the assumed rate of return number of 7.1 percent both as to the 2.50 percent inflation component and the 4.60 percent real return component.

Mr. Barnes continued his discussion with the summary of changes for the health insurance trust. The total liabilities as of June 30, 2020, were \$2.76

billion. The study calculated the dollar impact of the assumption changes, including the totals for member withdrawals, retirements, mortality tables, salary changes, member participation, health care trends, and lowering the discount factor to 7.1 percent, resulting in a liability increase of \$350 million.

Mr. Barnes discussed the budget impact based on the annual valuations. The budget request of additional funding for 2023 already has been determined at \$629.4 million. The 2024 budget request will be determined based on the 2021 annual valuation.

Mr. Barnes discussed the nominal total rate of return from 2016 to year ending June 30 that included the actuarial value and market value. The average actuarial value is 8 percent and the market value is 7.1 percent. He also discussed the investment gains and net plan assets for fiscal year 2021 to date for the retirement annuity trust and the health insurance trust. TRS experienced a gain of \$4.4 billion in the retirement trust and \$367.4 million in gains in the health trust.

In response to a question from Senator Higdon, Mr. Barnes stated that the cost of living adjustment (COLA) is included in the unfunded liability.

In response to questions from Representative Tipton, Mr. Barnes stated that the 0.32 percent for administrative expenses is included in the total normal cost, and it adds about \$16 million. Sick days used adds approximately 0.5 years of service and will increase the load from 2 to 3 percent for all active liability for the resulting \$120 million increase in total liabilities. Regarding the disability retirement, the experience study did not recommend that the benefit be reduced, however, there will be a small additional cost to the system. Lowering the assumed rate of return to 7.1 percent for the health insurance trust will add additional years before the fund will reach 100 percent funding.

Senator Higdon commented that the bonds referenced are monies that the General Assembly borrowed from TRS to pay health insurance costs that totaled about \$800 million.

Mr. Hicks explained that, for all the bonds, the last year of debt service is fiscal year 2023.

In response to questions from Representative Petrie, Mr. Barnes stated, for fiscal year 2023, TRS is requesting an additional \$629 million over the statutory obligation. The fiscal year 2024 request will not be less than the fiscal year 2023 request, but at this time that specific amount cannot be provided. As to payroll growth, the inflation component is a broad-based national factor, not an inflation factor specific for just Kentucky. The assumptions for the experience study are driven over what is expected to happen over the 30-year period. However, Mr. Barnes stated that the experience study as presented does not include 30-year projections, but TRS will look into providing those projections.

In response to questions from Representative Petrie and Senator Higdon regarding changing benefits which are not protected under the inviolable contract, Mr. Barnes stated that TRS views those decisions as a matter of policy for consideration by the General Assembly. For the unprotected benefits of sick pay, the high 3 salary calculation at age 55, and the use of

the factor of 3.0 percent for years of service beyond 30, the maximum cost savings would be about 1.8 percent of pay. In most cases, those benefits are used as a carrot to encourage employees to work longer, thereby contributing to the system for a longer period. In response to a question from Representative Miller, Mr. Barnes stated he will follow up regarding changing the 5 year period between experience studies to a rolling cycle, where the system studies the economic assumptions every two years, then reviews the demographic assumptions in four years, and then in the alternate two years thereafter.

In response to a question from Representative Wheatley, Mr. Barnes stated other states are addressing assumption changes in a more measured way with a phased-in approach as opposed to all at once. TRS has not practiced this measure in the past, and its adoption would require board action.

In response to a question from Senator Mills regarding benefits outside the inviolable contract, Mr. Barnes stated the benefits existed before he was with TRS and is not sure who advocated for those policies. For example, the sick leave policy is a Department of Education statute and does not fall directly under TRS statutes. The total cost of the sick pay, the high 3 salary, and the factor 3 percent benefits is roughly in the high \$60 million annually, maximum savings. Regarding the usefulness of the benefits for the system, the high 3 does keep teachers working longer, the 3.0 percent factor probably has some affect for those working over 30 years, and being able to use sick leave for retirement calculations is valued by superintendents and administrators as a way to decrease absenteeism. Senator Higdon commented that in 2018 with SB 151 the General Assembly took a bold move and agreed to statutorily require themselves to make the ARC payment every year along with going to level dollar, which committed them to about \$400 million additional at the time.

With no further business, the meeting was adjourned.

SEVERE MENTAL ILLNESS TASK FORCE

Minutes of the 1st Meeting of the 2021 Interim June 15, 2021

Call to Order and Roll Call

The 1st meeting of the Severe Mental Illness Task Force was held on Tuesday, June 15, 2021, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Danny Bentley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgry Kerr, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Ralph Alvarado, Karen Berg, and Stephen Meredith; Representatives Ken Fleming, Melinda Gibbons Prunty, and Lisa Willner.

Guests: Shelia A. Schuster, Ph. D, Licensed Psychologist, Executive Director, Kentucky Mental Health Coalition; Steve Shannon, Executive Director, Kentucky Association of Regional Programs; Marc

Kelly, Community Resource Communications Director, Pathways Inc.

LRC Staff: Samir Nasir, Chris Joffrion, Elizabeth Hardy, and Amanda DuFour

Adults with Severe Mental Illness in Kentucky: A Review of Legislation and Policy

Dr. Shelia A. Schuster provided a thorough overview of Severe Mental Illness (SMI), relevant legislation, and SMI programs. In her testimony, Dr. Schuster described SMI diagnoses such as schizophrenia, schizoaffective disorders, bipolar disorder, PTSD, and major depressive disorders; and the history of psychiatric hospitals in Kentucky including Eastern State Hospital located in Lexington, Kentucky.

Dr. Schuster discussed federal and state legislation related to Community Mental Health Centers (CMHCs) including KRS Chapter 210 that authorized the care of people not only with mental illness but people with developmental and intellectual disabilities; the training CMHCs have provided to mental health providers; the flexibilities for Medicaid; programs such as Direct Intervention: Vital Early Responsible Treatment System (DIVERTS) that help patients with SMI be readmitted back into psychiatric hospitals; and the need for crisis services to provide crisis stabilization units.

Dr. Schuster's testimony highlighted issues the SMI community has with medication and the barriers to medication including the side effects, shortages of psychiatrists and child psychiatrists, and the challenges with prior authorization for Managed Care Organizations (MCOs).

Dr. Schuster discussed a bill sponsored by Representative Fleming in 2018 that centralized credentialing and Senate Bill 55, sponsored by Senator Meredith in 2021, to eliminate copays for Medicaid and inpatient psychiatric hospital care. KRS Chapter 202A was enacted in 1982 to provide the involuntary commitment of an individual to inpatient psychiatric evaluation.

An additional issue Dr. Schuster highlighted is the "revolving door" in the SMI community. This refers to individuals who are in and out of hospitals, jails, the court system, and can sometimes end in suicide. Dr. Schuster discussed Tim's Law, noting that compared to other states, Kentucky has the strictest criteria for assisted outpatient treatment program. She explained the multi-year Substance Abuse and Mental Health Services Administration (SAMHSA) grant was appropriated to the Kentucky Department of Behavioral Health which will provide funding for CMHCs in western Kentucky but noted more funding would be required to implement Tim's Law statewide. Dr. Schuster also discussed a program called Crisis Intervention Team (CIT). Kentucky constructed the CIT program based off a model in Memphis, Tennessee. The court system has also tried to respond to these problems by establishing four Mental Health Courts.

Dr. Schuster explained the issue of individuals with SMI receiving the death penalty. Kentucky outlaws the death penalty for juveniles and those with intellectual disabilities.

According to Dr. Schuster, housing is also a problem for individuals with SMI. Medicaid does not support housing or community-based residential beds. If appropriate housing is not provided for these individuals, they often end up back in jails, the hospital, or homeless, etc.

In response to Senator Kerr, Dr. Schuster stated that most mental health professionals are paid less than other specialty doctors. Many Comp Care Centers cannot afford to hire a psychiatrist. Senator Alvarado also responded to Senator Kerr by stating that there are on average about 15 million people with SMI in the United States while there are only 30,000 psychiatrists.

Senator Alvarado commented that as a primary care doctor, he has become accustomed to examining patients that have mild to moderate psychiatric illnesses because of the lack of mental health professionals. He also discussed a program established at University of California Irvine. The program trains rural health providers to deal with SMI issues and the California General Assembly has dedicated funds to this program. According to Senator Alvarado, the major reason primary care doctors do not manage patients with SMI is liability fears, such as suicide. According to statistics from around four to five years ago, he explains that there were only 59 child psychiatrists in Kentucky, and around half only took cash payments. He said many mental health professional do not want to deal with insurance due to the stress and paperwork. Homelessness is an issue in the SMI community, and Senator Alvarado stated that gaining access to long-term care beds in hospitals such as Eastern State would be helpful.

Representative Willner commented that because of the ongoing unemployment crisis, homelessness is a growing issue in Kentucky. She stated that she recently heard a statistic that the SMI population is more likely around 50 to 60 percent of the houseless population rather than the two to four percent mentioned in Dr. Schuster's presentation.

In response to Representative Fleming, Dr. Schuster stated that she would make her comments available and provide a resource and reference list for task force members by the next interim meeting. She also explained that the focus needs to be on increasing the reimbursements for mental health professionals from Medicaid for their services. For example, nurse practitioners are paid 75 percent of what a physician would be paid for the same service.

Senator Berg commented that the problem to access of care is not only with people who do not have resources, but people who are also fully insured. She had an experience with a child discharged from a hospital with two weeks of medications, instructions, and a phone number to reach out to psychiatrist. Not only could the psychiatrist not see the child for four months, but also did not accept any insurance. She went on to say that when trying to personally get reimbursed for paying for mental health services out-of-pocket, that she was met with barriers. In response to Senator Berg's question, Dr. Schuster explained that there are research results from the cost of providing a year's care to someone with SMI as opposed to the cost of incarcerating them for a year and the savings are significant.

In response to Representative Gibbons Prunty, Dr. Schuster stated that yes, the single formulary for MCOs will have all the medications needed and be the same for everybody. She also explained that the Medicaid Housing Wavier could be written to include a residential option. A happy medium would be to have these individuals out in the community but when they need to go to the hospital they need to stay until they are stabilized, which would usually take longer than 72 hours.

Senator Meredith commented that the solution to these issues are funding for services. The state would need to reallocate resources to pay for better mental health services. Senator Meredith stated that he believes Kentucky does not need higher taxes or higher health insurance premiums if funding could be reallocated to assist the mental health community.

An Analysis of Barriers and Access to Resources for Individuals with Severe Mental Illness

Marc Kelly discussed with the task force the barriers for individuals with SMI in rural Kentucky. One barrier is the shortage of mental health professionals. Another barrier is acceptability and the stigma surrounding mental health because often in rural areas everybody is familiar with one another. Advocates in the mental health community have been attempting to fight this stigma.

Next, Mr. Kelly discussed the barriers that come with involuntary hospitalization. It involves many systems to involuntarily commit an individual, including the community mental health system, county attorney, petitioner, sheriff's department, qualified mental health professional from the community health center, and it typically involves an emergency room visit.

It has been helpful to rural areas in Kentucky that COVID-19 brought the ability to use telehealth. Often times, people with SMI do not keep appointments, but access to telehealth has decreased those rates.

Mr. Kelly discussed the importance of targeted case management and how it is the core of the all treatment for individuals with SMI. It is required by the state through a contract that targeted case management services be provided to each person that is discharged from the state hospital.

Lastly, Mr. Kelly discussed the increasing amount of providers in and outside of the mental health community that will no longer take Medicaid. Medicaid can be an administrative burden, because according to providers, it requires too much staff and time.

In response to Senator Berg, Mr. Kelly stated that yes, they are working on collecting data regarding the effectiveness of targeted case management. He also stated that he believes targeted care management is vital service that can be overlooked. Senator Berg also commented that many people with a dual diagnoses of SMI and substance abuse disorder will not recover if both diagnoses are not treated concurrently.

Senator Alvarado commented that the statistics for Kentucky's total number of psychiatrists is about 8 psychiatrists for every 100,000 residents. He also discussed his own experiences with low reimbursement from Medicaid. In response to Senator Alvarado's question, Mr. Kelly replied yes, they are

exploring options in regards to finding a psychiatrist offsite, but there is concern of continuity of care. Mr. Kelly also stated that many individuals are covered by Medicare, which do not cover targeted case management. Medicare only allows billing for licensed clinical social workers.

In response to Representative Fleming's first question, Mr. Kelly explained that it would be helpful if there was a federal law that unified contacts and licensures within the United States so that medical health professionals could practice and be billable in any state. In response to Representative Fleming's second question, Mr. Kelly stated they do expect to see more individuals take advantage of telehealth once rural areas get the bandwidth to do so.

An Analysis of a Community Approach for Individuals with Severe Mental Illness and an Overview of Community Mental Health Centers

Steve Shannon, Executive Director of Kentucky Association of Regional Programs, testified that many of the topics discussed today have already been discussed in previous years.

He also explained that on June 21, 2000, a group called the 843 Commission, after House Bill 843 was passed in the 2000 session, came up with recommendations across the mental health system. The commission discussed professional staffing, using public funds appropriately, stigma surrounding mental health, transportation access which is still a major issue today, and different types of housing and employment solutions for people with SMI. He continued by saying the answers to most of these issues have already been discussed previously and can be used as a model for the future of the SMI community.

There being no further business, the meeting adjourned at 4:55 PM.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

June 17, 2021

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Thursday, June 17, 2021, at 3:30 PM, in Room 169 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 Robin L. Webb; Representatives Jason Petrie and Walker Thomas.

Guests: Elizabeth Baker, Senior Director, Strategic Capital Planning and Legislative Analysis, University Budget Office, University of Kentucky; Janice Tomes, Deputy State Budget Director, Office of State Budget Director; 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.

Senator Girdler announced Ms. Wells Lathrem's retirement and said she will be missed. Ms. Wells Lathrem thanked Senator Girdler and the members.

Approval of Minutes

Representative Thomas moved to approve the May 18, 2021, meeting minutes, seconded by Representative Senator Howell, and approved without objection.

Information Items

Ms. Halloran referenced two information items. Pursuant to KRS 13A.190(14), the Administrative Regulations compiler notified legislative committees that the Kentucky Infrastructure Authority (KIA) filed a new emergency administrative regulation, 200 KAR 17:110E Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program. Section 6(2) of the regulation included committee review of Senate Bill 36, wastewater and drinking water projects. Pursuant to KRS 45.812(1), through their fiscal agents, five school districts reported upcoming debt issues. The Bowling Green Independent (Warren County), Madison County, Marshall County, and Owen County school districts, none of them needed an additional tax levy to pay debt service, and they plan to finance new projects. The Daviess County school district reported a refunding component to its Apollo High School Phase IV financing transmitted for the April 2021, committee meeting.

Representative Thomas mentioned that Section 6(2) of KIA's new emergency administrative regulation specified approval by KIA's chair, rather than by KIA's board. [KIA's Board delegated its Senate Bill 36 approval authority to KIA's chair through the emergency administrative regulation. KIA's board wished to expedite the process as the majority of Senate Bill 36 projects are selected through coordination between cities and counties, with available funding based upon county population and allocated directly to the utilities.]

Lease Report from the University of Kentucky

Ms. Baker submitted a new lease for UK Internal Audit space; 10,203 square feet at \$19.24 per square foot for a \$196,407.75 annual cost. Internal Audit will be moving from Coldstream to provide space for Summit Biosciences's expansion.

Representative Thomas moved to approve the new UK lease, seconded by Senator Webb, and unanimously approved by roll call vote.

Project Report from the Finance and Administration Cabinet

Janice Tomes reported a \$1.4 million emergency repair, maintenance, or replacement project; funded with \$700,000 each from Kentucky State Police (KSP) (half restricted funds and half general fund) and the capital construction Emergency Repair, Maintenance, and Replacement account. The Kentucky State Police's helicopter acquisition was necessitated by

an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make an item of equipment usable as specified by KRS 45.750(1)(g).

Report from the Office of Financial Management Kentucky Infrastructure Authority

Representative Thomas moved to roll the eight KIA transactions into one roll call vote, seconded by Senator Howell, and approved without objection.

Ms. Williams submitted three Clean Water Revolving Fund (Fund A) program loans, two Fund A program loan increases, one Infrastructure Revolving Fund (Fund B) program loan, one Drinking Water State Revolving Fund (Fund F) program loan, and one Fund F program loan increase. For its \$3,219,970 Wastewater Treatment Plant Expansion and Sanitary Sewer Collection Improvements project, the City of Tompkinsville, Monroe County, requested a \$848,822 Fund A loan increase to its \$861,148 previously approved Fund A loan [of which KIA will apply \$430,574 in principal forgiveness] for a \$1,709,970 total Fund A loan amount. [A \$1 million Community Development Block Grant; \$500,000 Appalachian Regional Commission grant; and \$10,000 Monroe County Board of Education grant will finance the remaining project costs.] Replacement of two failing influent pumps comprises the additional scope. The loan term is thirty years at a half percent interest rate, with around \$48,500 estimated annual debt service. For its \$4,088,045 Wastewater Treatment Plant Improvements project, the City of Burkesville, Cumberland County, requested a \$256,675 director level (200 KAR 17:050) Fund A loan increase to its \$2,831,370 previously approved Fund A loan [of which KIA will apply \$1 million in principal forgiveness] for a \$3,088,045 total Fund A loan amount. The additional scope includes WWTP screening room roofing, trusses, and trim replacement; yard hydrants; lighting protection; and sludge removal. [A \$1 million Community Development Block Grant will finance the remaining project costs.] The loan term is thirty years at a half percent interest rate, with around \$79,200 estimated annual debt service.

The City of Frankfort, Franklin County, requested a \$19.725 million Fund A loan for its \$29.725 million East Frankfort Interceptor Phase III Wet Weather Facility project, which will address state enforcement action and provide additional capacity, allowing the Farmdale Sanitation District to convey its sanitary flow to the city's system. [\$10 million in local funds, potentially through grants, will finance the remaining project costs.] The loan term is twenty years at a one percent interest rate, with around \$1.13 million estimated annual debt service.

The City of Kuttawa, Lyon County, requested a \$223,000 Fund A planning and design loan for its [anticipated \$1.264 million] Phase V Sanitary Sewer Evaluation System and Rehabilitation project. This phase includes the inspection of two collection system basins and subsequent sewer rehabilitation design in those areas [as well as the replacement sewer design in an additional area.] The loan term is five years at a two and half percent interest rate, with around \$48,200 estimated annual debt service.

The City of Nicholasville, Jessamine County, requested a \$817,000 Fund A planning and design loan for its [anticipated \$3 million] Nicholasville Sanitary Sewer Evaluation System and Sewer Rehabilitation Phase I project, which will address state enforcement action. This phase includes the inspection of selected collection system basins and subsequent sewer rehabilitation design in those areas. The loan term is five years at a two and half percent interest rate, with around \$176,500 estimated annual debt service.

The City of Berea requested a \$256,200 Fund B loan for the Madison County Airport Sewer Line Extension project, approximately 12,000 linear feet of new sewer. The loan term is twenty years at a one percent interest rate, with around \$14,700 annual debt service.

For its \$11.4 million New Water Treatment Plant project, the City of Lancaster, Garrard County, requested a \$400,000 director level (200 KAR 17:070) Fund F loan increase to its previously approved \$4 million Fund F loan [of which KIA will apply \$1 million in principal forgiveness] for a \$4.4 million total Fund F loan amount. [A \$4.5 million and \$1.5 million USDA Rural Development loan and grant; \$500,000 Appalachian Regional Commission grant; and \$500,000 state (House Bill 265 - 2012 Regular Session) grant will finance the remaining project costs.] The additional work involves a new maintenance building and additional instrumentation as well as intake, pump, and SCADA system upgrades. The loan term is thirty years at a half percent interest rate, with an estimated \$130,700 annual debt service. The City of Albany, Clinton County, requested a \$2.68 million Fund F loan [of which KIA will apply \$680,000 in principal forgiveness] for the Water Treatment Plant (A & B) Improvements project; various plant upgrades including improvements to flocculators, pumps, lagoons, filters, electrical systems, buildings, and SCADA system as well as new master meters. The loan term is thirty years at a half percent interest rate, with around \$74,200 annual debt service.

Representative Thomas moved to approve the eight KIA transactions, seconded by Senator Howell, and unanimously approved by roll call vote.

Office of Financial Management Previous Kentucky Housing Corporation (KHC) Conduit Debt Issue

Mr. Barrow reported the KHC Conduit Multifamily Housing Revenue Bonds (The Alcove at Russell), Series 2021, applied towards the state's private activity volume cap and affecting neither the commonwealth's nor KHC's financials as the developer pays the debt service. The property was located on Russell Cave Road, Lexington, \$30 million net proceeds with a \$56.7 million total project cost.

Office of Financial Management School District Debt Issues with School Facilities Construction Commission Debt Service Participation

Senator Howell moved to roll the two SFCC school district debt issues into one roll call vote,

seconded by Senator Webb, and approved without objection.

Mr. Barrow submitted two debt issues with SFCC participation for new projects. The Lewis County and Middlesboro Independent (Bell County) school districts, neither of which needed an additional tax levy to pay debt service, planned issuances totaling \$16.36 million. Urgent needs, district, and SFCC respective debt service support is 79.04 percent, 16.29 percent, and 4.67 percent. The urgent needs component will finance \$12.9 million of the Lewis County school district's Garrison Elementary School project. Senator Webb said that the project was much needed.

Representative Thomas moved to approve the two SFCC school district debt issues, seconded by Senator Howell, and unanimously approved by roll call vote. Senator Girdler announced the upcoming meeting at 3:30 p.m. on July 22.

With there being no further business the meeting adjourned at 3:57 p.m.



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