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# INTERIM RECORD

A SUMMARY OF INTERIM ACTIVITIES

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## New state laws go into effect June 29

by Rob Weber

FRANKFORT – Most new laws approved during the Kentucky General Assembly's 2021 session will go into effect on Tuesday, June 29.

The Kentucky Constitution specifies that new laws take effect 90 days after the adjournment of the legislature unless they have a special effective date, are general appropriations measures, or include an emergency clause that makes them effective immediately upon becoming law. Final adjournment of the 2021 Regular Session occurred on March 30, making June 29 the effective date for most bills.

Laws taking effect that day include measures on the following topics:

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

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



Most bills passed into law during the General Assembly's 2021 session will take effect on June 29.

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

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

Continued on page 2

# New state laws, from page 1

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the age of 12 years to a Class C felony for the first offense and a Class B felony for each subsequent offense.

**Child support.** House Bill 402 will revise child support laws to increase the amount considered flagrant nonsupport from \$1,000 to \$2,500.

**Education.** House Bill 563 will give families more options when deciding where to send kids to school and will assist families with the cost

of educational expenses. The bill will allow the use of education opportunity accounts, a type of scholarship, for students to attend out-of-district public schools or obtain educational materials and supplies. For students in some of the state's largest counties, the scholarship funds could be used for private school tuition. Individuals or businesses who donate to organizations that issue education opportunity accounts will be eligible for a tax credit. The legislation will also require a board of education to adopt a nonresident pupil policy by July 1, 2022 to govern terms under which the

district allows enrollment of nonresident pupils and includes those pupils in calculating the district's state funding.

**Elections.** House Bill 574 will make permanent some of the election procedures implemented last year to accommodate voting during the pandemic. The measure will offer Kentuckians three days – including a Saturday – leading up to an election

Continued on page 43

## Committee hears update on broadband expansion plans

by Jordan Hensley

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FRANKFORT— The beginning stages of a plan to bring high-speed, reliable internet to every home and business in the Commonwealth is underway.

Legislators on the Interim Joint Committee on Appropriations and Revenue received an update on June 2 from State Budget Director John Hicks on the “last mile” broadband expansion project that focuses on underserved areas of the state.

Hicks informed the committee that a “request for information” (RFI) and a map of underserved areas will launch within the next two weeks.

“(The RFI’s) purpose is to ask the providers and municipalities and other government agencies their ideas, comments and their suggestions,” Hicks said. “We don’t know what we don’t know, and so we want to avail ourselves of their expertise before we finalize our process.”

During the 2021 legislative session, lawmakers passed two bills to allocate a total \$300 million to broadband expansion in Kentucky. House Bill 320 allocated \$250 million to broadband expansion in rural, underserved areas, while House Bill 382 allocated \$50 million in federal American Rescue Plan Act (ARPA) funds to be used for economic development-related broadband.



Rep. Ken Fleming, R-Louisville, shares his thoughts on the procurement process for the “last mile” broadband expansion project.

This is the first time Kentucky has launched a project like this, Hicks said, adding that the state has been looking at federal guidance and how other states have expanded broadband. The information they receive from the RFI will be a major component in finalizing the state’s plan for the project.

Rep. John Blanton, R-Salyersville, wanted to make it clear to constituents during the meeting that this “last mile” project is not Kentucky Wired.

Several other legislators, including Rep. Ken Fleming, R-Louisville, also expressed concerns about Kentucky Wired. “I want to make sure that Kentucky Wired and any of its subsidiaries are not going to be included in this process,” Fleming said.

Hicks reassured the committee that Kentucky Wired would not be involved with the implementation of the project, however, the program has enlisted the help of someone who is an employee of Kentucky Wired as a “subject matter expert.”

Fleming also expressed concerns the potential procurement process laid out

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Continued on page 3

# Doctors testify on causes of infant, maternal mortality

by Jordan Hensley

FRANKFORT— What can be done to lower the rate of infant and maternal deaths in the Commonwealth?

Three Kentucky doctors testified before the Interim Joint Committee on Health, Welfare and Family Services on June 16 about the causes of infant and maternal mortality.

Aside from congenital malformations, or birth defects, the reasons for infant deaths within the first month of life are often obstetrically related, or related to the health of the mother, according to their testimonies.

For Kentucky, substance use disorders and mental illnesses are major factors in maternal death, where a mother dies during pregnancy or within a year of giving birth, said Dr. John Weeks with Norton Healthcare.

“In the last four to five years, there’s been at least a 25% increase in maternal mortality attributable to addiction,” Weeks said.

Mothers with substance use disorders who die during pregnancy or within a year of giving birth are mostly dying of overdoses, Weeks said. And these mothers are usually people who have struggled with substance use disorders for a long time with multiple relapses and they often also struggle with depression, anxiety or other mental illnesses.

Dr. Connie White, deputy commissioner for clinical affairs for the Cabinet of Health and Family Services, said 50% of maternal deaths had some type of substance abuse as a factor, whether that be an overdose, a car accident or a cardiac event.



While lawmakers have passed several laws in the last few years to study infant and maternal mortality as well as a law to require Hepatitis C testing in pregnancy, there is more work to do to improve this issue, the doctors said.

In Kentucky, Weeks said a major issue is there are not enough mental health professionals to reach all the areas of the state that “desperately need this kind of help.”

Committee co-chair Sen. Ralph Alvarado, R-Winchester, who also sits on the Severe Mental Illness Task Force, shared he and the committee are aware of the low number of mental healthcare providers in Kentucky.

“I’ll throw this statistic out there: 350 psychiatrists for the entire state of Kentucky, about a little bit under 60 child psychiatrists in the state of Ken-

tucky. We are woefully deficient in that regard,” Alvarado said.

Rep. Tom Burch, D-Louisville, asked the doctors what other developed countries are doing to keep infant and maternal death rates low.

Dr. Jeffrey Goldberg responded by commenting on how the US health-care system spends its money.

“We have a value problem, basically,” Goldberg said. “We are not spending our money wisely. It is not really a deficit of technology.”

Goldberg is a Louisville obstetrician and gynecologist who serves as the legislative advocacy chair for the Kentucky section of the American College of Obstetricians and Gynecologists.

“If we want to improve infant mortality, neonatal mortality, again, it’s really a matter of improving obstetrical care,” he said. “...How are we doing related to other Western countries? And the answer is that the U.S. has the worst infant mortality rate in the entire Western world. And we feel that given our resources that’s simply unacceptable.”

At the conclusion of the doctors’ presentation, Alvarado said the committee looks forward to hearing more throughout the interim on what can be done to improve infant and maternal mortality rates in next legislative session.

The next Interim Joint Committee on Health, Welfare and Family Services meeting will take place at 1 p.m. on July 21.

## Broadband expansion, from page 2

in Hicks’ presentation, adding he wants quality of services to be considered.

“I would really strongly encourage you to look at a quality based selection in order to procure this in a very prudent manner,” Fleming added.

Sen. Tom Buford, R-Nicholasville, inquired about internet service providers input on the project. Hicks assured him that the RFI procurement process is being used to hear from internet service providers.

At the time of the meeting, Hicks did not have a detailed timeline of how and when the project will be completed. Committee Co-Chair Rep. Jason Petrie, R-Elkton, asked for Hicks to produce one, even if it is an estimate, in the next few weeks so the committee can stay updated on the project.

The next Interim Joint Committee on Appropriations and Revenue meeting is scheduled for July 7 at 1 p.m.

# The drive to REAL IDs speeds ahead in KY

by Jim Hannah

FRANKFORT – Kentucky is transforming how driver’s licenses are issued while also implementing the REAL ID Act – and legislators want to know how the transition is coming along.

“The transportation cabinet ... is juggling two major projects simultaneously,” Kentucky’s REAL ID Project Manager Sarah Jackson said while testifying before the June 1 meeting of the Interim Joint Committee on Transportation. “We are carrying out, on one hand, the mandate of the REAL ID Act. On the other hand, we are transitioning circuit court clerks off driver’s licensing functions.”

House Bill 453 of the 2020 Regular Session required the transportation cabinet to take over driver’s licensing and credentialing responsibilities by July 1 of next year. The cabinet is doing this by opening regional offices across the state that will also issue REAL ID-compliant credentials.

“Moving to a regional model is a challenge on all sides,” Jackson said. “It’s a challenge for customers. It’s a challenge for a cabinet that has never even dabbled much in the issuance of driver’s licenses.”

Committee Co-chair Rep. Ken Upchurch, R-Monticello, asked what criterion was used to determine which counties receive a regional office. Cole said both transportation patterns and population density are considered when locating regional offices.

“Citizens use to only be able to go to their circuit clerk office in the county where they reside,” said Department of Vehicle Regulation Commissioner Matt Cole, who also testified before the committee. “Now they can go to any office whether they are traveling, vacationing, anything that works best for them – even if they just have a day trip to the big city.”

Committee Co-chair Jimmy Higdon, R-Lebanon, asked about plans to deploy mobile units to issue driver’s licenses in counties without the regional offices. Cole said he planned to have 10 mobile units to serve counties without permanent regional offices.

Higdon also inquired about an online portal to renew REAL IDs or traditional driver’s licenses. Jackson said there is a pilot program to allow Kentuckians to renew those credentials online, provided there is no name or address change.

Higdon asked why state-issued ID cards were not included as a credential that

could be renewed online.

“We understand that the folks needing ID cards are most likely non-drivers so getting them added would be a real plus,” Jackson said, explaining that would come in a later phase of the online renewal launch.

Jackson said online renewal will replace mail-in renewal. Upon hearing of that plan, Higdon asked the department to reconsider the phase-out of mail-in renewals, noting that some people don’t have reliable internet access.



Rep. Buddy Wheatley, D-Covington, asks a question during the June 1 Transportation Committee meeting.

Sen. Johnnie Turner, R-Harlan, said the added burden of social-distancing guidelines and longer commutes to get driver’s licenses has increased the number of motorists driving without a valid driver’s license. Turner, a lawyer by trade, said the result has clogged courts with cases of motorists cited for driving without a valid driver’s license.

“The poor people in my area can’t afford to travel these great distances,” he said, adding that many of his constituents live more than a one-hour drive to the nearest regional office. “We are in the corner of the world. Our people are suffering.”

Turner said he will consider filing legislation to mandate more regional offices in Eastern Kentucky.

Cole said Kentucky will ultimately end up with at least 25 regional offices. There were 16 permanent regional offices and one temporary location at

the time of the meeting.

Rep. Ken Fleming, R-Louisville, asked about the percentage of Kentuckians getting REAL IDs. Cole said Kentucky has surpassed 190,000 REAL IDs out of 3.8 million credential holders statewide. He said other states with similar populations have a 30 percent to 40 percent REAL ID adoption rate.

Rep. Cheryl Lynn Stevenson, D-Lexington, asked if the gradual lifting of social-distancing guidelines was contributing to larger crowds showing up at the regional offices. Jackson said there was a backlog caused by COVID-19.

Upchurch asked the transportation cabinet officials to regularly update the committee on the progress of the transition.

“I think we are going to have you’ll in the cue for every meeting of the interim to keep us updated,” Upchurch said.

# Panel gets preview of courthouse tech upgrades

by Jim Hannah

FRANKFORT – Kentuckians will be able to pay court costs, fines and fees at ATM-like contraptions in select courthouses across Kentucky by next year.

A pilot project to install the self-service kiosks by January 2022 in strategic locations throughout the state is costing \$1 million, said Kentucky Chief Justice John D. Minton Jr. while testifying before the June 1 meeting of the Interim Joint Committee on Judiciary. Minton said the money was part of the \$14.7 million the General Assembly appropriated for judicial branch technology upgrades in House Bill 556 from the 2021 Regular Session.

If the pilot program is successful, additional kiosks could be placed in commercial locations, such as grocery stores or pharmacies, Minton said. Similar kiosks are already used in neighboring Virginia to offer essential court services outside of office hours.

The largest chunk of the appropriation, or about \$10.6 million, is being spent on video arraignments and video conferencing equipment. Minton said not all of Kentucky's courtrooms currently have the technology to conduct video arraignments.

Another \$2 million is being used to create a computer portal for self-represented litigants, or people who do not retain a lawyer for a court proceeding. Minton said the goal of the portal is to allow self-represented litigants to interact with the court, receive assistance and potentially create and file court documents.

Minton said the remaining \$1.1 million is going to be used to improve the electronic filing, or e-filing, system. He said the judicial branch cannot achieve the potential cost savings associated with e-filing until it's mandatory across the state. One improvement will be the purchase of redaction software to protect personally identifiable information in the electronic court records.

Minton said the General Assembly appropriated \$383 million for the judicial branch in fiscal year 2022. He said the majority of that figure covers the salary and benefits of all elected and non-elected personnel along with operating costs such as office supplies, travel and computer equipment. Minton stressed that court costs people pay do not fund the judicial branch.

Rep. John Blanton, R-Salyersville, said he would like to see part of those court costs go to the Kentucky State Police Forensic Laboratory System. He said the labs suffer from chronic underfunding that makes it hard to retain qualified technicians.

"After all, the labs are being used by every law enforcement agency across this state at no costs ... to our agencies," Blanton said. "I don't see it as a tax. I see it as an offender who has broken the law that is paying their court costs. That money is being used to pay another component of our judicial system that is utilized by 120 counties across this state."

Administrative Office of the Courts (AOC) Director Laurie Dudgeon said it is up to the General Assembly to revisit the law dictating how court costs are spent. The AOC is the operational arm of the judicial branch that supports court facilities and programs in Kentucky.

Rep. Kimberly Poore Moser, R-Taylor Mill, asked what could be done to increase the collection rate of court costs.

"We have a constitutional prohibition from jailing people who are too poor to pay," Dudgeon said. "That is a balance we are always trying to strike."

Rep. Jason Nemes, R-Louisville, asked about a provision in HB 556 that requires the judicial branch to provide legislators a report on its budgetary process. Dudgeon stressed that the judicial branch would comply with that provision of HB 556. She added that judicial districts and circuits do not necessarily follow county lines, making it harder to track expenses by county.



Rep. Jason Nemes, R-Louisville, asks a question about House Bill 556 from the 2021 Regular Session. A provision of that bill requires the judicial branch to provide legislators a report on its budgetary process.



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House Set, Senate Set: Priced after  
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# Index

## A

Administrative Regulation Review  
Subcommittee, 25, 29

Appropriations and Revenue 12, 13, 15

## C

Capital Planning Advisory Board, 22

Capital Projects and Bond Oversight, 23

## E

Education, 15

Education Assessment and Accountability  
Review Subcommittee, 33

## G

Government Contract Review Committee, 34

## J

Judiciary, 18

## L

Legislative Research Commission, 10

## M

Medicaid Oversight and Advisory  
Committee, 39

## N

Natural Resources and Energy, 19

## P

Public Pension Oversight Board, 40

## T

Tobacco Settlement Agreement Fund, 40, 42

Transportation, 20

# Committee Meetings

## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 568th Meeting

June 2, 2021

#### Call to Order and Roll Call

The 568th meeting of the Legislative Research Commission was held on Wednesday, June 2, 2021, at 1:00 PM, in Room 125 of the Capitol Annex. Representative David W. Osborne, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

LRC Staff: Jay Hartz and Christy Glass.

Speaker Osborne called the meeting to order and asked for a motion to approve the minutes of the December 2, 2020, meeting; accept as indicated items A. through L. under Staff and Committee Reports; refer administrative regulations as indicated and approve items B. through N. under New Business; and accept and refer as indicated items 1. through 49. under Communications.

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

#### Minutes of the December 2, 2020 meeting.

#### STAFF AND COMMITTEE REPORTS

Committee Activity Reports since December 2020.

Report of the Administrative Regulations Review Subcommittee meetings on December 3, 2020, and January 13, March 8, April 13, and May 11, 2021.

Committee review of administrative regulations by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on December 15, 2020.

From Teresa Arnold, Deputy Director for Research and Communications: Reports of task forces and staff studies for 2020.

Committee review of the 2020-2023 Temporary Assistance for Needy Families (TANF) Block Grant Application by the Senate Standing Committee on Health and Welfare during its meeting on January 7, 2021.

Committee review of the 2020-2023 Temporary Assistance for Needy Families (TANF) Block Grant Application by the House Standing Committee on Health and Family Services during its meeting on Jan-

uary 7, 2021.

Committee review of administrative regulations by the Senate Standing Committee on Health and Welfare during its meetings on February 3, February 10, and February 22, 2021.

Committee review of administrative regulations by the House Standing Committee on Health and Family Services during its meetings on February 4, February 11, and February 22, 2021.

Committee review of administrative regulations by the Senate Standing Committee on Agriculture during its meeting on February 3, and the House Standing Committee on Agriculture during its meeting on February 9, 2021.

Committee review of the FY 2021 Small Cities Community Development Block Grant and Section 108 Loan Guarantee Program by the Senate Standing Committee on State and Local Government and the House Standing Committee on Local Government during its meeting on March 3, 2021.

Committee review of the 2021 Social Services Block Grant (SSBG) Preliminary Plan by the Senate Standing Committee on Health and Welfare during its meeting on March 12, 2021.

Committee review of the 2021 Social Services Block Grant (SSBG) Preliminary Plan by the House Standing Committee on Health and Family Services during its meeting on March 12, 2021.

#### NEW BUSINESS

Referral of administrative regulations to the following committees for a secondary review pursuant to KRS 13A.290(6): 806 KAR 014:121 (Minimum standards for the readability and intelligibility of insurance contracts) and 806 KAR 015:050 (Reporting and general requirements for settlement providers and brokers) to **Banking and Insurance**; 803 KAR 025:092 (Workers' compensation pharmacy fee schedule) to **Economic Development and Workforce Investment**; 013 KAR 001:020 (Private college licensing) and 013 KAR 004:010 (State Authorization Reciprocity Agreement) to **Education**; 201 KAR 002:380 (Board authorized protocols. Amended after comments), 201 KAR 008:505E (Administration of COVID-19 Immunizations), 201 KAR 020:065 (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 (Applications for licensure), 201 KAR 020:411 (Sexual Assault Nurse Examiner Program standards and credential requirements), 201 KAR 020:660 (Licensed certified professional midwives duty to report), 900 KAR 006:030 (Certificate of need expenditure minimums), 900 KAR 006:055 (Certificate of need forms), 900 KAR 006:060 (Timetable for submission of certificate of need applications), 900 KAR 006:065 (Certificate of need application process), 900 KAR 006:080 (Certificate of need

emergency circumstances), 900 KAR 006:090 (Certificate of need filing, hearing, and show cause hearing), 900 KAR 006:095 (Certificate of need administrative escalations), 900 KAR 006:100 (Certificate of need standards for implementation and biennial review), 900 KAR 006:105, (Certificate of need advisory opinions), 900 KAR 006:110 (Certificate of need notification requirements), 900 KAR 006:115 (Certificate of need requirements for critical access hospitals, swing beds, and continuing care retirement communities), 902 KAR 004:150E (Enhanced HANDS services in response to declared national or state public health emergency), 902 KAR 030:210E (Enhanced early intervention services in response to declared national or state public health emergency), 902 KAR 095:040 (Radon Contractor Registration Program), 907 KAR 007:020 (1915(c) Home and community based services waiting list placement appeal process), 922 KAR 1:490E (Background checks for foster and adoptive parents and relative and fictive kin), 922 KAR 001:540 (Registration of a foreign adoption), and 922 KAR 001:580 (Standards for children's advocacy centers) to **Health, Welfare, and Family Services**; 201 KAR 001:100 (Continuing professional education requirements) to **Licensing, Occupations and Administrative Regulations**; 101 KAR 002:095 & E (Classified service general requirements) and 200 KAR 002:006 & E (Employees' reimbursement for travel) to **State Government**.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum regarding Amendment of Legislator Mailing Policy (Postage Allowance.)

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum authorizing the 2021 Interim Joint Committee Regular Meeting Schedule.

From Senator Wil Schroder and Representative Russell Weber, Co-chairs of the Interim Joint Committee on Economic Development and Workforce Investment, and Senator Wil Schroder, Representative Phillip Pratt, and Representative Kim King, Co-chairs of the Interim Joint Committee on Tourism, Small Business, and Information Technology: Memorandum requesting approval for a joint meeting of both committees on August 26 at the Kentucky State Fair. There are no apparent conflicts.

From Senator Paul Hornback and Representative Richard Heath, Co-chairs of the Interim Joint Committee on Agriculture: Memorandum requesting approval to meet on August 26 at the Kentucky State Fair, rather than the regularly scheduled meeting date of August 9.

From Senator Robby Mills and Representative Michael Meredith, Co-chairs of the Interim Joint Committee on Local Government: Memorandum requesting approval to meet on August 26 at the Kentucky State Fair.

From Senator Jared Carpenter and Representative Bart Rowland, Co-chairs of the Interim Joint Committee on Banking and Insurance: Memorandum requesting approval to meet at 11:00 a.m. on August 3, rather than 9:00 a.m.; approval to meet at 11:00 a.m. on September 14, rather than the regularly scheduled meeting date of September 7; approval to meet at 11:00 a.m. on October 5, rather than 9:00

a.m.; and approval to meet at 11:00 a.m. on November 9, rather than the regularly scheduled meeting date of November 15. There are no apparent conflicts.

From Senator Robby Mills, Representative Jerry Miller, and Representative Kevin Bratcher, Co-chairs of the Interim Joint Committee on State Government: Memorandum requesting approval to meet on August 26 at the Kentucky State Fair.

From Senator Ralph Alvarado and Representative Kimberly Poore Moser, Co-chairs of the Interim Joint Committee on Health, Welfare, and Family Services: Memorandum requesting approval to meet on August 26 at the Kentucky State Fair.

From Senate President Robert Stivers: Memorandum appointing members to the Budget Review Subcommittee on Transportation as follows: Senator Jimmy Higdon, Co-chair, Senator Christian McDaniel, ex officio, Senator Brandon Storm, Senator Johnnie Turner, Senator Max Wise, and Senator Robin Webb.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum regarding 2021 Interim Meetings and Procedures.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Representative Kevin Bratcher to the Interim Joint Committee on Transportation and the Interim Joint Committee on Veterans, Military Affairs, and Public Protection.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the Creation, Authorization, and Appointment of 2021 Task Forces.

From Senator Chris McDaniel and Representative Jason Petrie, Co-chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval and appointment membership to Subcommittee on 2024-Budget Preparation and Submission.

#### COMMUNICATIONS

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 5, 6, 7, 8, 9, and 10, and year-to-date activity for the period of July 1, 2020, through April 30, 2021.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarters ending December 31, 2020, and March 31, 2021.

From the Commonwealth Office of Technology: 2020 Blockchain Technology Working Group Annual Report.

From the Cabinet for Health and Family Services: 2020 Child Care Advisory Council's Annual Report.

From the Auditor of Public Accounts: 2020 Report of the Audit of the Northern Kentucky Convention Center Corporation.

From the Cabinet for Health and Family Services, Department for Public Health: 2020 Stroke Encounter Quality Improvement Project (SEQIP) Annual Report.

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

From the Department of Corrections: 2020 RS HB 352 County Jail Incentive Program 2nd and 3rd Quarter Reports.

From the Department of Corrections: 2020 RS HB 352 Substance Abuse Treatment and Job Training Pilot 2nd and 3rd Quarter Reports.

From the Department of Corrections: 2020 RS HB 352 Population Management 2nd and 3rd Quarter Reports.

From the Department of Corrections: 2020 Re-entry Drug Supervision Annual Report.

From the Kentucky Board of Licensure for Pastoral Counselors: 2020 Annual Report.

From the Kentucky Board of Alcohol and Drug Counselors: 2020 Annual Report.

From the Kentucky Board of Licensure for Marriage and Family Therapists: 2020 Annual Report.

From the Cabinet for Health and Family Services: 2020 Kentucky Elder Abuse Annual Report.

From the Cabinet for Health and Family Services: Neonatal Abstinence Syndrome Annual Report.

From the Public Protection Cabinet: FY20 Kentucky Claims Commission Annual Report.

From the Cabinet for Health and Family Services: FY21 Family Resource or Youth Services Centers 70 Percent Report.

From the Department of Education: 2020-2021 District Participation Rates.

From the Energy and Environment Cabinet: FY20 Waste Tire Program Annual Report.

From the Kentucky Housing Corporation: 2020 Methamphetamine Housing Clean-up Assistance Program Annual Report.

From the Kentucky Housing Corporation: 2020 Affordable Housing Trust Fund Awards.

From the Cabinet for Health and Family Services: Department for Community Based Services 2020 Fourth Quarter and 2021 First Quarter Caseload Reports.

From the Cabinet for Health and Family Services: 2020 Child Fatality and Near Fatality External Review Panel Annual Report.

From the Kentucky Court Appointed Special Advocates for Children: 2021 Biennial Report.

From the Cabinet for Health and Family Services: 2020 Child Fatality Report.

From the Auditor of Public Accounts: 2020 Report of the Statewide Single Audit of the Commonwealth of Kentucky, Volume I.

From the Cabinet for Health and Family Services: 2020 Department for Public Health Maternal Mortality Review (MMR) Report.

From the State Interagency Council: 2020 Recommendations regarding the system of care for children and transition-age youth with or at risk of behavioral health needs.

From the Kentucky Board of Licensure for Occupational Therapy: 2020 Annual Report.

From the Kentucky Employers' Mutual Insurance Authority: 2020 Annual Statement.

From the Kentucky Employers' Mutual Insurance Authority: 2020 Statement of Actuarial Opinion.

From the Kentucky Board of Interpreters for the Deaf and Hard of Hearing: 2020 Annual Report.

From the Louisville Firefighters Pension Fund: 2020 and 2021 Actuarial Reports.

From the Auditor of Public Accounts: 2020 Report of the Audit of the Kentucky Health Benefit Exchange.

From the Auditor of Public Accounts: 2020 Report of the Independent External Audit of the Kentucky Health Benefit Exchange.

From the Justice and Public Safety Cabinet: 2020 HB 463 Evidence-Based Practices and Programs Annual Report.

From the Kentucky Employers' Mutual Insurance Authority: 2020 Management's Discussion and Analysis with Supplementary Schedules.

From the Kentucky Personnel Cabinet: Quarterly Reports as of September 30 and December 31, 2020, and March 31, 2021, which lists the number of all full-time classified (merit) and unclassified (non-merit) employees.

From the Kentucky Personnel Cabinet: March 2021 Semi-Annual Report listing all filled positions exempted from classified service.

From the Auditor of Public Accounts: 2020 Report of the Audit of Motor Vehicle and Motorboat Taxes and Registration Fees Collected and Remitted to the Commonwealth of Kentucky by Each County Clerk.

From the Department of Military Affairs: 2020-2024 Strategic Plan.

From the Kentucky Employers' Mutual Insurance Authority: Statutory Basis Financial Statements for the years ended December 31, 2020, and 2019.

From the Auditor of Public Accounts: 2020 Report of the Statewide Single Audit of the Commonwealth of Kentucky, Volume II.

From the Cabinet for Health and Family Services, Department for Public Health: 2016-2018 Kentucky Colon Cancer Screening Advisory Committee Annual Report.

From the University of Kentucky: Kentucky Tobacco Research and Development Center Quarterly Report for January 1, 2021, through March 31, 2021.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of March 31, 2021.

From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement for the period ending March 31, 2021.

From the Kentucky Personnel Cabinet: 2020 Annual Turnover Report of 15% and Greater. (Staff suggested committee referral: State Government.) (Copy available upon request.) Pursuant to KRS 18A.030(4).

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

### **Minutes of the 1st Meeting of the 2021 Interim**

June 2, 2021

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

The 1st meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, June 2, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jason Petrie, 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 Tom Buford, Danny Carroll, 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, Mark Hart, Angie Hatton, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Josie Raymond, Brandon Reed, Sal Santoro, James Tipton, and Lisa Willner.

Guests: Amy Staed, Executive Director, Kentucky Association of Private Providers (KAPP); Lisa Lee, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services; Pam Smith, Director, Division of Community Alternatives, DMS, Cabinet for Health and Family Services; John Hicks, State Budget Director, Office of State Budget Director; Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority (KIA); Dale Suttles, President, Sunrise Children's Services; and Andy Weeks, Board Chair, Sunrise Children's Services; and John Sheller, Attorney, Sunrise Children's Services.

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

Status Update on Kentucky's Michelle P. and Supports for Community Living (SCL) Medicaid Waiver Programs

Amy Staed, Executive Director, KAPP; Lisa Lee, Commissioner, DMS, Cabinet for Health and Family Services; and Pam Smith, Director, Division of Community Alternatives, DMS, Cabinet for Health and Family Services, provided a status update on Kentucky's Michelle P. and SCL Medicaid Waiver Programs.

In response to a question from Representative Petrie, Amy Staed testified that the SCL waiver costs on average of \$215 per day per person to provide care, whereas Intermediate Care Facilities costs \$1,275 per day. She testified that the level of care patients receive is the same.

In response to a question from Representative Petrie, Ms. Staed stated that the waitlist to provide these services is large. The average time on the SCL waitlist for urgent cases is 3.64 years and 7.16 years for future planning cases. In response to another question from Representative Petrie, Ms. Staed testified that the SCL waitlist is almost triaged, so that an eligible individual is evaluated to determine if their needs are urgent or for the future. The Michelle P. waiver waitlist is first come, first serve, and DMS has gone through the waitlist to ensure that individuals on the waitlist are eligible for services.

KAPP surveyed its members in May, 2021, which revealed that providers have been significantly impacted in revenue and workforce as a result of the COVID-19 pandemic. These providers often operate on thin margins. Only 2.8 percent of providers are fully staffed, with 50 percent of providers being critically understaffed. Private provider wages are tied to the reimbursement rate. In 2019, the direct support professional turnover rate was 47 percent for private providers. This high turnover is due to low wages and the emotionally and physically demanding nature of

the work.

Ms. Staed testified that waitlist issues cannot be addressed without addressing the staffing crisis. It is impossible for providers to raise wages without a corresponding reimbursement rate increase. KAPP would like for DMS to utilize the estimated \$96 million in American Rescue Plan funds coming to Kentucky for Home and Community Based Services (HCBS) to help private providers recruit and retain direct support professionals and to help providers recover from COVID-19 related losses. KAPP also wants to see long-term funding strategies implemented in the next budget to address the HCBS workforce crisis.

In response to a question from Representative Petrie, Ms. Staed testified that many states have inflation and wage components built into their reimbursement rate for providers, resulting in wages which remain steady with other sectors.

In response to a question from Representative Tipton, Ms. Staed stated that the SCL waiver program received a 10 percent reimbursement rate increase in the 2016 or 2017 budget. Other Medicaid waiver programs have not received a reimbursement rate increase.

In response to a question from Senator Meredith, Ms. Staed testified that while individuals in intellectual disability institutional settings may be able to transition out of institutions, private providers would not have the workforce to care for additional slots.

In response to a question from Representative Prunty, Ms. Staed said that the workforce issue is related to extra payments for unemployment insurance. While workforce problems have existed previously, they have gotten significantly worse because of the pandemic. She continued to say that individuals are either not coming back to work or are going to work in another sector for higher wages.

In response to a question from Representative Goforth, Ms. Staed testified that residential waiver providers typically lease or own the houses for individuals to live in. Individuals who receive supplemental security income are required by the federal government to pay their fair share for room and board. Providers are allowed by statute and regulation to charge for room and board, which includes utilities and food. State guardianship and oversight agencies make sure that providers are charging fair rates. Residential reimbursement for providers is roughly \$300 per day for 24 hour care.

Commissioner Lee testified that DMS is developing a plan to spend the one-time enhanced HCBS funds to expand, enhance, and strengthen the HCBS programs. The current administration started to continue the waiver redesign started by the previous administration. This has been paused due to push back from providers. An additional \$43 million will be needed to go forward with the redesign. Appropriations from the state will be needed to meet the state match required for the enhanced HCBS funds from the Centers for Medicare & Medicaid Services.

Director Smith testified that the Michelle P. and SCL waivers still have waitlists. The Michelle P. Waiver had 7,441 individuals on the waitlist at the end of April 2021. The SCL waiver had 2,886 individuals on the waitlist at the end of April 2021. DMS is in the process of allocating an additional 175 slots for the

Michelle P. waiver. An average of 78 individuals per month are added to the Michelle P. Waiver waitlist. In 2021, 350 individuals have been allocated slots.

In response to a question from Senator Carroll, Ms. Smith stated that it is unlikely that anyone added to the Michelle P. and SCL waiver waitlists after 2016 would not meet eligibility requirements.

In response to a question from Representative Petrie, Commissioner Lee testified that for the Michelle P. waiver an additional 25,000 slots ought to be funded and made available. Ms. Smith stated that for the SCL waiver an additional 2,500 to 3,000 slots would need to be funded and made available for each individual who needs services to receive them. In response to another question from Representative Petrie, Ms. Smith testified that there is a workforce shortage and that a large infusion of individuals to the waiver programs would present an issue. Ms. Staed testified that the state could fund an additional 250 SCL slots and 500 Michelle P. slots. She continued to say that the state should build up the workforce through rate increases in the first year of the next budget and release the additional slots in the second year.

Senator Carroll advocated for raising the reimbursement rate slightly so that providers could pay higher wages and more slots could be filled.

In response to a question from Senator Meredith, Ms. Staed stated that training for direct support professionals is handled by the College of Direct Support, which is not provider-based. She continued to say that community college credits could be a great way to attract people to the field.

#### **Current Status of Broadband Deployment**

John Hicks, State Budget Director, Office of State Budget Director and Sandy Williams, Deputy Executive Director, KIA, discussed the Current Status of Broadband Deployment.

Director Hicks testified that in the 2021 Regular Session, the General Assembly appropriated \$300 million from the American Rescue Plan Act's State Fiscal Recovery Fund to broadband deployment and infrastructure development. Of the \$300 million appropriation, \$250 million is dedicated to unserved and underserved broadband areas. The remaining \$50 million is for economic development and commercial industry customers. Of the \$250 million, \$50 million can be awarded through April 2022.

KIA is going to release a request for information (RFI) prior to releasing a request for proposal (RFP), with the purpose of asking providers, municipalities, and other government agencies for ideas, comments, and suggestions. Stage one of the process will then begin with the release of the RFP for notice of intent to apply and an initial map of unserved areas. Stage two of the process will begin with the release of the RFP for long application and an updated eligible unserved areas map. Project selection will be guided by statute, towards projects in unserved areas where local, state, or federal funds are not designated or are inadequate.

Timelines for the project are still under consideration. Stage one application is expected to be released in July. The federal government says that federal funds must be obligated by December 31, 2024. Expenditures must be completed by December 31, 2026.

In response to a question from Representative Blanton, Director Hicks testified that the broadband deployment fund is not related to Kentucky Wired, rather its purpose is to connect broadband services directly to homes and businesses who need it.

In response to a question from Senator McDaniel, Director Hicks stated that a subject matter expert employed by Kentucky Wired is on the committee for the planning of the deployment of broadband. He continued to say that Kentucky Wired will not be able to apply for funds and will not execute last mile fiber. In response to another question, Director Hicks stated that private sector groups will not be on the planning committee in order to keep potential applicants at arms-length for the procurement process.

In response to a question from Representative Petrie, Director Hicks testified that the planning committee has not solicited information from industry providers before doing the RFI. He continued to say that the RFI will allow this to be done in a formal process. The RFI should go out within the next few weeks.

In response to a question from Senator Buford, Director Hicks testified that the RFI process will be used to gather information from local providers. The RFI will be out within the next few weeks. The RFI process will be used to assure an equal and comprehensive participation by potential applicants and providers to ensure equity. It is not anticipated that future emergency regulations will add much to the statutory structure or the federal program structure already in place. Provider input will be used to develop the RFP.

In response to a question from Representative Tipton, Director Hicks testified that the total cost of broadband deployment to the unserved and underserved will not be known until project applications are received. In response to another question, Director Hicks stated that recoupment requirements will be involved with the distribution of federal funds. Performance accountability will be a part of the upfront application development process.

Representative Fleming encouraged the KIA to involve the private sector in the beginning of the process. In response to a question from Representative Fleming, Director Hicks assured that Kentucky Wired is precluded by statute from receiving any of the funds. He continued to say that the RFI process will provide information on qualified applicants and will comply with statute.

Senator Webb expressed her concern for avoiding duplicity and making an efficient use of funds received and services provided.

In response to a question from Senator West, Director Hicks testified that the award to Kentucky for the State Fiscal Recovery Fund is \$2.183 billion. The federal government has released 50 percent of those funds to Kentucky, which has mostly been appropriated by the General Assembly. The second half of these funds, which have not yet been received from the federal government, is roughly equivalent to the amount that remains to be appropriated from the State Fiscal Recovery Fund. Director Hicks testified that he has not heard of any additional rounds of American Rescue Plan funding.

In response to a question from Representative Bechler, Director Hicks stated that the statute says that funds cannot be awarded to Kentucky Wired.

In response to a question from Representative Petrie, Director Hicks testified that KIA will soon have a timeline of when projects may be expected to be completed. Representative Petrie stressed the importance of mapping to the success of the project.

#### **Sunrise Children's Services Scope and History of Services**

Dale Suttles, President, Sunrise Children's Services; Andy Weeks, Board Chair, Sunrise Children's Services; and John Sheller, Attorney, Sunrise Children's Services, testified on Sunrise Children's Services scope and history of services.

Mr. Suttles testified that Sunrise Children Services, or what was called the old Baptist Homes for Children, has been around since 1869. In the 1970s, the Commonwealth partnered with the institution to begin caring for children in the state's custody.

Sunrise Children's Services cares for wards of the state, abused and neglected children, and children removed from their homes by child protective services and placed with the Department of Community Based Services, who partners with Sunrise. Sunrise offers programs including therapeutic foster care, residential treatment, psychiatric residential treatment facilities, family services, and foster-to-adopt. Almost 600 foster children with Sunrise have been adopted. Sunrise also provides an independent living program for children aging out of the foster care system. Sunrise has always been a faith-based organization.

Mr. Sheller testified that Sunrise Children's Services has had a contract with the Cabinet for Health and Family Services for almost 50 years. The most recent contract was the 2019 to 2020 contract. Efforts began to renew the contract in the spring of 2020, but Sunrise was unsuccessful in getting the contract renewed. The organization has been operating without a contract for nearly a year. The Cabinet has continued to work with and reimburse Sunrise. In March of 2021, the Cabinet advised Sunrise that it would discontinue its relationship with the organization and discontinue the referral of children beginning July 1, 2021, unless the contract was signed. Mr. Sheller testified that Sunrise is being asked to comply with a regulation that was repealed in November 2019. Sunrise Children's Services is asking that its first amendment rights be respected going forward.

In response to a question from Representative Petrie, Mr. Suttles testified that the Sunrise Children's Services revenues from the Cabinet for Health and Family Services this year total \$16 million. In response to another question, Mr. Suttles stated that total expenses this year have totaled \$22,228,000. There has always been a shortfall, which Sunrise covers through raising funds via programming or private funders and reimbursements from the Kentucky Baptist Convention.

There being no further business, the meeting adjourned.

#### **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement Minutes of the 1st Meeting of the 2021 Interim**

### Call to Order and Roll Call

The first 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, June 2, 2021, at 9:00 AM, in Room 131 of the Capitol Annex. Representative John Blanton, 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 Christian McDaniel, Robby Mills, Adrienne Southworth, Reginald Thomas, and Stephen West; 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, Nancy Tate, and Buddy Wheatley.

Guests: Secretary Jim Gray, Transportation Cabinet; Director John Hicks, Office of State Budget Director; Deputy Secretary Ray Perry, Public Protection Cabinet; Matt Stephens, Executive Director, Department for Local Government (DLG); Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority (KIA); Commissioner Dennis Keene, DLG; and, Billie R. Johnson, Executive Director, Office of Federal Grants, DLG.

LRC Staff: Emma Mills, Liz Columbia, David Talley, and Spring Emerson.

### Kentucky Infrastructure Authority

Secretary Gray provided an overview of the Drinking Water and Wastewater Grant Program and Director Hicks provided an overview of Broadband Program Funding.

In response to a question from Chair Blanton regarding localities applying for federal funding and the determination of the distribution of those funds, Secretary Gray said the application process is completed online and evaluated by water resource coordinators in each Area Development District (ADD). Allocations are based on county population. Ms. Williams added that the portal can be found at the Kentucky Infrastructure Authority website.

In response to a question from Representative Goforth regarding the allocation process, Ms. Williams said the intent is to be inclusive, and not to close the application window. If applicants need more time, they will get it. Secretary Gray added that the intent of the legislation is to have projects in every county in Kentucky, with the ADD districts working closely together with the counties.

In response to questions from Representative Bratcher regarding the funds for Jefferson County, Ms. Williams said Kentuckiana Regional Planning and Development Agency (KIPDA) has already met with the utilities and the process opened up yesterday.

In response to questions from Representative Meredith, Ms. Williams said either the funds have to be fully expended or contracts must be issued for the projects before the deadline. No county allocation can be given to another county without the approval of the General Assembly. If the city and county cannot agree

on projects, they will be selected by the KIA Chair.

In response to a question from Representative Wheatley, Secretary Gray said a municipality can start the process today to begin a project and issues that may arise can be worked through with the ADD coordinator.

In response to a question from Representative Graham regarding process guidelines, Secretary Gray said new funds are allocated by the county, and decisions are based on that funding. Once decisions are made and funds are applied for, there will be situations that will require flexibility, and those will go before the KIA board.

In response to a question from Representative Miles regarding debt service on projects already completed and any required matching funds, Ms. Williams said there are federal restrictions in place for the repayment of debt service. There is no match requirement for Drinking Water and Wastewater grants, and the funding may be combined with other federal dollars as long as those do not have restrictions placed on them. Secretary Gray said price escalations are occurring across the board.

In response to a question from Representative Pratt regarding funds being available for both public and private companies, Ms. Williams said the KIA is limited by statute to provide project financing for governmental agencies. Counties can apply on behalf of private utility companies.

Senator McDaniel commented that most times we are making sure the money is spent by the deadline, not necessarily ensuring it is spent the most efficiently. The best spent money might be the money that is delayed in being spent right now in order to get project costs down. Secretary Gray commented that we need to be mindful of flexibility that would give us the most effective use of the funds.

In response to questions from Representative Koenig regarding federal guidance, Director Hicks said the initial guidance for Broadband funding was issued May 10, and there is a 60-day comment period before the federal government will make its final ruling, which we may receive around late July. Ms. Williams said a county can coordinate and spread their allocation out among multiple projects, which must be included in their project profile.

Chair Blanton commented that a delay may be better in order to get to more people.

In response to questions from Chair Blanton regarding the application portals for Water and Broadband, Director Hicks said they are separate portals. Broadband projects are directed through KIA rather than the ADDs. Eligible entities may apply from both the public and private sectors.

In response to a question from Representative Meredith, Director Hicks said 100 MB and above is the most common speed for people in the US having access, and is the federal standard.

In response to a question from Representative Koenig regarding regulations, Director Hicks said federal rules must be followed and the focus is on the unserved population, which equates to mostly rural areas in Kentucky. For those counties that have both metro and rural areas, current statute contains the ability to parse that census block into the unserved or underserved areas of those counties. Unserved areas

within urban counties are as eligible for the funds as unserved areas in other parts of the state.

In response to questions from Representative Wheatley regarding public versus private providers, Director Hicks said the mission is to get high speed internet to those that do not have access, rather than focusing on the provider. If areas that have lower speed access meet the definition for eligibility as unserved, the faster speed can be made available to them.

In response to a question from Representative Pratt regarding mapping, Director Hicks said Federal Communications Commission (FCC) data, along with data from the internet-based speed test, are being used as the initial map. Input from potential applicants and providers will be used to refine the map and it will be updated into a final map that will be used for the Request for Proposal (RFP).

In response to questions from Senator Thomas regarding access to all Kentuckians, Director Hicks said the federal funds being used have to be obligated by the end of calendar year 2024, and expended by end of calendar year 2026. The sooner we can get people connected, the better. No official date for completion has been set. Providing access is the first step, and applicants will be asked for their adoption strategies for actual usage.

In response to a question from Senator West regarding the federal deadline, Director Hicks said the deadline is December 31, 2026 and applies to State Fiscal Recovery Funds, which includes both Water/Wastewater and Broadband Programs.

In response to a question from Representative Tate regarding reporting to the General Assembly, Director Hicks said the government is committed to frequent reporting, for transparency purposes as well as providing project status information. The intent is to report back on a monthly basis.

Chair Blanton thanked the presenters and commented that they would be invited back periodically to keep members informed on the subjects discussed today.

### Department for Local Government

Commissioner Keene and Ms. Johnson provided an overview of the DLG and its distribution of COVID-19 federal funds to local governments.

In response to a question from Chair Blanton regarding unused allocations, Ms. Johnson said cities cannot transfer funds, and the presumption is that unused funds would go back to the Treasury.

In response to a question from Representative Goforth regarding notification to cities, Ms. Johnson said cities have not yet been notified, due to waiting for the agency budget certification forms, which will be used to determine formula percentage amounts.

In response to a question from Chair Blanton regarding using the funds for other areas within the agency, Commissioner Keene said once the funds are in the General Fund they are difficult to track.

### Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 10:34 AM.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Transportation**

**Minutes of the 1st Meeting of the 2021 Interim June 2, 2021**

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

The first meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, June 2, 2021, at 11:00 AM, in Room 131 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; Senators Christian McDaniel, Brandon J. Storm, Johnnie Turner, and Robin L. Webb; Representatives Chris Fugate, Samara Heavrin, Shawn McPherson, Phillip Pratt, Rachel Roberts, and Cheryl Lynn Stevenson.

Guests: Secretary Jim Gray, Transportation Cabinet (KYTC); Mike Hancock, Deputy Secretary, KYTC; Commissioner Bobbi Jo Lewis, Department of Rural and Municipal Aid, KYTC; and, Kenny Bishop, Legislative Liaison, KYTC.

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

### **Selection of Projects Not in Six-Year Road Plan**

Secretary Gray provided an explanation and overview of “Zvarious” funding and the selection of projects not in the Six-Year Road Plan. Deputy Secretary Hancock talked about Metropolitan Planning Organizations (MPOs) and projects funded with the contingency account.

In response to a question from Representative Roberts regarding MPOs, Mr. Hancock said the federal funding authorization act allows funds to flow to Kentucky and those are divided into several buckets. The state gets some funds, and so do the MPOs. Ohio-Kentucky-Indiana Regional Council of Governments (OKI) is the MPO for Northern Kentucky.

In response to a question from Chair Higdon regarding the MPO process, Mr. Hancock said federal law requires that MPOs have certain ranges of authority related to local prioritization. KYTC works through MPOs to get metropolitan area projects included, and local governments cannot dictate how state funding can be spent. The Strategic Highway Investment Formula for Tomorrow (SHIFT) program is independent of the MPO process, even though both take into account the prioritization process they each use and they work together accordingly. In regard to matching funds, if a project is done in a metropolitan area and is on a state-maintained system, typically the state will provide the matching funds. If it is a local street or county road, the locals will provide the matching funds. Mr. Hancock said of \$32 million in federal funds, approximately \$18 million goes to metropolitan Louisville, which includes parts of Bullitt and Oldham Counties as well as Jefferson County. When the MPO process takes place, representatives from all of those counties are present to prioritize projects. Therefore, a lot of the MPO projects originate

locally and address primarily local concerns.

In response to a question from Chair Higdon regarding examples of “Zvarious” fund usage for pavement management projects, Mr. Hancock said there are degrees of rehabilitation within the pavement management category, including preliminary preventive maintenance that is very critical, then pavement repairs, followed by rehabilitation of old pavement, and finally, complete replacement for roads that are beyond repair.

In response to a question from Chair Higdon regarding information on pavement conditions, Mr. Hancock said that information will be provided to members of the subcommittee at a later date, as well as to members of the Interim Joint Committee on Transportation.

In response to a question from Chair Higdon regarding the difference between “Zvarious” funds and contingency funds for emergencies, Mr. Hancock said there are two ways to approach needs; 1) state funds, through the biennial budget; and, 2) combination of state and federal funds set aside in the “Zvarious” category. The “Zvarious” category contains three pots: enhancement funding, bridge/pavement repairs/unforeseen issues, and statewide bridge inspections. Bridge inspections are performed at least every other year, and those with higher usage are inspected annually.

In response to a question from Representative Stevenson regarding emergency situations, Mr. Hancock said when an emergency is declared, Federal Emergency Management Agency (FEMA) funds are made available. In those cases, the repairs are made initially using state funds, which are later reimbursed by FEMA. In addition, emergency relief funds are available from the Federal Highway Administration (FHWA).

In response to a question from Chair Higdon regarding other “Zvarious” categories, Mr. Hancock said school turn lanes fall under the federal Highway Safety Improvement Program (HSIP), and state funds are added for school safety issues.

Chair Higdon commented that the SHIFT program will be a topic for a future meeting.

Representative McPherson expressed his appreciation for help received on a safety issue in his district.

### **Selection of Revenue Sharing Projects**

Ms. Lewis provided an explanation and overview of the selection of projects using the statutory program of Revenue Sharing.

In response to a question from Chair Higdon regarding the Kentucky Pride fund, Ms. Lewis said that fund receives \$5 million.

### **Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 12:36 PM.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

**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 Education was held on Tuesday, June 1, 2021, at 11:00 a.m., in Room 149 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 Regina Huff, Co-Chair; Senators Danny Carroll, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Gerald A. Neal, Adrienne Southworth, Reginald Thomas, Stephen West, and Mike Wilson; Representatives Shane Baker, Kim Banta, Tina Bojanowski, Jennifer Decker, Jeffery Donohue, Myron Dossett, Scott Lewis, C. Ed Massey, Bobby McCool, Charles Miller, Melinda Gibbons Prunty, Steve Riley, Attica Scott, James Tipton, Russell Webber, Richard White, and Lisa Willner.

Guests: Erin Klarer, Vice President of Government Relations, Kentucky Higher Education Assistance Authority; Dr. Aaron Thompson, President, Council on Postsecondary Education (CPE); Dr. David Mahan, Associate Vice President, Data and Advanced Analytics, CPE; Dr. Jessica Cunningham, Executive Director, KY STATS; Robin Kinney, Associate Commissioner, Office of Finance and Operations, Kentucky Department of Education (KDE); Jessi Carlton, Assistant Director, Division of District Support, KDE; Dr. Sally Sugg, Superintendent, Shelby County Schools; Robert Harmon, Director of Pupil Personnel, Adair County Schools; Steve Hill, Director of Pupil Personnel, Fayette County Public Schools; and Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support, KDE.

LRC Staff: Jo Carole Ellis, Joshua Collins, Lauren Busch, and Maurya Allen.

### **Factors to Consider when Revising KEES**

Erin Klarer was present to speak about the Kentucky Educational Excellence Scholarship (KEES) program. KEES is a statewide scholarship program which provide incentives to students to maintain good grades and finish on time. There is a GPA award for each year of high school, an ACT bonus, and supplemental bonuses for low income students who score high on Advanced Placement (AP), International Baccalaureate (IB), and Cambridge Advanced International (CAI) tests. The program was established in 1998 with three main policy goals: to incentivize students to work harder in high school, to encourage students to stay in Kentucky for postsecondary education, and to incentivize students to work hard in college. There have been 15 statutory changes to KEES since its inception, each of which takes four to five years for the full fiscal impact to be realized. The two most recent expanded uses were in 2017, which allow students in registered apprenticeships to use KEES funds for training expenses, and in 2019, which allow students in qualified workforce training programs to receive KEES reimbursement. The fiscal impact of both of these changes is just starting to be realized.

Ms. Klarer directed members’ attention to brochures in their meeting materials which outline the award schedule, including available bonuses. She clarified that students must earn at least one year of award for good grades before qualifying for the ACT bonus award. As there has been some discussion among the

committee about changes to eligibility requirements, she informed members of the current eligibility limits. Eligible high school students are U.S. citizens, nationals, or permanent residents; are Kentucky residents; cannot be a convicted felon; and must attend an eligible high school at least 140 days of the year while meeting KEES curriculum standards. An eligible high school is a Kentucky public or private school that is certified by the Kentucky Department of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education. This includes both Gatton and Kraft Academies. Students must also earn at least five high school credits and achieve an annual GPA of 2.5 or higher to earn KEES awards for that year. Regarding discussion of removing the prohibition for felony convictions, KHEAA does not currently track criminal records of students. That is typically screened for by colleges or universities as part of the admissions process, so it is difficult for KHEAA to provide an informed fiscal analysis on the impact of that proposed change other than to say it would have an immediate fiscal impact.

Bonus awards were added to the KEES program in 2008, as a result of Senate Bill 2 of the 2008 Regular Session, making supplemental awards available to free/reduced price lunch eligible students if they receive qualifying scores on AP, IB, or CAI exams. She pointed out that this change resulted in an unintended consequence, in that there is currently no limit to the number of bonus awards a qualifying student can receive. Also, students do not have to take an AP course in order to take the exam, and therefore qualify for bonus awards. She noted that this year there was a very bright student who has taken a number of exams and has earned close to \$6,300 of KEES annual award money. She reminded members that students receive their full award amount annually (split evenly between the fall and spring term) until the first of three conditions is met: completion of eight academic terms, five years since the student's high school graduation, or successful completion of a first bachelor's degree. There are some exceptions for active duty military service, extended illness (certified by an attending physician), or natural disasters that render a student unable to attend classes.

There is no application process for KEES. High schools report GPAs to KHEAA who updates the accounts for each student and sends a letter outlining their current award amount balance to the student. Then, in the fall, students arrive on campus and the institutions send enrollment reports to KHEAA who releases the appropriate funds to the institution to cover student expenses. At the end of term, institutions report back to KHEAA with student GPAs so the accounts can be updated again for the next year. There are 55 in-state participating institutions and 23 in the academic common market. If an undergraduate program is not available at a public institution in Kentucky, KEES can be used at a school in the academic common market which has that program. The most notable programs students use this exception for are aerospace engineering, nuclear engineering, recording industry, business music, audio production, and coastal marine science. There are further requirements to maintain minimum GPAs in order to continue re-

ceiving KEES, however, if a student brings their grades up following a semester of poor performance, they become eligible again to receive their KEES money.

The newest component of KEES is as a reimbursement for expenses incurred during a registered apprenticeship program or qualified workforce training program. Registered apprenticeship programs are approved by the U.S. Department of Labor and the Kentucky Education and Workforce Development Cabinet. The Cabinet sends a list of participating students to KHEAA so they can be tracked in the database and a letter is sent to students informing them of their KEES funds and the process to receive reimbursement. The qualified workforce training programs are those that have an articulation agreement with a KEES participating institution. Currently there are two, an HVAC program and an electrical proprietary school, who have agreements with a KCTCS campus. Qualifying programs are limited to the top five workforce needed areas, much like the Work Ready Scholarship. To receive reimbursement, there is no GPA requirement, but there is a requirement for itemized receipts. There have been approximately 80 students participate in these new components to date.

Ms. Klarer closed her presentation thanking the Kentucky Lottery for their support and positive promotion of the KEES program and other scholarships funded from lottery revenue. A total of \$3.8 billion has been disbursed in the form of grants and scholarships since 1999. But she reminded members that KEES is not funded like a bank account, it is funded like Social Security, based on historical trends and forecasting. Any time there is an increase in student participation or institution eligibility it increases the costs and pulls funds from the College Access Program (CAP) and the Kentucky Tuition Grant (KTG), which are both need based, or from the Dual Credit Scholarship, the Work Ready Scholarship, or the Teacher Scholarship.

Senator Wilson thanked Ms. Klarer for her presentation and reiterated that the lottery proceeds are a finite fund and every time there is an expansion in KEES, there is a reduction in funds available to the other new scholarship programs that have been created.

Responding to questions from Representative Tipton, Ms. Klarer explained that there has been a slight downward trend for enrollment and a simultaneous upward trend in lottery revenue, both possibly caused by the pandemic, which has resulted in the CAP and KTG programs both experiencing higher award amounts in the last year. Additionally, as of this meeting, awards were still being distributed, even though frequently funds have been exhausted by this time in the year. However, the KEES awards, as well as other lottery supported awards, are always subject to fund availability. Representative Tipton voiced his desire to see these conversations continue because while awards are given to more students, and more students are taking advantage of them, the award amounts have not kept pace with tuition increases.

In response to a question from Representative Bojanowski, Ms. Klarer said she would need to coordinate with another agency, such as the Kentucky Center for Statistics (KY STATS), in order to match up how many students who receive KEES awards to attend postsecondary institutions remain in Kentucky

for employment upon graduation.

#### **Implementation of 2020 House Bill 419**

Dr. Aaron Thompson, Dr. David Mahan, and Dr. Jessica Cunningham were present to discuss the implementation of a new interactive data tool for students. Dr. Thompson commented that it was necessary to understand the pipeline of students going into postsecondary education. Currently 50.5 percent of graduating high school seniors go to college. This is not sufficient to support our economy and fill the jobs market. We need to build a better way for students to get into and out of the postsecondary education system, regardless of their starting point. Transparency will facilitate that. The Student Rights Bill (House Bill 419 of the 2020 Regular Session) has that as a core element and led directly to the creation of the web tool being demonstrated today.

Dr. Mahan introduced the interactive tool which will be available online and will address questions prospective students are asking such as job availability, salary levels, and degree costs. The web tool was designed to answer those questions in an interactive and comprehensive manner, regardless of whether they are a current high school student, an adult who never went to college, or an adult looking to change career paths. It will also hopefully serve to enhance other advising tools already available to students and advisors including the KY STATS Career Explorer, KY Career Edge, KnowHow2GoKY, and KnowHow2Transfer. The web tool is still undergoing a process of feedback with students, advisors, and administrators before full launch.

Dr. Cunningham demonstrated the various features of the tool by accessing the webpage at [kystats.ky.gov](http://kystats.ky.gov) and clicking on "Reports." It is the top report on that page and is titled "Kentucky Student's Right to Know." She illustrated how students can select a major program of interest and then view which job titles frequently correspond with that degree program. Using 'electrician' as an example, the tool illustrates the top occupations for that major, the average number of annual job openings, and the typical salaries for early, mid, and late career. The tool also informs students which institutions provide a preparation program, as well as the cost of attendance, program duration, and graduation rate. One of the key features Dr. Cunningham pointed out was the inclusion of career and technical education (CTE) pathways by selecting the "Additional Pathways" tab in the report. The different categories represent no CTE experience, some CTE experience, or completion of a CTE pathway. The report includes the percent of those categories that went directly into the workforce, those that went on to pursue a postsecondary credential, and those that went out-of-state or did not go into the workforce or postsecondary enrollment. Earnings data is also displayed, as well as the enrollment in apprenticeship programs.

Another degree example Dr. Cunningham demonstrated was "electrical engineering." The report then displayed the top five occupations by demand, the average earnings, the typical entry level education required, and the institutions offering that degree. Clicking on the institution name illustrates the cost of attendance for in-state tuition, and the outcomes for the institution by this major. Dr. Mahan pointed out



that the average debt was also presented for this major. This gives students a more informed understanding of what kind of debt they will be taking on to pursue that degree compared to the average salary expected upon employment, in order to make the best informed decisions about student loans and debt repayment options. All of this is to better inform students making choices for postsecondary education and employment opportunities.

Dr. Thompson closed the presentation saying that he thought initially that the project would be more laborious and the final product not as in depth as what they have developed. This project has produced a very easy to understand and transparent tool for students and their families. He encourages the members to work with the application and be prepared to promote it to schools, families, and others in their communities.

In response to questions from Chair Wise regarding the marketing plans for this tool, Dr. Thompson said he plans to get it first into the hands of the higher education advisors and K-12 guidance counselors. He stated he would also like to see it promoted by third-party educational advocacy groups and by employers and others in the business communities. It is useful to employers promoting skilling-up their workforce, as well as those looking to re-enter the workforce following the pandemic. Dr. Mahan said they have also reached out to KHEAA about inclusion of the information on the KEES award letters.

Senator Higdon stated he found this new tool very informative and highly commended the work done by KY STATS to help craft this resource.

Representative McCool said he appreciated this implementation as it will be a critical living document to help students make solid career choices.

Senator Wilson thanked CPE and KY STATS for their work and asked if there was an app for mobile devices to interface with this new tool. Dr. Mahan said there was not currently an app, but there are plans to develop one. He agreed with Senator Wilson that it would be very useful to be able to provide it to students directly on their devices during something like freshman orientation sessions or career counseling situations. Senator Wilson also stated his appreciation for the inclusion of debt payments in the information on the costs for degree completion so students are well prepared for those upon graduation.

Representative Huff commented that the presentation was very informative and encouraged the continued promotion of the FAFSA to students so they also are aware of all the financial resources that exist to help them reach their postsecondary education goals.

### **Student Participation during the COVID-19 Pandemic**

Robin Kinney, Jessi Carlton, Dr. Sally Sugg, Robert Harmon, and Steve Hill discussed student participation during the COVID-19 pandemic and the 2020-21 school year.

Ms. Kinney began by reviewing where the school year ended in 2020 and why that necessitates a discussion of participation today. In March 2020, the General Assembly was in session, which afforded KDE the chance to look at how funding would happen at a state level for the duration of the pandemic. Senate Bill 177 of the 2020 Regular Session, allowed school districts

to engage students through participation rather than daily attendance. There were limited opportunities for a participation model prior to that time. During the pandemic, school districts were still accountable for engagement and delivery of education to students, whether in-person or virtually. Under this new model, the teachers recorded participation in Infinite Campus (IC), the statewide student information system.

Participation was counted daily. For in-person students, this was recorded as daily attendance, but for remote instruction there were four types of participation recorded in order to capture engagement through all modes of instruction. Those were one-on-one video or phone communication between a teacher and student (or a teacher and parent with smaller/special needs student); group video communication or phone call between a teacher and a whole class or small group of students within a class; student logging into a learning management software system to complete assignments; or submission of paper-based assignments for students in non-digital, non-traditional settings.

Ms. Carlton gave an overview of how the data was reported, collected, and posted to the KDE website. The participation report shows aggregate data at the district level for three reporting periods; October 2020, January 2021, and a third report will be posted by July 2021. The first report, which contains data through the end of September, highlighted districts that were having trouble with the new reporting methodology. KDE reached out to those districts that struggled and helped ensure students were accurately being recorded in IC following the new criteria. The January report covers August through December, and the final report will reflect the whole year and be available soon on the website.

The report is created in two forms, an aggregate report posted online and a student participation report, which is more useful to individual districts because it contains student level data broken down by different student groups such as gender, race, free/reduced price lunch status, etc. This will allow school districts to see if there are individual students, or perhaps a demographic subset of students, who need more support. The participation rates were in line with previous years' attendance rates. In normal years, KDE performs attendance audits, and this year they performed participation reviews to fulfill that same function. Because the IC data does not allow recording of the four modes of participation, the participation review process allowed a better understanding of what was happening at a district level.

Twenty-nine districts were selected at random, and each was asked to provide information for one elementary, one middle, and one high school on two preselected dates. That data was collected and showed that on those dates, about 11 percent of students did not have any participation. Ms. Carlton noted that this may reflect some schools had not fully mastered the new reporting methodology as the preselected dates were in the fall semester. Another insight of note was that 11 percent of remote instruction students were participating via paper-based assignments and approximately 77 percent were participating through electronic methods. The mode of instruction with the highest rate of participation was via student time logged into a learning management software system to

complete assignments.

Dr. Sugg spoke about both the challenges and successes her school district encountered in student participation during the pandemic. Shelby County already had one-to-one student to device ratios before the pandemic and had a non-traditional instruction (NTI) plan in place. They had also already been working towards individual learning plans for all students. These combined to make it easier to transition to virtual. However, they faced many of the challenges other districts have reported regarding connectivity issues at home or strained home life (parents out of work or working in essential jobs). One of the bright spots was the same too, the commitment from teachers going above and beyond to meet their students' needs. Many teachers made neighborhood calls to see students, especially English as a Second Language (ESL) students. Shelby County did not develop a 'virtual academy' separate from in-person students, but rather preferred a traditional classroom model where one teacher had a class of students. This made transition back to in-person instruction easier for remote students. The district received a lot of positive feedback from families regarding personalized learning. Going forward, Shelby County plans to have targeted interventions for students who need assistance or maybe expanded learning for gifted students. They are also working to strengthen staff supports to support the mental and emotional health of teachers and other staff who have also been through a very rough year.

Mr. Harmon said Adair County took many proactive measures during the summer before the start of the 2020-21 school year. First was ensuring that the technology supports were in place for all students. They also focused on creating relationships with parents to build on when frustrations set in regarding motivation and navigating the software platforms. Teachers in Adair County also reached out on a personal level with families through phone calls, home visits, and text messaging. This foundation of trust made it easier for parents to reach out for help when their students had difficulty with remote instruction. Utilizing IC was also a vital component in terms of ensuring accountability and fostering communication. Mr. Harmon stated that face-to-face in-person instruction is best, but that sometimes doing face-to-face instruction virtually through the use of technology is a reasonably good substitute. The biggest change was in terms of pacing and modification of workloads to adapt to the struggles students were facing at home, especially those with siblings at home or whose parents were working remotely at home as well. Teachers also struggled to prepare classwork for mixed in-person/virtual classrooms and the decision was made to move to a different format, allowing teachers the most flexibility and the best return on investment of time. Adair County plans to use summer school this year not just for credit recovery, but also to foster the social and emotional skill building that students will need after a year of social distancing.

Mr. Hill spoke of how this year illustrated the ways the education system can grow and flex to meet challenges. Fayette County implemented tiered interventions for remote learning, but structure was key. Over the summer, Fayette County worked to ensure every student had an internet-ready device. School

personnel worked on reducing barriers and enhancing communication, especially with ESL and special needs students and families. Mr. Hill said that the opportunities provided by remote instruction are awesome if done properly. Teacher presence is key, as is making sure there is the right fit between student and program or platform. Social and emotional health is also critical and Fayette County strove to include support for mental health into the virtual program. School personnel performed over 36,000 home visits and plan to hold three summer sessions to bring struggling kids up prior to return to school in August. He said he does not agree with the idea that students 'lost out' over the last year. It was different, but no one should discredit what the students and staff were able to achieve.

Chair Wise agreed that while face-to-face is best, virtual instruction is a great opportunity. Responding to questions about virtual instruction in the future, Dr. Sugg said Shelby County will continue to have a virtual option for students who do high school entirely remotely, as it did before the pandemic, and are looking into an option for elementary students, but students in that program will be assigned to a teacher with whom they have one-to-one instruction. Students who participate in that program have to apply and have a proven record of academic success. She sees this potentially as an option for homeschool students wanting to participate in what the public school can offer. Mr. Hill said Fayette County plans to have a virtual learning academy for grades K-12 with its own curriculum, but believes a majority of students and parents will want to return to an in-person classroom setting. Mr. Harmon said Adair County will not have an open program but will have an option for virtual learners who apply for a waiver citing extenuating circumstances that would prohibit them from success in an in-person classroom.

Responding to questions from Representative Tipton, Ms. Kinney said the Kentucky Board of Education can grant waivers for use of participation numbers in the SEEK formula regarding school funding. Additionally, there are plans to expand use of participation numbers for entirely virtual academies to be factored into the SEEK formula.

In response to a question from Senator Southworth, Mr. Harmon said the four-day weeks used in his district during the pandemic, where students had either in-person or remote instruction on Monday, Tuesday, Thursday, and Friday, but teachers had the use of Wednesday for planning or individual student meetings, would not be used in the upcoming school year. Dr. Sugg said Shelby County used a similar four-day schedule, where teachers could provide targeted assistance on the fifth day and transportation was provided to students who needed to come to the school for one-to-one in-person meetings.

Ms. Kelly Foster joined the presenters to respond to a question from Senator West. She said state assessment returns are usually in the fall, but due to a waiver from the U.S. Department of Education, Kentucky was exempt from performing state assessments this past year. Formative assessments were performed in most districts for a real-time understanding of where students were academically. It was reassuring to discover that students who were already adept in reading or math did not fall behind, and in some cases were

able to grow their skills. However, those students who were already struggling in math or reading, struggled to keep up and were slower to gain new mastery.

Representative Riley said he expects schools will see some significant deficiencies as a result of this year. Teachers are critically important and schools teach more than hard skills. Social skills cannot be taught virtually and he is already seeing a lack of social skills among children who have been socially distancing for a year. He looks forward to students getting back into the classroom to develop those skills.

In response to questions from Senator Thomas, Dr. Suggs answered that vaccines, much like masks, had become a highly politicized topic. In her district, as in most others, they worked closely with their local health department to determine appropriate health protocols for returning to in-person instruction. When those protocols were followed, all the students and staff were kept safe. The local health department has also worked with the school to establish vaccine distribution events for staff and eligible students and will continue to work with them to see that everyone can get a vaccine. Mr. Harmon answered that his school district was maintaining that getting vaccinated will be a personal choice, but his school has also worked with their local clinics to get staff vaccinated and establish the sanitation guidance that keeps everyone safe. He will continue to advocate for following the guidance based on good science. Mr. Hill reiterated how closely his district worked with local health officials to increase vaccine acceptance. They will continue to encourage those who want to get the vaccine to do so and increase access so that as many families can take advantage of the vaccine prior to schools starting in the fall. Mr. Harmon added that the foundation of trust and communication that served districts so well during virtual instruction also allows staff to advocate for vaccines. And Mr. Hill commented that mandating the vaccine might serve to push away more families than it would help.

Responding to statements from Representative Huff, Ms. Kinney agreed that some schools may expand their virtual academies going forward, but a majority of families will prefer to return to a traditional school setting. Also, the use of virtual instruction will be voluntary, rather than mandatory, and that will make that mode of instruction more robust. Mr. Hill said his teachers had seen the value of virtual instruction and will still be involved in any virtual academies. Dr. Sugg added that students who participate in a virtual only academy in her district must sign a contract so they are fully aware of the rigor required for online instruction to be successful.

There being no further questions, the meeting adjourned at 12:51 p.m. The next meeting of the committee will be July 5, 2021, at 11:00 a.m. in Capitol Annex room 149.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

### **Minutes of the 1st Meeting of the 2021 Interim**

June 3, 2021

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

The 1st meeting of the Interim Joint Committee

on Judiciary was held on Thursday, June 3, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Representative C. Ed Massey, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative C. Ed Massey, Co-Chair; Senators Karen Berg, Danny Carroll, Alice Forgy Kerr, Gerald A. Neal, John Schickel, Wil Schroder, Johnnie Turner, Stephen West, 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: Chief Justice John D. Minton, Jr, Laurie Dudgeon, Justice Mary C. Noble, Robyn Bender, and Cyndi Heddleston.

LRC Staff: Roberta Kiser, Randall Roof, Michelle Spears, Matt Trebelhorn, Yvonne Beghtol, and Maria Macaluso.

#### **Judiciary Branch Funding**

Chief Justice John D. Minton, Jr., Kentucky Supreme Court, reviewed the structure and authority of the Kentucky Court of Justice. Chief Justice Minton explained that the Administrative Office of the Courts (AOC) is an extension of the Office of Chief Justice, providing administrative support for 3,500 non-elected employees and 406 elected officials of the court system. The AOC also performs finance and administration functions for the court system, including providing language assistance across the commonwealth, managing statewide programs, and providing statewide information and technology services.

The Chief Justice is constitutionally obligated to submit the budget for the Court of Justice. The 2021 budget appropriated \$382,000,000 for the Court of Justice for three units: Court Operations, Local Facilities Fund, and Judicial Retirement. The Court Operations unit covers salaries and benefits of all elected and non-elected personnel along with operating costs. The Court Operations general fund budget for FY 2022 is \$260,330,000, approximately 87 percent of the total court budget. The Local Facilities Fund pays the debt service on judicial centers or courthouses, and for operating costs, maintenance, and repair of those facilities, and this appropriation for FY 2022 is \$114,600,000. While the Court of Justice does not own any of these court facilities, AOC pays the Court of Justice's proportional share of the debt service, called the Local Facilities Use Allowance. If there is no debt on the building, the AOC pays the county two percent of the original capital construction cost. The appropriation for the Judicial Form Retirement System in FY 2022 is \$7,100,000. Any revenue generated by the AOC goes into a restricted fund, but the budget bill authorizes that approximately \$15,000,000 from civil filing fees be kept to fund the Compensation Plan and to offset the deficit that always occurs in the operation unit. The Circuit Court clerks collect state dollars which are submitted to the Finance Cabinet. In FY 2019 the Circuit clerks collected \$109,000,000 in state funds. The amount dropped to \$90,800,000 in FY 2020 due to a decrease in court filings attributable to

the COVID-19 pandemic.

AOC is required, under HB 556, to report expenditures from FY 2021 and budgeted expenditures for FY 2022 to the Interim Joint Committee on Appropriations and Revenue. Because Kentucky has a unified court system with centralized administration, AOC cannot report all expenditures by county or by local level.

Court proceedings were unconventional during the COVID-19 pandemic but courts did remain open. Funding provided by the General Assembly for a statewide electronic filing program played a critical role during the past year. Remote Video Conferencing technology allowed for continuing court proceedings. The Supreme Court recently lifted all restrictions for in-person court operations, but will continue to retain some of the procedures used during the pandemic. A poll of 764 lawyers at the Kentucky Bar Association Conference regarding the continued use of remote proceedings indicated that the majority would like to continue remote proceedings for civil Motion Hours and civil Hearings, and the Supreme Court is encouraging judges to continue to use remote proceedings as they transition back to in-person proceedings.

Chief Justice Minton explained that \$14,700,000 appropriated for FY 2022 will be used to provide technology upgrades for virtual hearing equipment between county jails and courts, including video arraignment systems to all courtrooms; videoconferencing systems to permit a hybrid court model; a self-represented litigant portal; redaction system software; and self-service kiosks.

In regard to the backlog of court cases due to the COVID-19 pandemic, circuit civil filings are down, criminal case filings have had a huge rebound, and circuit criminal cases doubled from March 2021 to April 2021, reaching the highest number of criminal case filings ever recorded within a month. Family Court case filings have now reverted back to the same as in 2019. Juvenile, Dependency and Neglect, Paternity, and Delinquency and Status cases have gone down. District Court civil Disability and Mental Health filings have remained the same as in 2019. Forcible Detainer and Small Claims actions have gone down. Probate filings show a 25 percent increase over 2019. District criminal filings remain close to the normal. An expansion of the Felony Mediation Program is in place to assist judges in addressing the increase of criminal cases. Currently 26 retired judges with specialized mediation training to conduct facilitated discussions with parties on referred felony cases are available to expedite the disposition of referred cases. The process is voluntary but is proven to be effective to reduce the high volume of criminal dockets and jury trial backlogs. Cases may be mediated remotely or in-person. Resolving cases through Felony Mediation allows judges more time to prepare for court, hearings, and trials, reduces clerk and administrative time, and provides defendants a speedier access to justice.

In response to Representative Blanton, Chief Justice Minton pointed out that it is a legislative choice as to what entities received distributed court fees. Laurie Dudgeon, Director of the Administrative Office of the Courts, agreed that the General Assembly should revisit the statute declaring what entities receive a portion of court fees, particularly considering the Ken-

tucky State Police laboratories. Ms. Dudgeon advised that the Finance Cabinet may be able to provide the amount distributed annually to each entity.

In response to Senator Schickel, Chief Justice Minton agreed that the decline of trials by jury is a nationwide concern. The Civil Justice Reform Commission is working on how to improve the system to have more cases decided by juries. Ms. Dudgeon noted that the backlog of overall cases went from 405,000 on April 5, 2020 to 484,000 as of June 1, 2021.

In response to Representative Moser, Ms. Dudgeon commented that the cost savings due to the remote process may be more advantageous for counties and civil parties rather than courts. Chief Justice Minton added that not having to transport prisoners will also provide a cost savings. With regard to court fees that have not been collected, Ms. Dudgeon stated that there is a statewide Accounts Receivable Program to report any uncollected fees. Courts are obligated to ensure an individual has the ability to pay and they have to offer an alternative sanction if the individual is not able to pay.

In response to Representative Nemes, Ms. Dudgeon stated that AOC will review the cases to see if any of the prisoners the governor gave an early release to impacted the increase of criminal cases filed last month. In response to the request for a breakdown in court spending by county and by unit, Ms. Dudgeon confirmed that all expenditures required will be reported at the close of FY 2021.

Senator Turner commented on how the remote court system has been beneficial and jury trials are only necessary for some cases.

In response to Chairman Massey, Chief Justice Minton stated that the Judicial Conduct Commission is under AOC for the purpose of budget only and is otherwise a separate operating entity. Ms. Dudgeon responded that while the court expanded the Administrative Release Program to include some Class D felonies, AOC continues to receive feedback from judges and stakeholders to take into consideration for changes.

#### **Education Good Time Sentencing Program**

Secretary Mary C. Noble, Justice and Public Safety Cabinet (JPSC), discussed the 2012 class action lawsuit filed regarding inadequate tracking of inmate good time credits. The case was removed from state court to federal court and due to federal court orders, the JPSC contracted with KPMG Audit Services to track inmate good time credits.

Ms. Robyn Bender, General Counsel of the Justice and Public Safety Cabinet, advised of the rehabilitation goals during incarceration and cost savings associated with limiting an individual's incarceration time. Ms. Bender reviewed the legislative history of the program and stated continual changes in the program created confusion in tracking the credits due to increasing the number of approved course providers, county jails offering different courses than state prisons, and credits not always being reported or not reported accurately to DOC. In October of 2018, KPMG was appointed by the federal court as the independent auditor and the DOC was required to pay the cost of \$1,000,000 per month.

Ms. Bender advised that a revision of the good

time course catalogue was approved and is being implemented to prohibit additional inmates from being added as plaintiffs. DOC applied credits found by the KPMG to inmates who were still incarcerated, and negotiated with plaintiffs to resolve which courses should receive credits. A motion for Summary Judgment was filed by the Commonwealth in May of 2021 and is pending.

The current audit and negotiations resulted in 2,400 additional credits being awarded, providing an estimated potential savings of \$28-\$70 million for the Commonwealth. The KPMG audit reviewed 14 years of records and anticipates completing the audit by the summer of 2021.

Cyndi Heddleston, Department of Corrections (DOC), shared the actions taken by the DOC to address issues identified through the Education Good Times (EGT) litigation. A workgroup was established to address EGT litigation issues, a Compliance Division is being created to assure quality performance, and all programs have been reviewed based on the set criteria. The DOC contracted with the University of Cincinnati to develop an evidence informed screening tool to review and score programs under consideration. In response to HB 284, Probation Program Credits, an application process was developed to award credit for probationers. The comprehensive course catalog issued in February 2021 is available on the DOC website, at commissary kiosks, and from staff at jails and probation and parole offices. The DOC also reviewed policies and procedures and the offender management systems to make sure credit was only given when appropriate.

In response to Chairman Massey, Secretary Noble stated that DOC has paid KPMG \$26,300,000 to date and believes the contract will close this summer. The KPMG's projected cost savings of \$28-\$70 million is a result of implementing corrections to the system which lessens the inmate's time and saves on the cost of housing inmates. If the DOC does not prevail on the motion for Summary Judgment then there could be prospective damages.

There being no further business the meeting adjourned at 12:55 PM.

## **INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY**

**Minutes of the 1st Meeting of the 2021 Interim**  
June 3, 2021

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

The 1st meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, June 3, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Brandon Smith, 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 C.B. Embry Jr., Denise Harper Angel, Adrienne Southworth, Johnnie Turner, Robin L. Webb, Whitney West-erfield, and Phillip Wheeler; Representatives John Blanton, Adam Bowling, Randy Bridges, McKenzie Cantrell, Myron Dossett, 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: Stephen Swick, Vice President and Chief Security Officer, American Electric Power; Keith Butler, Senior Vice President and Chief Security Officer, Duke Energy; David McCleod, Director IT Security and Risk Management, LG&E-KU; Caroline Clark, Director, External Affairs, LG&E-KU; and Linda Bridwell, Executive Director, Kentucky Public Service Commission.

LRC Staff: Stefan Kasacavage, Janine Coy, Tanya Monsanto, and Rachel Hartley.

### **Cyber Security and Protection of Kentucky's electric utility infrastructure**

Stephen Swick stated the Colonial Pipeline ransomware event began appearing in news coverage on May 8, 2021. The ransomware event impacted the information technology (IT) systems and network, but the operation technology (OT) systems that manage the pipeline were not impacted. However, the pipeline was shut down as a precaution. This event dramatizes the importance of securing critical infrastructure from cyber threats.

American Electric Power (AEP) serves approximately 5.4 million customers in 11 states. AEP has the largest transmission network in the country and has a private internal IT network.

On a regular basis, internal penetration testing teams attempt to hack into the system to expose AEP's IT vulnerabilities. AEP also conducts annual external hack attempts by white hat hackers. White hat hackers are IT specialists employed by the company to expose IT vulnerabilities. The North American Electric Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) audits AEP at least once annually. This quasi-governmental organization was created to ensure the reliability of regional transmission networks.

In 2005, AEP established the Cyber Intelligence Response Center, which processes new intelligence, detects security events, and provides feedback to external sources including the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS).

The changes in work practices at AEP due to COVID-19 have not impacted security. The cyber team is operating 100 percent remotely, and all user activity from the IT personnel's home is routed into AEP through secure communications. COVID-19 has created further opportunities for state-sponsored cyber actors to perform cyber espionage operations.

In response to Senator Smith, Mr. Swick stated AEP utilizes a virtual private network (VPN).

David McCleod stated the Cybersecurity and Infrastructure Security Agency and the FBI issued a joint advisory alert with recommended mitigations relating to DarkSide Ransomware. DarkSide Ransomware is the cybercriminal group situated in Eastern Europe responsible for the Colonial Pipeline hack.

Keith Butler stated "phishing" is currently the biggest risk of cyber ransom attacks. Phishing is when a user sends fraudulent emails to induce disclosure

of personal information. Adversaries are breaching the more vulnerable vendor systems and are sending emails, which appear legitimate, to employees of Duke Energy.

Senator Westerfield stated on June 8, 2021, Amazon will be using all of its hardware devices that have Wi-Fi capabilities to expand its network. Amazon is creating a new kind of wireless network called "Sidewalk" that will share your home internet connection with your neighbor's devices. It is a major privacy concern and forces users to opt-out, rather than prompt for your permission first.

Senator Smith stated Kentucky should pass a law similar to the California Consumer Privacy Act passed in 2018. The law gives citizens of California more control over their personal information.

Keith Butler stated Duke Energy will participate in the Grid Security Exercise that is facilitated by NERC. The exercise will test the emergency response and recovery plans in response to simulated cyber and physical security attacks and other contingencies.

Duke Energy limits any type of remote access to its system and prohibits the crossover of networks and credentials between OT and IT systems. Risk-based models are used to determine potential impacts on Duke's system that could cause a disruption in service to critical national defense, public critical infrastructure, governmental essential services, and the general customer base.

In response to Representative Gibbons Prunty, Mr. Butler stated the FBI discourages the payment of any type of ransom. The United States Office of Foreign Assets Control publishes a list of terrorist organizations. It is a felony offense for a company to pay ransom to an organization on the list. Duke Energy will work with the FBI if there is a ransomware attack.

In response to Representative Dotson, Mr. Swick stated AEP has a full forensics team, and the FBI has forensic agents that assist. Mr. McCleod stated utilities can request technical assistance through DHS.

In response to Senator Southworth, Mr. Swick stated communities should leverage local experts to consult with election officials to ensure security. Mr. Butler stated local election boards only need protection during an election period.

In response to Senator Westerfield, Mr. Butler stated internet of things (IoT) devices at Duke Energy have protections. Mr. McCleod stated there is mitigation and control for IoT devices.

Linda Bridwell stated the utilities are obligated under KRS Chapter 278 to provide adequate service and only charge reasonable rates. Cybersecurity impacts both service and rate jurisdiction.

There being no further business, the meeting was adjourned.

## **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, Kevin D. Bratcher, 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, Co-

lumbia, 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 Cheryl Lynn 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 trans-

portation-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 Ken-

tucky 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 CRRSAA 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 transporta-

tion 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.

## **CAPITAL PLANNING ADVISORY BOARD**

### **Minutes of the 1st Meeting of the 2021 Calendar**

May 20, 2021

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

The 1st meeting of the Capital Planning Advisory Board was held on Thursday, May 20, 2021, at 1:00 PM, in Room 169 of the Capitol Annex. Representative John Blanton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Adrienne Southworth, Co-Chair; Representative John Blanton, Co-Chair; Senator Phillip Wheeler, Representative Derek Lewis; J. Michael Brown, Charles Byers, Laurie Dudgeon, Carole Henderson, John Hodgson, Patsy Jackson, Holly Johnson, Mark Overstreet, and Katie Shepherd.

Guests: Phil Richardson, Director of Facilities Management, Cabinet for Health and Family Services; Karen Wirth, Office of Finance and Operations, Walter T. Hulett, Budget and Financial Management Division Director, Carol Ann Morrison, Management Improvement Consultant School Facilities, and Pam

Moore, College and Career Readiness Division Director, Department of Education; Mary Pat Regan, Deputy Secretary, and Sandy Harp, Executive Director, Office of Technology Services, Education and Workforce Development Cabinet; John Lyons, Deputy Secretary, Cori Troutman, Financial Management Director, Dennis Hatfield, Division Director, Department for Natural Resources, Energy and Environment Cabinet; Secretary Holly Johnson, Ruth Day, Chief Information Officer, Commonwealth Office of Technology, Tina Howard, Executive Director, Office of Administrative Services, Tom Miller, Commissioner, Department of Revenue, Finance and Administration Cabinet; Jason Hamilton, Budget Director, Ronnie Bastin, Deputy Secretary, PJ Burnett, Commissioner, Randy White, Deputy Commissioner, and Gunvant Shah, Branch Manager, Capital Construction Management Branch, Department of Corrections, Justice and Public Safety Cabinet.

LRC Staff: Shawn Bowen and Jennifer Luttrell.

### **Approval of Minutes**

A motion to approve the minutes of the September 9, 2020, meeting was made by Senator Wheeler, seconded by Senator Southworth, and approved by voice vote.

### **Welcome New Members**

In January 2021, the Senate President appointed Senator Adrienne Southworth to replace retired Senator Stan Humphries as Co-Chair. The Senate President also appointed Senator Phillip Wheeler to replace Senator Whitney Westerfield.

### **Information Items**

Ms. Bowen discussed two information items which included a document outlining the board's tentative meeting schedule for the remainder of the year and a document identifying state agencies that are not scheduled to testify at capital planning meetings this year. Most of the agencies not scheduled to testify are boards and commissions that do not have capital projects in their agency plans or do not utilize state general funds.

### **Consideration of Agency Capital Plans**

The Capital Planning Advisory Board received testimony regarding six state agency capital plans: Cabinet for Health and Family Services, Kentucky Department of Education, Education and Workforce Development Cabinet, Energy and Environment Cabinet, Finance and Administration Cabinet, and the Justice and Public Safety Cabinet. The testimony included discussion of capital construction, information technology, and equipment needs for the period 2022-2028.

Cabinet for Health and Family Services (CHFS)

Mr. Richardson gave a brief overview of the CHFS capital plan. For the six-year period, the cabinet's plan includes 19 proposed projects totaling \$228,914,000. The funding sources include \$176,588,000 general funds, \$32,126,000 federal funds, and \$20,200,000 restricted funds.

Representative Blanton asked if the cabinet plans to reduce the amount of space it leases, considering more state employees have been working from home

due to COVID-19 protocols. Mr. Richardson said to his knowledge, the cabinet does not plan to reduce the amount of space it leases. He added that he would follow-up with additional information.

In response to a question from Mr. Hodgson, Mr. Richardson said he did not know the software vendor for the Kentucky Child Support Enforcement System (KASES III) project, but he would find out and relay that information to the board. Mr. Hodgson noted the considerable expense of the project – \$33 million for a 700-user system.

In response to questions from Senator Southworth regarding the Kentucky Correctional Psychiatric Center project, Mr. Richardson responded that he did not know the number of patients the old psychiatric center housed nor the number of new prison beds the Department of Corrections will have upon completion of the project. He said he would find out and provide the information to members.

In response to a question from Senator Southworth regarding The Workers Information System (TWIST) Modernization project and the TWIST Case File Digitization project, Mr. Richardson said he did not know if these two projects can be completed independent of one another, if only one receives funding. He said he would find out and provide the information to members.

### **Kentucky Department of Education**

Ms. Wirth gave a brief overview of the department's capital plan. For the six-year period, the department's plan includes seven general fund project requests totaling \$101,279,000.

In response to a question from Representative Blanton regarding the allocation of funds from the School Safety Facility Upgrades Pool, Ms. Wirth stated that \$5 million has been expended from the \$18.2 million project authorization. She added that every school district will receive an allocation from the fund.

Education and Workforce Development Cabinet

Ms. Regan and Ms. Harp gave a brief overview of the cabinet's capital plan. For the six-year period, the cabinet's plan includes 16 project requests with a total value of \$11,352,000. The funding sources include \$52,844,000 general funds and \$7,938,000 federal funds.

In response to questions from Senator Southworth regarding the Labor Market Data Technologies For Job Matching project, Ms. Harp said the project is an enhancement to Kee Suite, the current case management system. The labor market component used in Kee Suite is over ten years old. The project will upgrade and replace outdated job analytics software developed by Burning Glass Technologies. She added that Kentucky is one of only three states that utilize this software. The system will contain job openings, allow job seekers to complete their resumes online, and help case managers with job placement.

### **Energy and Environment Cabinet**

Mr. Lyons and Ms. Troutman gave a brief overview of the cabinet's capital plan. For the six-year period, the cabinet's plan includes 20 general fund project requests totaling \$66,233,000.

### **Finance and Administration Cabinet**

Secretary Johnson, Ms. Day, and Mr. Miller gave a brief overview of the cabinet's capital plan. For the six-year period, the cabinet's plan contains 38 proposed projects totaling \$422,588,000. The funding sources include \$263,588,000 general funds, \$9,000,000 restricted funds, and \$150,000,000 other funds (third-party lease-purchase financing).

In response to Senator Southworth's questions regarding the Kentucky Business One-Stop Phase 4 project, Ms. Day stated that there is a long-term plan to incorporate Department of Revenue sales and use tax applications into the Kentucky Business One-Stop portal. Mr. Miller added that they are working with the Secretary of State's staff to incorporate sales and use tax applications into the system, however, this may not be part of the phase 4 project. He said he would follow-up and provide additional information to the board in regard to this question. Ms. Day said she did not have the historical spending on the project readily available, but she would provide that information to the board.

### **Justice and Public Safety Cabinet**

Mr. Hamilton and Mr. Shah gave a brief overview of the cabinet's capital plan. For the six-year period, the cabinet's plan includes 46 proposed projects totaling \$510,077,400. The funding sources include \$412,971,400 general funds, \$19,468,000 restricted funds, and \$77,638,000 agency bonds.

In response to a question from Senator Southworth concerning the Eastern Kentucky Correctional Complex (EKCC) Smoke Evacuation System Upgrade project, Mr. Shah said when the facility was built 30 years ago, it was constructed in accordance with building codes established at that time. This project will upgrade the smoke evacuation system so it meets the current building codes of 10 to 12 air exchanges per hour. Mr. Shah said he would provide more information to the board in regards to what was required in code when the facility was built.

### **Other Business**

Representative Blanton said the board will convene its next meeting June 16 in Room 169 Capitol Annex at 1:00 p.m.

### **Adjournment**

There being no further business, the meeting was adjourned at 2:33 p.m.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

### **Minutes**

May 18, 2021

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

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, May 18, 2021, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Chris Freeland, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Chris Freeland, Co-Chair; Senators Jason Howell, Christian McDaniel, 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; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; and Ryan Barrow, Executive Director, Office of Financial Management.

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

### **Approval of Minutes**

Representative Thomas moved to approve the April 20, 2021, meeting minutes, seconded by Representative Freeland, and approved without objection.

### **Information Items**

Ms. Halloran referenced three information items. Pursuant to KRS 45.760(5), the University of Louisville reported an \$812,709 mass spectrometer purchase for its College of Arts and Sciences, using a combination of restricted and private revenues. Pursuant to KRS 45.812(1), through their fiscal agents; the Campbellsville Independent school district, which did not need an additional tax levy to pay debt service, reported a \$1 million debt issue for athletic facilities improvements and the Corbin Independent school district reported a \$755,000 current refunding debt issue. Pursuant to KRS 56.823(11)(a), the Division of Real Properties (Finance and Administration Cabinet), reported quarterly square footage lease modifications under \$50,000. There were no reportable quarterly KRS 56.813(2)(a)3.b. leasehold improvements under \$10,000.

### **Report from the University of Kentucky**

Ms. Baker reported fund source revisions (no aggregate appropriation increases) for two HB 352 projects, expending private funds to reduce restricted funds outlays and submitted five leases, all of which are located in Lexington and include utilities; four new UK HealthCare leases expiring June 30, 2028, and one lease renewal expiring June 30, 2022. The first fund source revision was the Construct Beam Institute 2 (Construct Maturation Building), \$125,000 in private gift funds from Koetter Construction for the K-RAX spirit barrel storage system within the maturation building. The second was the Construct/Expand/Renovate Ambulatory Care - UK HealthCare (Pavilion HA Forensics/Pediatric Sleep Study), \$3.8 million in private gift funds for construction of the forensic exam and sleep study units.

Representative Thomas moved to roll the five UK leases into one roll call vote, seconded by Senator Webb, and approved without objection.

The first two new UK HealthCare leases were for clinical space relocations from the Kentucky Clinic to the Turfland location at \$31.71 per square foot, one for expansion and the other for proximity to existing pediatric services. The Hand Center lease was 8,121 square feet for a \$257,517 annual cost. The Kentucky Neurology Institute Child Neurology lease was 4,327 square feet for a \$168,919 annual cost. The third and fourth new UK HealthCare leases (UK Physical Medicine and Rehabilitation), \$21.51 per square foot, were

part of its expanded collaboration with Cardinal Hill. One was for additional Clinic space; 13,835 square feet for a maximum \$325,000 annual cost [\$297,591 plus excess renovation]. The other was for the Outpatient Therapy relocation from Good Samaritan; 19,457 square feet (clinical space) for a maximum \$450,000 annual cost [\$418,520 plus excess renovation]. The lease renewal, Center on Trauma and Children at 3470 Blazer Parkway, was 11,199 square feet (administrative/clinical space) at \$18.50 per square foot for a \$207,182 annual cost.

Senator Webb moved to approve the four new leases and one lease renewal, seconded by Representative Thomas, and unanimously approved by roll call vote.

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

Ms. Tomes reported two bond-funded pool allocations; the first was \$1,226,100 from the Cabinet for Health and Family Services' 2018-2020 and 2020-2022 maintenance pools, \$900,000 and \$326,100, for the Kentucky Correctional Psychiatric Complex Roof Replacement project. Five patient wards will have the roofs, all forty years old (beyond their twenty-five to thirty-year life expectancy) in equal disrepair with leakage into the wards' interior areas, replaced. The second was \$1.375 million from the Tourism, Arts and Heritage Cabinet, Department of Parks Waste Water Treatment and Infrastructure Upgrades Pool for the Water and Sewer Upgrades - West project. This planning and design project will determine the scope for various Parks sewer upgrades, capital projects that will also be funded from this pool, in the west region of Kentucky, include the Kentucky Dam Village and Lake Barkley state resort parks. There is planning and design, the scope (currently \$800,000) of which is anticipated to remain below the \$1 million reportable amount, for projects in the east region of Kentucky as well. Representative Thomas said that the upgrades are vital for attracting visitors, referencing a phone call with Lake Barkley's Park Manager.

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

Mr. Aubrey submitted a Labor Cabinet, Employment Services lease renewal in Kenton County under the same terms and conditions: 8,356 square feet at \$33.19 per square foot for a \$277,336 annual cost, through June 30, 2026.

Senator Webb moved to approve the lease renewal, seconded by Representative Freeland, and unanimously approved by roll call vote.

Mr. Aubrey reported five Kentucky Transportation Cabinet emergency leases and a KYTC lease modification. The emergency leases, all of which were effective in April and will remain in effect until the debris is removed, were \$500 per acre per month for temporary storm debris storage sites from the February ice storm: Boyd County, 2.2 acres; Elliott County, six acres; Lawrence County, three acres; Morgan County, four acres; and Rockcastle County, two acres.

In response to Representative Freeland, Ms. Halloran confirmed that the expenditures were Federal Emergency Management Agency reimbursable.

Mr. Aubrey reported a lease modification for

additional space, including sixteen parking spaces, at the same terms and conditions and to amortize leasehold improvements for Boyd County's REAL ID office. KYTC agreed to pay seventy-three percent of the \$68,411 build-out costs; \$49,940 to be amortized through the lease term ending June 30, 2026. CTB submitted the \$68,411 bid and the Boyd County Fiscal Court submitted an \$82,093 bid. Senator Webb commented on the magnitude and disparate impact of the February ice storm, stating that she is continuing to communicate with stakeholders regarding assistance and that county aid from FEMA is reimbursement based.

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

#### **Kentucky Infrastructure Authority**

Representative Thomas moved to roll the six KIA loans into one roll call vote, seconded by Senator Webb, and approved without objection.

Mr. Barrow submitted three Clean Water Revolving Fund (Fund A) Program loans and three Drinking Water Revolving Fund (Fund F) Program loans. The City of Marion, Crittenden County, requested a \$9,816,574 Fund A loan to complete its \$19,410,364 New Wastewater Treatment Plant project; 1.5 million gallon a day replacement plant and collection system rehabilitation that will address state enforcement action. KIA Fund A loans financed the entire project and KIA will apply \$1 million in principal forgiveness to the aggregate loan amount. For 4,000 gallons, the current sewer rate is \$27.52. The loan term is thirty years at a half percent interest rate, with around \$687,000 estimated annual debt service.

Greenup Joint Sewer Agency, Greenup County, requested a \$2.715 million Fund A loan [of which KIA will apply \$710,000 in principal forgiveness] for its \$4.215 million Phase 2 Sewer Line Extension (Lloyd) project; providing sanitary sewer service to approximately 363 customers, most of whom are served by failing septic systems, through new lines and pump station to convey flow to GJSA's plant in Wurtland. A \$1 million Community Development Block Grant and a \$500,000 Appalachian Regional Commission grant will finance the remaining project costs. For 4,000 gallons, the monthly sewer rate is \$64.28. The loan term is thirty years at a half percent interest rate, with around \$76,000 estimated annual debt service.

The City of Frenchburg, Menifee County, requested a \$258,000 Fund A loan for the planning and design portion of its Wastewater Collection System Rehabilitation project; the construction portion may involve up to 10,000 linear feet of replacement sewer lines. For 4,000 gallons, the monthly sewer rate is \$26. The term of the loan is five years at a two and a half percent interest rate, with around \$56,000 estimated annual debt service.

The City of Morehead f/b/o Morehead Utility Plant Board, Rowan County, requested a \$6,554,200 Fund F loan to complete its \$28.428 million Regional Water Treatment Plant Construction project. For 4,000 gallons, the monthly inside city water rate is \$39.63. The loan term is thirty years at a half percent interest rate, with around \$1.1 million estimated annual debt service.

Warren County Water District requested a \$2.1



million Fund F loan for its Woodburn Tank Replacement and Hwy 68W Reservoir project; two water tanks, one replacement and one new. For 4,000 gallons, the current water rate is \$21.42. The loan term is twenty years at a two percent interest rate, with around \$133,000 estimated annual debt service.

The City of Wilmore, Jessamine County, requested a \$995,000 Fund F loan for its Elevated Storage Tank Rehabilitation project; rehabilitation of two 500,000 gallon elevated storage tanks. For 4,000 gallons, the monthly inside city water rate is \$25.23. The loan term is twenty years at a two percent interest rate, with around \$63,000 estimated annual debt service.

Senator Webb moved to approve the six KIA loans, seconded by Senator McDaniel, and unanimously approved by roll call vote.

#### **Office of Financial Management New Kentucky Housing Corporation Conduit Debt Issue**

Mr. Barrow submitted the KHC Conduit Multifamily Revenue Bonds (Lone Oak Meadows), Series 2021; estimated \$40 million net proceeds and \$67 million total project cost, borrowed at an anticipated 4.3 percent net interest rate for a forty year term. KHC conduit debt issues are applied towards the state's private activity volume cap but affect neither the commonwealth's nor KHC's financials as the developer pays the debt service.

Senator Webb moved to approve the new KHC conduit debt issue, seconded by Representative Thomas, and unanimously approved by roll call vote.

#### **Office of Financial Management Previous Debt Issues**

Mr. Barrow reported two previous debt issues, both negotiated taxable transactions. The first was the \$205.450 million Northern Kentucky University General Receipts Bonds, 2021 Taxable Series A to finance the amount needed [under the Pension Cessation Act] to cease participation in the Kentucky Employees Retirement System non-hazardous pension and other post-employment benefits payment system [utilizing the soft freeze, allowing employees participating prior to January 1, 2014, to remain in the system option]. The issue received a favorable reception from investors and was oversubscribed, with a 3.17 percent all in true interest cost with a 2050 final maturity. The second was the \$135.305 million Kentucky Higher Education Student Loan Corporation Student Loan Asset-Backed Notes, Senior Series 2021-1-A-1A, (Fixed Rate), Senior Series 2021-1-A-1B (Floating Rate), and Subordinate Series 2021-1-B (Floating Rate); [primarily restructuring debt for Federal Family Education Loan Program loan acquisitions]. The 2.09 percent all in true interest cost with a 2051 final maturity.

#### **Office of Financial Management School District Debt Issues with School Facilities Construction Commission Debt Service Participation**

Representative Thomas moved to roll the seven SFCC school district debt issues into one roll call vote, seconded by Senator Webb, and approved without objection.

Mr. Barrow submitted seven debt issues with

SFCC participation; six for new projects and one to re-finance debt. For new projects, the Bellevue Independent (Campbell County), Corbin Independent (Whitley County), Laurel County, Lyon County, Rowan County (includes urgent needs school assistance), and Todd County school districts, none of which needed an additional tax levy to pay debt service, planned debt issuances totaling approximately \$39 million; district debt service supporting just under \$30 million. The Gallatin County school district planned to restructure a prior debt issue, district debt service supporting around \$3.4 million and SFCC debt service supporting about \$300,000. The gross savings was negative and the net present value savings was positive. The district wished to restructure due to an upcoming debt service payment that would have exceeded its restricted fund revenues.

In response to Senator McDaniel, Mr. Barrow stated that the Rowan County debt issue was a single transaction [to spread the upcoming original debt service payment over the remaining life of the bonds without extending the term].

Representative Thomas moved to approve the seven SFCC school district debt issues, seconded by Senator Webb, and unanimously approved by roll call vote.

Representative Freeland announced the upcoming meeting at 3:30 p.m. on June 17.

With there being no further business the meeting adjourned at 1:39 p.m.

### **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the May Meeting May 11, 2021**

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

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 11, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Sarah Levy, Travis Powell, Council on Postsecondary Education; Mary Elizabeth Bailey, Rosemary Holbrook, Personnel Cabinet; Cary Bishop, Brian C. Thomas, Finance and Administration Cabinet; Joe Donohue, Board of Accountancy; Eden Davis, Larry Hadley, Board of Pharmacy; Jeff Allen, Board of Dentistry; Jessica Estes, Morgan Ransdell, Board of Nursing; Chuck Stribling, Kimberlee Perry, Sam Flynn, Morgan Eaves, Labor Cabinet; Dale Hamblin, Robert Swisher, Department of Workers' Claims; Abigail Gall, DJ Wasson, Department of Corrections; Kara Daniel, Adam Mather, Office of Inspector General; Julie Brooks, Erica Brakefield, Clay Hardwick, Department for Public Health; Lisa Lee, Veronica Judy-Cecil, Leslie Hoffman, Pam Smith, Jonathan Scott, Department for Medicaid Services; Laura Begin, Rachael Ratliff, Veronica Jordan Sears, David Gutierrez, Department for Community Based Services; Kelli Rodman, Wes Duke, Sarah Cooper, Cabinet for

Health and Family Services; Dr. Whitney Jones, Colon Cancer Prevention Project; Caroline Ruschell, Laura Kretzer, Children's Advocacy Centers.

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 Tuesday, May 11, 2021, and submits this report:

Administrative Regulations Reviewed by this Subcommittee:

#### **COUNCIL ON POSTSECONDARY EDUCATION: Nonpublic Colleges**

13 KAR 1:020. Private college licensing. Sarah Levy, executive director, and Travis Powell, vice president and general counsel, represented the council.

In response to questions by Representative Marzian, Mr. Powell stated that, prior to this version of this administrative regulation, fees brought in approximately \$263,000 per year. The council needed sufficient fee revenue to provide for three (3) full-time staff positions. The council's goal was oversight to prevent bad actors and maintain a high quality of education. At least two (2) private, for-profit institutions had closed. The council worked closely with closing institutions to assist with student transfers.

In response to questions by Representative Frazier, Mr. Powell stated that the council regulated public and private educational institutions; however, oversight was different for public institutions, which were statutorily established and not licensed. Academic programs were approved and reviewed for both public and private institutions. Tuition rates were regulated at public, but not private, institutions. Licensure fees were used to fund oversight of private institutions, while General Fund money was typically the funding source for oversight for public institutions. Licensure renewal was \$500 for most private institutions, although fees were higher for large institutions. Initial licensure fees for new private institutions were increasing significantly because the council had more work on the front end to help institutions commence operation.

In response to questions by Co-Chair Hale, Mr. Powell stated that examples of new private institutions included Summit Christian University in Mayfield, Kentucky College of Art and Design, and possibly the University of Somerset. There was an exemption process for religious institutions that solely provided education for religious purposes. Usually, those were smaller institutions with limited requirements. Co-Chair Hale stated that fee increases seemed significant.

In response to questions by Co-Chair West, Mr. Powell stated that there were no comments received during the public hearing and public comment period. The fees supported salaries and benefits for staff who provided oversight for the private institutions. The program collected approximately \$263,000 from fees annually and was expected to collect \$440,000 after the fee increases. The previous fee level did not adequately support these staff. Expenses did not include technology and other types of costs. The council believed that it was appropriate to use fees to support the oversight of private institutions and General Fund monies to support oversight of public institutions be-

cause it did not seem appropriate to use public monies to fund oversight of private institutions. Most private institutions were non-profit entities.

In response to a question by Representative Bridges, Mr. Powell stated that two (2) full-time employees worked exclusively with licensure of private institutions. Two (2) other employees each worked part-time with this program; therefore, there was a total of three (3) full-time staff.

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

#### Interstate Reciprocity Agreements

13 KAR 4:010. State Authorization Reciprocity Agreement.

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

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:095 & E. Classified service general requirements. Mary Bailey, commissioner, and Rosemary Holbrook, assistant general counsel, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Travel Expense and Reimbursement

200 KAR 2:006 & E. Employees' reimbursement for travel. Cary Bishop, executive director, Office of General Counsel, and Brian Thomas, assistant general counsel, represented the office.

In response to a question by Co-Chair West, Mr. Thomas stated that these changes established flexibility regarding travel reimbursement due to work station changes that resulted from the coronavirus (COVID-19) pandemic.

BOARDS AND COMMISSIONS: State Board of Accountancy

201 KAR 1:100. Continuing professional education requirements. Joe Donohue, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection,

and with agreement of the agency, the amendments were approved.

#### Board of Pharmacy

201 KAR 2:380. Board authorized protocols. Eden Davis, general counsel, and Larry Hadley, executive director, represented the board. Dr. Whitney Jones, founder, Colon Cancer Prevention Project, appeared in support of this administrative regulation.

In response to a question by Co-Chair West, Mr. Hadley stated that this administrative regulation was being amended to add additional disease states to the list of those covered by board-authorized protocols, which established very specific requirements for treating each disease state. These represented treatment agreements between physicians and pharmacists. Outcomes were reported by the pharmacist back to the physician.

In response to a question by Representative Marzian, Mr. Hadley stated that HCV and HIV testing was through saliva samples.

In response to a question by Co-Chair West, Dr. Jones stated that cancer screening had reduced by as much as ninety (90) percent due to the coronavirus (COVID-19) pandemic. Pharmacists provided a range of screening options, and this administrative regulation added colorectal screening opportunities. Approximately thirty (30) percent of Kentucky's applicable population remained unscreened for colorectal cancer. Increasing use of stool-based screening meant that state requirements needed to keep up. This screening only applied to those at average risk, not those at high risk or those experiencing symptoms.

In response to a question by Co-Chair Hale, Dr. Jones stated that the screening stool test called Cologuard was ninety-three (93) percent effective in detecting cancer. The other commonly used test, FIT, was approximately seventy-six (76) percent effective. Serial sensitivity increased effectiveness.

In response to a question by Representative Marzian, Dr. Jones stated that the ten (10) year colonoscopy was still recommended. Stool-based screening was every three (3) years for those of average risk. Those who are at higher risk or having symptoms should use the colonoscopy screening. Stool testing would lead to colonoscopy in the event of a detection.

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

#### Board of Dentistry

201 KAR 8:505E. Administration of COVID-19 Immunizations. Jeff Allen, executive director, represented the board.

In response to questions by Co-Chair West, Mr.

Allen stated that dentists administering immunizations was new to Kentucky but was already in place in some other states. When this emergency administrative regulation was initially filed, there was still an underlying need for providers who could administer immunizations for coronavirus (COVID-19). That need was less now. The board did not intend to file an ordinary administrative regulation at this time; therefore, these provisions would expire.

In response to a question by Representative Bridges, Mr. Allen stated that there had been many logistical and storage-related issues related to immunization distribution. People tended to visit their dentists more frequently than their physicians. Representative Bridges stated that his personal physician had participated in an immunization access program but was unable to provide coronavirus (COVID-19) immunizations in his practice. Representative Frazier stated that it was her understanding that physicians were not allowed to administer these immunizations in their own practices. Co-Chair West stated that this inconsistency seemed troubling. Co-Chair Hale stated that it seemed odd for dentists to be able to provide these immunizations while physicians were unable.

#### Board of Nursing

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder. Jessica Estes, executive director, and Morgan Ransdell, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add a new Section 8 to establish consultation requirements. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:370. Applications for licensure.

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

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 11 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 20:660. Licensed certified professional midwives duty to report.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:092. Workers' compensation pharmacy fee schedule. Dale Hamblin, assistant general counsel, and Robert Swisher, commissioner, represented the department.

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

Department of Insurance: Insurance Contract

806 KAR 14:121. Minimum standards for the readability and intelligibility of insurance contracts. Abigail Gall, regulation coordinator, and DJ Wasson, deputy commissioner, represented the department.

In response to a question by Co-Chair West, Ms. Wasson stated that readability and intelligibility requirements applied to all types of policies except commercial policies.

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 and 3 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Life Insurance and Annuity Contracts

806 KAR 15:050. Reporting and general requirements for settlement providers and brokers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 2, 4, 5, and 7 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Inspector General: Certificate of Need

900 KAR 6:030. Certificate of need expenditure minimums. Kara Daniel, deputy inspector general; Adam Mather, inspector general; and Kelli Rodman,

legislative government relations director, represented the office. Senator Michael Nemes and Representative Russell Webber appeared in support of these administrative regulations.

In response to questions by Co-Chair West, Mr. Mather stated that the office was endeavoring to align the State Health Plan levels of care. An existing outpatient care center in Shepherdsville, Bullitt County, was becoming an acute-care hospital, with beds transferring from an existing University of Louisville hospital within the same Area Development District.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to retain provisions regarding 2013 and 2015 expenditure minimums. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:055. Certificate of need forms.

A motion was made and seconded to approve the following amendments: to amend Section 2(13) to clarify that the notice shall be filed for relocations or redistributions to outpatient health care centers operated by the hospital and licensed pursuant to 902 KAR 20:074. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:060. Timetable for submission of certificate of need applications.

900 KAR 6:065. Certificate of need application process.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to define "person"; and (2) to amend Section 2(3) to prohibit: (a) project locations and service areas outside the Commonwealth of Kentucky; and (b) persons located and residing solely outside the Commonwealth of Kentucky from qualifying as affected persons for the purpose of opposing an application. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:080. Certificate of need emergency circumstances.

900 KAR 6:090. Certificate of need filing, hearing, and show cause hearing.

A motion was made and seconded to approve the following amendments: to amend Section 3(4) to: (1) add procedures for an applicant to challenge the standing of any person requesting a hearing or to participate in a hearing; and (2) prohibit participation by a person located and residing solely outside the Commonwealth of Kentucky or acting as a surrogate for another disqualified person. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:095. Certificate of need administrative escalations.

Certificate of Need

900 KAR 6:100. Certificate of need standards for implementation and biennial review.

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

900 KAR 6:105. Certificate of need advisory opinions.

900 KAR 6:110. Certificate of need notification requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 4 and 5 to specify that the notification requirement for relocation and redistribution of beds to another hospital shall include an outpatient health care center operated by the hospital and licensed pursuant to 902 KAR 20:074. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:115. Certificate of need requirements for critical access hospitals, swing beds, and continuing care retirement communities.

Department for Public Health: Maternal and Child Health

902 KAR 4:150E. Enhanced HANDS services in response to declared national or state public health emergency. Julie Brooks, regulation coordinator, represented both departments.

Department for Public Health: Kentucky Early Intervention System

902 KAR 30:210E. Enhanced early intervention services in response to declared national or state public health emergency.

Radon

902 KAR 95:040. Radon Contractor Registration Program. Julie Brooks, regulation coordinator, and Clay Hardwick, Environmental Health Inspection Program, represented the department.

In response to questions by Co-Chair West, Ms. Brooks stated that fees were not increasing. Fees appeared to be being doubled; however, because they were going from annual to biannual, they were actually remaining the same but with a longer renewal period. The radon contractor registration fee varied from state-to-state. Kentucky's fee was \$500 for two (2) years.

In response to questions by Co-Chair Hale, Ms. Brooks stated that there were a variety of concerns

raised during the public comment period. Many who submitted public comments did not approve of the operation of the program; however, the program had not been fully operational due to litigation. A couple of the commenters were opposed to the fee and the cost estimate for the database system. There were questions regarding the required background check; however, there was statutory authority to support the background check. Several commenters submitted duplicate comments. Mr. Hardwick stated that the late renewal fee was increasing. Out-of-state contractors were able to perform inspections in Kentucky if they complied with requirements. There was not a formal reciprocity process.

A motion was made and seconded to approve the following amendments: to amend Section 2 to specify that both the “initial registration” and the “inactive registration” period shall be valid for two (2) years, clarifying that the fee for those registrations was a biennial fee and not an annual fee.

#### Department for Medicaid Services: Certified Provider Requirements

907 KAR 7:020. 1915(c) Home and community based services waiting list placement appeal process. Dave Gutierrez, branch manager, Clinical Services Branch; Leslie Hoffman, chief behavioral health officer; Jonathan Scott, regulatory and legislative advisor; and Pam Smith, division director, Community Alternatives, represented the department.

In response to questions by Co-Chair West, Mr. Scott stated that some waivers did not have waiting lists. This administrative regulation proactively established a process if waiting lists became necessary. Appeals were available for a denied person. This was primarily for the Supports for Community Living waiver. The current waiting list system was not codified. Ms. Hoffman stated that there were three (3) levels within the waiting list system for a Supports for Community Living waiver.

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

#### Department for Community Based Services: Protection and Permanency: Child Welfare

922 KAR 1:490E. Background checks for foster and adoptive parents and relative and fictive kin. Laura Begin, regulation coordinator; Rachael Ratliff, regulation coordinator; and Veronica Sears branch manager, Adoptions Branch, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 11 and form DPP-157 to clarify two (2) of the checkbox categories for requesting a background check. Without objection, and with agreement of the agency, the

amendments were approved.

922 KAR 1:540. Registration of a foreign adoption.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2 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.

#### Child Welfare

922 KAR 1:580. Standards for children’s advocacy centers.

A motion was made and seconded to approve the following amendments: to amend: (1) Section 3(5)(a)3.a. to specify the following fields of study for the doctorate or master’s degree requirement for a forensic interviewer: education, human services, or criminal justice field; (2) Section 3(5)(a)3.c. to change the experience requirement from “three (3) years of experience interviewing children” to “three (3) years of experience working with children”; and (3) Section 4 to correct a citation. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: In response to questions by Co-Chair West, Laura Begin, regulation coordinator, Department for Community Based Services, stated that the emergency administrative regulation pertaining to coronavirus (COVID-19) child care facility requirements was revised in accordance with Senate Bill 148 from the 2021 Regular Session of the General Assembly to provide for combining of classes. That version had since been withdrawn. The Department for Public Health administrative regulation governing face coverings remained in effect, as did the child care facility requirements promulgated by the Department for Community Based Services.

In response to questions by Representative Frazier, Ms. Begin stated that there had been restrictions prohibiting combining classes at child care facilities. This was in order to prevent the spread of coronavirus (COVID-19). Those requirements had been eased in accordance with Senate Bill 148 from the 2021 Regular Session of the General Assembly. Because that emergency administrative regulation had now been withdrawn, requirements reverted to pre-pandemic requirements. The department had recently issued guidance to child care facilities regarding public health safety and had a call center to answer questions from providers.

Co-Chair West stated that some of the guidance child care facilities were getting from the department were in conflict with Senate Bill 148 from the 2021 Regular Session of the General Assembly. Co-Chair West requested that the department ensure that the guidance being distributed was in compliance with Senate Bill 148.

In response to questions by Co-Chair West, Julie Brooks, regulation coordinator, Department for Public Health, stated that the face covering emergency administrative regulation was still in effect, including for child care facilities. Staff and students of child care facilities were required to wear face coverings, except for children under five (5) years of age, those with medical exemptions, and in certain circumstances outdoors and related to eating. Some facilities were requiring waivers related to things such as the choking hazards of child mask wearing; however, those waivers were never directly required by the department. Limited-duration child care centers were operational and requirements in effect in the summer of 2020 and were not currently in effect.

In response to a question by Co-Chair West, staff stated that it was the current understanding that, during the interim, off-campus members appearing by videoconference were able to vote.

The following administrative regulations were deferred or removed from the May 11, 2021, subcommittee agenda:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Sales and Use Tax; Service and Professional Occupations

103 KAR 26:131. Landscaping Services.

GENERAL GOVERNMENT CABINET: Kentucky Infrastructure Authority

200 KAR 17:100. Guidelines for Broadband Deployment Account.

Board of Licensure of Marriage and Family Therapists

201 KAR 32:030. Fees.

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

201 KAR 32:060. Continuing education requirements.

Board of Alcohol and Drug Counselors

201 KAR 35:010E. Definitions for 201 KAR Chapter 035.

201 KAR 35:020E. Fees.

201 KAR 35:025E. Examinations.

201 KAR 35:040E. Continuing education requirements.

201 KAR 35:050E. Curriculum of study.

Board of Alcohol and Drug Counselors

201 KAR 35:055E. Temporary registration or certification.

201 KAR 35:070E. Supervision experience.

201 KAR 35:075E. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

201 KAR 35:080E. Voluntary inactive and retired status.

TRANSPORTATION CABINET: Administration

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

LABOR CABINET: Department of Workplace Standards: Occupational Safety and Health

803 KAR 2:180E. Recordkeeping, reporting, and statistics. Sam Flynn, general counsel, and Chuck Stribling, federal – state coordinator, represented the department.

In response to a question by Co-Chair West, Mr. Stribling stated that this administrative regulation was being amended in response to Senate Bill 65 from the 2021 Regular Session of the General Assembly. Revisions to this administrative regulation were to address concerns of the subcommittee that led to this administrative regulation being found deficient in 2020.

In response to questions by Co-Chair Hale, Mr. Stribling stated that this administrative regulation was different from the version found deficient in 2020. This version changed the definition for “hospitalization”, by removing observation and diagnostics from the definition. This version also clarified that these requirements only applied to work-related incidents and reduced the reporting deadline for hospitalization of three (3) or more employees to seventy-two (72), rather than eight (8) hours. Mr. Flynn stated that this matter was refiled under the same administrative regulation number, rather than by filing a new administrative regulation under a new number, after meeting with Co-Chair West and the Chamber of Commerce at which Co-Chair West expressed support for filing this matter as an emergency administrative regulation.

Co-Chair West thanked the cabinet for making the policy changes and stated concern regarding procedural matters. This administrative regulation should be filed under a new administrative regulation number. In response to a question by Co-Chair West, Mr. Stribling and Mr. Flynn agreed to defer consideration of this administrative regulation to the June subcommittee meeting. A motion was made and seconded to defer this administrative regulation to the June meeting. Without objection, and with agreement of the agency, this administrative regulation was deferred.

Co-Chair West stated that the cabinet had time to repeal this administrative regulation and file a new version under a new number before the federal deadline.

Co-Chair Hale thanked the cabinet for cooperating.

Department of 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.

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.

PUBLIC PROTECTION CABINET: Horse Racing Commission: General

810 KAR 2:001E. Definitions for 810 KAR Chapter 002.

Licensing

810 KAR 3:001E. Definitions for 810 KAR Chapter 003.

Flat and Steeplechase Racing

810 KAR 4:001E. Definitions for 810 KAR Chapter 004.

Standardbred Racing

810 KAR 5:001E. Definitions for 810 KAR Chapter 005.

Pari-Mutuel Wagering

810 KAR 6:001E. Definitions for 810 KAR Chapter 006.

810 KAR 6:010E. Exotic wagering.

810 KAR 6:030E. Pari-mutuel wagering.

Harness Racing

811 KAR 1:251E. Repeal of 811 KAR 001:250.

Department for Public Health: Communicable Diseases

902 KAR 2:211E. Covering the face in response to declared national or state public health emergency.

Department for Medicaid Services: Payment and Services

907 KAR 3:005. Coverage of physicians’ services.

907 KAR 3:010. Reimbursement for physicians’ services.

Department for Community Based Services: Protection and Permanency: Child Welfare

922 KAR 1:490. Background checks for foster and adoptive parents and relative and fictive kin caregivers.

Daycare

922 KAR 2:415E. Enhanced requirements for certified and licensed child care and limited duration child care programs as a result of a declare state of emergency.

The subcommittee adjourned at 2:35 p.m. The next meeting of this subcommittee is tentatively scheduled for June 8, 2021, at 10 a.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the June Meeting

June 8, 2021

#### Call to Order and Roll Call

The June meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, June 8, 2021, at 10:00 AM, 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 and Alice Forgy Kerr; Representatives Randy Bridges and Deanna Frazier.

Guests: Richard Dobson, Bethany Rice, Department of Revenue; Eden Davis, Larry Hadley, Board of Pharmacy; Kelly Jenkins, Jeffrey Prather, Board of Nursing; Tim Cesario, Kevin Winstead, Board of Alcohol and Drug Counselors; Tony Hatton, Division of Waste Management; David Atha, Matthew Cole, Mary Cook, Virginia Day, Tiffany Duvall, Jon Johnson, Tom McDaniel, Larisa Plecha, Tristan Truesdell, John Smoot, Jason Siwula, Transportation Cabinet; Waqas Ahmed, Jamie Eads, Marc Guilfoil, Dr. Bruce Howard, Chad Thompson, Jennifer Wolsing, Kentucky Horse Racing Commission; Carrie Banahan, Edith Slone, Cabinet for Health and Family Services; Julie Brooks, Wes Duke, Paula Goff, Department for Public Health.

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

**The subcommittee determined that the following administrative regulation was deficient pursuant to**

**ant to KRS 13A.030(2)(a):**

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

902 KAR 2:211E. Covering the face in response to declared national or state public health emergency. Julie Brooks, regulation coordinator, and Wes Duke, general counsel, represented the department.

In response to questions by Co-Chair West, Mr. Duke stated that the proposed agency amendments were to bring this administrative regulation, which was filed pursuant to the Executive Order in place prior to May 13, 2021, into compliance with the Governor's May 13, 2021 Executive Order, which was consistent with Centers for Disease Control revisions to face covering requirements for members of the public who were vaccinated. The May 13, 2021 Executive Order would expire June 11, 2021, and the department expected action on this emergency administrative regulation on that date. The department expected future provisions to include face coverings for certain vulnerable populations, such as those in health care settings and long-term care facilities. The new measures should be consistent with statements by the Governor. Ms. Brooks stated that commenters during the public comment period expressed concerns regarding the lawfulness of this administrative regulation, actions by the department, a Centers for Disease Control study that commenters interpreted as demonstrating that face coverings were not effective, and religious conflicts. At the time that the department was developing the Statement of Consideration in response to the public comments, KRS Chapter 13A did not authorize amendments to emergency administrative regulations. Since that time, Senate Bill 2 from the 2021 Regular Session of the General Assembly has become effective, which now allowed the department to propose the agency amendments being considered by the subcommittee at this meeting. The proposed agency amendments did not revise provisions in response to any of the public comments received during the public comment period.

Co-Chair West stated that the current situation seemed to conflict with the Governor's statements that Kentucky would return to 100 percent capacity for all venues and events and the face covering measures would be lifted, including for the unvaccinated, with the exception of certain vulnerable populations. Mr. Duke stated that he expected this administrative regulation to be withdrawn on June 11, 2021.

In response to questions by Representative Frazier, Mr. Duke stated that the department requested to defer consideration of this emergency administrative regulation from this subcommittee meeting because the department expected to withdraw this administrative regulation on June 11, 2021. Co-Chair West stated that the subcommittee denied the department's request for deferral because it was important for the public to have information regarding the status of this administrative regulation in order for business and liability planning. Mr. Duke stated that this emergency administrative regulation did not reference KRS Chapter 13B; however, that was the due process system

the department had been using for appeals pertaining to violations of this administrative regulation. Public Health Departments had the ability to cite businesses for failure to comply with the requirements of this administrative regulation. Approximately 320 violations had been issued to businesses. Most were first offenses that did not involve a fine. The first priority was to educate businesses, work with businesses on remedial measures, and assist businesses with compliance. Total fines that had been issued were under \$1,700 statewide for the duration of the requirements.

In response to a question by Senator Raque Adams, Mr. Duke stated that the proposed agency amendments were possible because Senate Bill 2 from the 2021 Regular Session of the General Assembly, authorized emergency administrative regulations to be amended. Before Senate Bill 2, an emergency administrative regulation had to be withdrawn and refiled in order to make changes.

In response to questions by Co-Chair West, Mr. Duke stated that this administrative regulation might be clearer if it directly referenced KRS Chapter 13B for appeals provisions. Public Health Departments had authority in regular operations to utilize KRS Chapter 13B for hearings. Barring something unforeseen, the department planned to withdraw this administrative regulation June 11, 2021. In Mr. Duke's opinion, if a business asked a patron about vaccination status, that would probably not be a violation of HIPAA law; however, other laws such as the Americans with Disabilities Act, might be relevant. A business asking an employee about vaccination status was a different situation and different laws might be applicable. There was guidance available on this subject from the US Department of Labor. After June 11, 2021, the penalty of a business being closed for failure to comply would no longer apply. The department was unable to agree to withdraw this administrative regulation at this subcommittee meeting.

Co-Chair West stated that the administration had not built up a level of trust with the legislature. The legislature had, through legislation, made its intent regarding this topic clear during the 2021 Regular Session of the General Assembly. As the pandemic continued to abate, some of these administrative regulations seemed to be less about public health and more about control. It was dangerous for the government to use its power to influence very important individual, private medical decisions. Being allowed to go without a face covering established an incentive for vaccination if face coverings continued to be required for the unvaccinated. Some had made the conscious medical decision to remain unvaccinated because of the experimental nature of this vaccine. Remaining unvaccinated should be an individual, private medical decision.

A motion was made and seconded to approve the following amendments: to update provisions in compliance with the Executive Orders currently in place, including: (1) an exemption for a person who has received the final dose of a COVID-19 vaccine at least fourteen (14) days prior; (2) to delete outdated requirements; and (3) to add the current face covering provisions for unvaccinated individuals, which included public transportation, school, health care, long-term care, correctional, or homeless shelter set-

tings; and those who are immunocompromised, those who are exhibiting symptoms of COVID-19, or those who have tested positive for COVID-19 in the prior ten (10) days. Without objection, and with agreement of the agency, the amendments were approved.

Co-Chair West made a motion, seconded by Representative Bridges, to find this emergency administrative regulation deficient. A roll call vote was conducted and, with six votes to find this emergency administrative regulation deficient, this emergency administrative regulation, as amended by the agency amendment, was found deficient.

Compiler's Note: Pursuant to KRS 13A.335(3)(a), a new Section 6 was added to this administrative regulation to reflect the finding of deficiency.

**Administrative Regulations Reviewed by this Subcommittee:**

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Sales and Use Tax; Service and Professional Occupations

103 KAR 26:131. Landscaping Services. Richard Dobson, executive director, and Bethany Rice, counsel, represented the department.

In response to a question by Co-Chair Hale, Mr. Dobson stated that this administrative regulation was being amended in response to statutory changes after consultation with stakeholders.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 7 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:040. Registration of pharmacist interns. 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 RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3, 5, 6, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:171. Computerized recordkeeping.

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

201 KAR 2:205. Pharmacist-in-charge.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 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 2:390. Requirements for third-party logistics providers.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to add definitions for “board,” “illegitimate product,” and “third-party logistics provider.” Without objection, and with agreement of the agency, the amendments were approved.

#### Board of Nursing

201 KAR 20:506. Nurse licensure compact. Kelly Jenkins, executive director, and Jeffrey Prather, general counsel, represented the board.

#### Board of Alcohol and Drug Counselors

201 KAR 35:010E. Definitions for 201 KAR Chapter 035. Tim Cesario, chair, and Kevin Winstead, commissioner, represented the board.

In response to questions by Co-Chair Hale, Mr. Winstead stated that these administrative regulations were filed both as emergency administrative regulations and as ordinary administrative regulations. Senate Bills 191 and 166 from 2021 Regular Session of the General Assembly created four new credential categories that became effective March 1, 2021; therefore, the board needed emergency administrative regulations that would take effect immediately upon filing. Additionally, these administrative regulations were filed as emergency administrative regulations to protect public safety, welfare, and health, because there was a shortage of counselors. Co-Chair Hale thanked the board for addressing the complex problems related to alcohol and drug abuse in Kentucky.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to delete references to “certified alcohol and drug counselor degreed” to comply with statutory authority; and (2) 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 35:020E. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete references to “certified alcohol and drug counselor degreed” to comply with statutory authority; and (2) to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 35:025E. Examinations.

201 KAR 35:040E. Continuing education requirements.

201 KAR 35:050E. Curriculum of study.

201 KAR 35:055E. Temporary registration or certification.

201 KAR 35:070E. Supervision experience.

201 KAR 35:075E. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

201 KAR 35:080E. Voluntary inactive and retired status.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Waste Management: Hazardous Waste

401 KAR 39:060. General Requirements. Tony Hatton, commissioner, represented the division.

In response to a question by Co-Chair West, Mr. Hatton stated that chemical munitions stored at Bluegrass Army Depot included about two percent of the nation’s stockpile of mustard nerve agents. These nerve agents were categorized as “hazardous wastes” under Kentucky law, but not under federal law. The US Army had specific requirements for the treatment, storage, and disposal of these nerve agents. Neutralization was required to be 99.999 percent effective, and secondary hazardous wastes were sometimes generated as part of the neutralization process. The US Army was moving away from neutralization because of the risk of exposure to hazardous wastes by personnel. Static detonation was now being used in lieu of neutralization, creating waste streams that were not envisioned when neutralization was used. The administrative regulation simplified the process of dealing with these wastes. The goal was to have most of these wastes addressed by 2023.

In response to a question by Co-Chair Hale, Mr. Hatton stated that, barring unforeseen circumstances, most of these wastes would be addressed by 2023.

Representative Frazier stated that Madison County was very appreciative of the work that the division did in dealing with these wastes and protecting citizens in the process.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Motor Carriers

601 KAR 1:005. Safety administrative regulation. Mary Cook, assistant director; Tiffany Duvall, budget specialist; Jon Johnson, assistant general counsel; Tom McDaniel, assistant director; Larisa Plecha, staff attorney; Jason Siwula, assistant state highway engineer; and Tristan Truesdell, captain, Kentucky State Police; represented the department.

#### Administration

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

601 KAR 2:233E. Kentucky Ignition Interlock Program; participants and device providers.

#### Horse Racing Commission: General

810 KAR 2:001E. Definitions for 810 KAR Chapter 002. Waqas Ahmed, pari-mutuel wagering director; Jamie Eads, deputy executive director; Marc Guilfoil, executive director; Dr. Bruce Howard, equine medical director; Chad Thompson, deputy general counsel; and Jennifer Wolsing, general counsel, represented the commission.

In response to questions by Co-Chair Hale, Ms. Wolsing stated that the public hearing on the pari-mutuel wagering administrative regulations in this package was canceled as statutorily authorized because no one expressed interest in attending; however, written comments were received from The Family Foundation. The commission filed a Statement of Consideration in response to those written comments. The pari-mutuel wagering administrative regulations were the only ones in this package that were filed as emergency administrative regulations. The emergency basis was due to several factors. Senate Bill 120 from the 2021 Regular Session of the General Assembly enacted several changes to pari-mutuel wagering, primarily related to historical horse racing. If statutory and regulatory provisions conflicted, the commission would be unable to regulate live or historical horse racing in Kentucky. Additionally, revisions were needed to prevent these administrative regulations from sunset after certification and reorganization. State revenue and potentially jobs could be lost.

Co-Chair Hale requested to be recorded as voting in opposition to the pari-mutuel wagering administrative regulations in this package because the commission’s reasons for filing these on an emergency basis was unsatisfactory.

#### Licensing

810 KAR 3:001E. Definitions for 810 KAR Chapter 003.

#### Flat and Steeplechase Racing

810 KAR 4:001E. Definitions for 810 KAR Chapter 004.

#### Standardbred Racing

810 KAR 5:001E. Definitions for 810 KAR Chapter 005.

#### 810 KAR 5:080. Kentucky Proud Series.

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 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Pari-Mutuel Wagering

810 KAR 6:001E. Definitions for 810 KAR Chapter 006.

810 KAR 6:010E. Exotic wagering.

810 KAR 6:030E. Pari-Mutuel wagering.

Medication Guidelines

810 KAR 8:010. Medication; testing procedures; prohibited practices.

A motion was made and seconded to approve the following amendments: to amend Sections 10, 13, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:020. Drug, medication, and substance classification schedule.

810 KAR 8:025. Drug, medication, and substance withdrawal guidelines.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1(4) to add administration specifications for clenbuterol in accordance with 810 KAR 8:010. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:030. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendment: to amend Section 4 to insert an existing provision that had been inadvertently omitted. Without objection, and with agreement of the agency, the amendment was approved.

810 KAR 8:040. Out-of-competition testing.

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

Harness Racing

811 KAR 1:251E. Repeal of 811 KAR 001:250.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Data and Analytics: Kentucky Health Benefit Exchange

900 KAR 10:111. Definitions for 900 KAR Chap-

ter 010. Carrie Banahan, deputy secretary; Melea Rivera, assistant director; Kelli Rodman, executive director, Office of Legal Services; Edith Sloan, director; and David Varry, staff assistant represented the exchange.

In response to questions by Co-Chair West, Ms. Banahan stated that the statutory authority for the exchange was established in KRS 194A.099. Funding came from the Kentucky Access Assessment, an existing fund source that consisted of a one percent assessment on the premiums for large employer groups, small employer groups, association plans, and individual market plans. The previous Executive Branch administration opted to use the federal exchange in lieu of the state exchange. The exchange was unaware of anything in a budget bill that prohibited Kentucky from returning to a state-based exchange. The exchange anticipated a cost of \$2 million, which would be funded through the Kentucky Access Assessment, to restart the state-based exchange. The federal exchange included a user fee of approximately three percent. Plan year 2019 cost approximately \$15.2 million for Kentucky users of the federal exchange, which was in addition to the existing Kentucky Access Assessment. The state-based system would not include the user fee; therefore, reverting to the state-based system was expected to save Kentucky users of the exchange \$15 to \$20 million.

900 KAR 10:115. Exchange participation requirements and certification of qualified health plans and qualified stand-alone dental plans.

Kentucky Health Benefit Exchange

900 KAR 10:120. KHBE eligibility and enrollment in a qualified health plan, SHOP, and SHOP formal resolution process.

In response to a question by Co-Chair West, Mr. Varry stated that the proposed agency amendment authorized, rather than required notification of an employee's eligibility for an advanced payments of premium tax credit. This change was consistent with federal guidelines.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs, and Section 1, 2, 4, 6, 7, 9, 11, 13, 15, and 17 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to provide that an employer may be notified of an employee's eligibility for an advanced payments of premium tax credit in accordance with 45 C.F.R 155.310(h). Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 10:125. KHBE Consumer Assistance Program, kynector certification, and individual agent participation with the KHBE.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, 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.

900 KAR 10:130. Appeals of eligibility for KHBE participation and insurance affordability programs.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 5, 6, 8 through 10, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Maternal and Child Health

902 KAR 4:150. Enhanced HANDS services in response to declared national or state public health emergency. Julie Brooks, regulation coordinator, and Paula Goff, branch manager, represented the department.

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

Kentucky Early Intervention System

902 KAR 30:210. Enhanced early intervention services in response to declared national or state public health emergency. Julie Brooks, regulation coordinator, and Paula Goff, branch manager, represented the department.

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

**The following administrative regulations were deferred or removed from the June 8, 2021, subcommittee agenda:**

BOARDS AND COMMISSIONS: Board of Examiners of Psychology

201 KAR 26:115. Definition of psychological testing.

201 KAR 26:121. Scope of practice and dual licensure.

201 KAR 26:125. Health service provider designation.

201 KAR 26:130. Grievances and administrative complaints.

201 KAR 26:155. Licensed psychologist: application procedures and temporary license.



201 KAR 26:171. Requirements for clinical supervision.

201 KAR 26:180. Requirements for granting licensures as a psychologist by reciprocity.

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.

201 KAR 26:190. Requirements for supervised professional experience.

201 KAR 26:200. Education requirements.

201 KAR 26:230. Examination and applications.

201 KAR 26:250. Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist.

201 KAR 26:280. Licensed psychological associate: application procedures and temporary license.

201 KAR 26:290. Licensed psychological practitioner: application procedures.

201 KAR 26:301. Repeal of 201 KAR 026:300.

201 KAR 26:310. Telehealth and telepsychology. Board of Licensure of Marriage and Family Therapists

201 KAR 32:030. Fees.

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

201 KAR 32:060. Continuing education requirements.

Board of Alcohol and Drug Counselors

201 KAR 35:010. Definitions for 201 KAR Chapter 035.

201 KAR 35:020. Fees.

201 KAR 35:025. Examinations.

201 KAR 35:040. Continuing education requirements.

201 KAR 35:050. Curriculum of study.

201 KAR 35:055. Temporary registration or certification.

201 KAR 35:070. Supervision experience.

201 KAR 35:075. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

201 KAR 35:080. Voluntary inactive and retired

status.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:015. Issuance of citations and procedure in workers' compensation enforcement hearings.

803 KAR 25:021. Individual self-insurers.

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.

PUBLIC PROTECTION CABINET: Horse Racing Commission: General

810 KAR 2:001. Definitions for 810 KAR Chapter 002.

Licensing

810 KAR 3:001. Definitions for 810 KAR Chapter 003.

Flat and Steeplechase Racing

810 KAR 4:001. Definitions for 810 KAR Chapter 004.

Standardbred Racing

810 KAR 5:001. Definitions for 810 KAR Chapter 005.

Pari-Mutuel Wagering

810 KAR 6:001. Definitions for 810 KAR Chapter 006.

810 KAR 6:010. Exotic wagering.

810 KAR 6:020. Calculation of payouts and distribution of pools.

810 KAR 6:030. Pari-Mutuel wagering.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Payment and Services

907 KAR 3:005. Coverage of physicians' services.

907 KAR 3:010. Reimbursement for physicians' services.

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

908 KAR 1:390. Voluntary Employer Substance Use Program (VESUP).

Department for Community Based Services: Child Welfare

922 KAR 1:490. Background checks for foster and adoptive parents and relative and fictive kin caregivers.

The subcommittee adjourned at 11:35 a.m. The next meeting of this subcommittee is tentatively scheduled for July 8, 2021, at 3 p.m.

## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

### **Minutes**

June 1, 2021

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

A meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, June 1, 2021, at 3:05 p.m., in Room 129 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 Brandon Reed, Co-Chair; Senator Mike Wilson; Representatives Tina Bojanowski, Regina Huff, and Steve Riley.

Guests: Marcia Seiler, Interim Deputy Director, Office of Education Accountability (OEA); Dr. Bart Liguori, Research Division Manager, OEA; Bryan Jones, Investigations Division Director, OEA; Todd Allen, General Counsel, KDE; Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support, KDE; and Matthew Courtney, Division of School and Program Improvement, KDE.

LRC Staff: Lauren Busch, Joshua Collins, and Maurya Allen.

Approval of the minutes was tabled until a quorum was present.

**Office of Education Accountability Annual Report**

Marcia Seiler, Dr. Bart Liguori, and Bryan Jones, were present to discuss the 2020 OEA Annual Report.

Ms. Seiler began their presentation stating that this year marks the thirtieth year of the Office of Education Accountability's overseeing public education for the General Assembly. During that time, OEA has had four directors and continues to carry out the duties codified in KRS 7.410(2)(c). There are two main divisions to OEA, one which performs investigations and one which performs research.

Mr. Jones spoke of the effect the pandemic had on investigations performed by OEA in the last year. There were fewer complaints last year, a total of 236 complaints in 2020 compared to 414 in 2019. This may be a function of schools not being open so there would be less friction between individuals. Additionally, staff were unable to travel to the districts to perform investigations in person. To accommodate the need to investigate complaints, rather than let cases sit unanswered, staff made phone calls. While not ideal, it was the best option to move cases forward. Now that restrictions are being relaxed, staff are traveling to districts again to perform in-person interviews and investigations. Safety protocols are still in place to allow for masking and social distancing, and the option is provided to anyone who is concerned to have a phone-based interview rather than in-person.

Dr. Liguori briefly outlined the composition and purpose of the research division of OEA. They are an award winning staff, receiving two NCSL Notable Document awards in 2020 for their 2018 Homeschooling in Kentucky report and for the 2019 report on teacher shortages and supports for new teachers. Studies performed by OEA's research division are presented to the committee throughout the interim and in 2020 those consisted of the 2019 District Data Profiles and the Overview of Facilities Needs and Funding in Kentucky. Both of these reports are available on the LRC website. The studies approved for 2021 are the annual district data profiles, a review of nontraditional instruction programs, and a study of the Support Education Excellence in Kentucky (SEEK) program which is used to calculate school funding in the state.

There were no questions on this item. Senator Wilson made a motion to accept the report, seconded by Representative Reed. The motion passed by voice vote.

#### **OEA Report: District Data Profiles**

Dr. Liguori presented the annual District Data Profiles report to the committee. He began stating that this report received a Notable Document Award from NCSL in 2012, and this is the thirteenth year of the report. He also cautioned members when comparing certain measures within the report because of the changes over time in data collection and in the data points themselves, for example the changes between CATS and KPREP testing models. This report is designed to provide easy access to commonly used education data and to allow quick reference and comparison between districts and the state as a whole. The Kentucky Department of Education (KDE) and the Kentucky Center for Statistics provide the bulk of the data, much of which is also found on the KDE school report cards.

The District Data Profiles are available online and in print. The print version contains a data dictionary and identifies the sources of the data. It lists all the districts in alphabetical order, followed by a profile for the state as a whole and several tables for comparing districts and seeing where districts rank statewide. The online version is interactive and mobile friendly. There are three visualizations: the district data profiles, heat maps of selected variables, and 10-year trend data. The visualizations are divided into five tabs: demographic profile, staffing data, finance, performance, and accountability (in the 10-year trend data only). Due to the COVID-19 pandemic, some data were delayed or not collected, including kindergarten readiness data, assessment and accountability data. As a consequence of waivers granted to the state to not administer assessments in spring of 2020, that field will be reported as "N/A" in the print version, and in the digital version will be left blank.

Dr. Liguori highlighted select features of the digital report. Heat maps display data about a geographic area and make quick visual comparisons. New for this year, there is an inset for northern Kentucky school districts. On the Finance tab, he pointed out the legend of the map and colors changed to accommodate the new measure. Also, new this year, all separate variables for facilities nickels levied by districts for school construction have been combined into a single variable "facilities nickels." Hovering over a district on the map results in additional information being displayed in a pop-up field. The last visualization shows the average daily attendance 10-year trend data. Something to note is that different districts can be compared to each other or to the state on the graph.

Finally, he directed members' attention to the accountability tab. The same districts selected earlier remain selected on this tab, but variables can be changed as desired. Not all variables from the print edition are included in the online edition. And after this year, there will be a gap in the visualization to account for state assessments not being administered in 2020. All visualizations in the online edition can be exported as a picture, a .pdf file, or as a PowerPoint slide for direct inclusion into a presentation. He reminded members there is an abundance of data in the profiles. However, some districts may be statistical outliers, especially smaller districts. To access the definitions or any material from the print edition, you can click on any link in the notes to be taken directly to the .pdf version.

There were no questions for this item. Representative Reed made a motion to accept the 2020 District Data Profiles report. Senator Wilson seconded the motion and it passed by voice vote.

#### **Review of Administrative Regulation**

Todd Allen, Kelly Foster, and Matthew Courtney were in attendance to present the regulation, 703 KAR 5:280 regarding school improvement procedures. Chair Wise directed members' attention to the staff suggested amendment and a proposed agency amendment for consideration. Representative Reed made a motion to accept the staff amendment, seconded by Senator Wilson. The motion passed by voice vote. There was no discussion of the agency amendment. Representative Reed made a motion to accept the

amendment as presented, seconded by Senator Wilson. The motion passed by voice vote.

#### **Approval of November 12, 2020 Minutes**

As a quorum had been met, Chair Wise returned to the approval of minutes for the November 12, 2020, meeting. Senator Wilson made a motion to approve the minutes, seconded by Representative Reed. The motion passed by voice vote.

#### **Election of House Co-Chair**

As a quorum of House members was in attendance, Representative Riley nominated Representative Reed to serve as House co-chair. Representative Bojanowski seconded the motion. With no other nominations, Representative Reed was elected as House co-chair by voice vote.

Election of Senate co-chair was tabled until the next meeting. With no further business to come before the committee, the meeting adjourned at 3:31 p.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes**

June 10, 2021

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

The Government Contract Review Committee met on Thursday, June 10, 2021, at 9:00 AM, in Room 131 of the Capitol Annex. Representative Matthew Koch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Matthew Koch, Co-Chair; Senators Paul Hornback and Adrienne Southworth; Representatives Adam Bowling, Mark Hart, and Patti Minter.

Guests: Michael Wade Smith, Tony Hatton, Cori Troutman, Karen Wirth, Gretta Hylton, Veronica Sullivan, Micki Ray, Danna Steele, William Codell, Melissa Klink, Bethany Atkins Rice, Ethan Witt, Bryan Makinen, Andrea Cashell, Anthony Ellis, Mike Denny, Edie Frakes, Chip Polston, Mike Hales, Samantha Langleys, Carmen Hickerson, Bart Hardin, Barry Swanson, Hilarye Dailey, Beth Ward, Jackie Dudley, Dr. Bob Jackson, Stephanie Craycraft, Koleen Slusher, Bob James, and Andrew Bledsoe.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Senator Meredith to approve minutes of the May 2021, meeting of the committee. Representative Bowling seconded the motion, which passed without objection.

#### **MAY DEFERRED ITEMS:**

##### **UNIVERSITY OF LOUISVILLE**

Korn Ferry, 21-096. Michael Wade Smith discussed the contract with the committee. A motion was made by Representative Bowling to consider the contract as reviewed. Representative Minter seconded the motion, which passed with Senator Hornback, Representative Hart, and Senator Meredith voting no.

UNIVERSITY OF LOUISVILLE

SP&A Executive Search, 21-106. Michael Wade Smith discussed the contract with the committee. A motion was made by Senator Southworth to disapprove the contract. Senator Meredith seconded the motion, which passed with Representative Minter voting no.

A motion was made by Senator Hornback to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Hornback to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Hornback to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Hornback to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

A motion was made by Senator Hornback to consider as reviewed the Correction List. Representative Minter seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

ATTORNEY GENERAL

Gess Mattingly and Atchison, 2100002304; Goldberg Simpson, LLC, 2100002305; Kinkead & Stiliz, PLLC, 2100002306.

AUDITOR OF PUBLIC ACCOUNTS

MCM CPAS & Advisors, LLP, 2100002547.

BD OF LICENSURE FOR PROFESSIONAL ENGINEERS & LAND SURVEYORS

Robert A. Williams, 2100002560.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Martha Gregory & Associates, Inc., 2100002191; Assisteddiningsolutions, LLC, 2100002437.

BOARD OF CHIROPRACTIC EXAMINERS

DPJ Consulting, LLC, 2100002383.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Necco, Inc., 2100001972.

DEPARTMENT OF CRIMINAL JUSTICE

TRAINING

Powerphone, Inc., 2100002741.

DEPARTMENT OF EDUCATION

Kathryn N. Hunt, 2100002105; Hands On Therapy, PSC, 2100002106; Central Kentucky Interpreter Referral, Inc., 2100002107.

DEPARTMENT OF HIGHWAYS

Palmer Engineering Company, 2100002624.

DEPARTMENT OF JUVENILE JUSTICE

Dennis L. Pickett, 2100001932.

DEPARTMENT OF MILITARY AFFAIRS

Federal Resources Supply County, 2100000687. EASTERN KENTUCKY UNIVERSITY  
Multi, 671-2021; Multi, 672-2021; Multi, 673-2021; Multi, 674-2021; Multi, 675-2021; Multi, 676-2021; Multi, 677-2021; Multi, 678-2021; Multi, 679-2021; Multi, 680-2021; Multi, 681-2021; Charles River Discovery Research Services, 729-2021; AGB Search, LLC, 771-2021; Dinsmore & Shohl, LLP, 785-2021.

FACILITIES & SUPPORT SERVICES

EOP Architects PSC, 2100002073; Clotfelter/Samokar PSC, 2100002156; Biagi Chance Cummins London Titzer, Inc., 2100002891; Patrick D. Murphy Company, Inc., 2100002960.

JUDICIAL FORM RETIREMENT SYSTEM

McBrayer, PLLC, 2022-0001.

JUSTICE - OFFICE OF THE SECRETARY

Cynthia J. Curtsinger, 2100001954.

KENTUCKY EMPLOYERS MUTUAL INSURANCE

US-Reports, Inc. d/b/a Afirm, 22AFM-001; Arcadia Settlements Group, Inc., 22-ASG-001; Bluegrass ChemDry, 22-BGC-001; Claims Compensation Bureau, LLC, 22-CCB-001; Multi, 22-CLD-001; The Cicotte Law Firm, PLLC, 22-CLF-001; Dinsmore & Shohl, LLP, 22-DAS-001; Gallagher Benefit Services, Inc., 22-GBS-001; GENEX Services, LLC, 22-GEN-001; Groom Law Group, 22-GLG-001; Hassman & Fitzhugh, PLLC, 22-HMF-001; Hanna Resource Group, 22-HRG-001; MCM CPAs and Advisors, LLP, 22-MCM-001; McCarthy Strategic Solutions, LLC, 22-MSS-001; Stoll Keenon Ogden, PLLC, 22-SKO-001; Windham Professionals, Inc., 22-WMP-001; Wyatt Tarrant Combs, PLLC, 22-WTC-001.

KENTUCKY LOTTERY CORPORATION

IGT Global Solutions Corporation f/k/a GTECH Corporation, 22-10-001; IGT Global Solutions Corporation f/k/a GTECH Corporation, 22-15-001; Bulletproof Solutions, Inc., 22-18-032; The Segal Company (Eastern States), Inc., 22-21-001; Harvey Nash, Inc. PSC, Successo-in-Interest to Latitude 36, Inc., 22-21-023; Gaming Laboratories International, LLC, 22-21-024; Goldberg & Simpson, LLC, 22-21-025-1.

KENTUCKY RETIREMENT SYSTEMS

Gabriel Roeder Smith & Company, 2100001916.

KENTUCKY STATE FAIR BOARD

Scarlett W. Mattson, 2100001961; MCM CPAs & Advisors, LLP, 2100001964; Charlotte Mattson Kurtz, 2100001967; Global Spectrum L.P., 2100002297.

KENTUCKY STATE POLICE

Darrell Hutchison, 2100002420; Isaiah Hill, 2100002472; Robert Morris, 2100002492; Janet L. Barnett, 2100002523.

KY APPLIED BEHAVIOR ANALYSIS LICENSING BOARD

Mary E. Martins, The Word Private Investigations, 2100002366.

KY BOARD OF LICENSURE FOR MASSAGE THERAPY

DPJ Consulting, LLC, 2100002917.

KY HOUSING CORPORATION

Ballast, Inc., 2022-47.

KY PUBLIC SERVICE COMMISSION

Leah Faulkner, 2100002404.

LEGISLATIVE RESEARCH COMMISSION

Stoll Keenon Ogden, PLLC, 21/22-36; Stoll Keenon Ogden, PLLC, 21/22-40.

MOREHEAD STATE UNIVERSITY

Sturgill, Turner, Barker & Moloney, PLLC, 22-001; Sturgill, Turner, Barker & Moloney, PLLC, 22-002; Dean Dorton Allen Ford, PLLC, 22-005; The Segal Company (Eastern States), 22-006; Multi, 22-007; Multi, 22-008.

MURRAY STATE UNIVERSITY

Capitol Solutions, 011-22; The Segal company (Eastern States), Inc., 013-22; Attain Consulting Group, LLC, 014-22; Dinsmore & Shohl, 023-21.

NORTHERN KENTUCKY UNIVERSITY

Dell Marketing, L.P., 2021-141.

TRANSPORTATION - OFFICE OF THE SECRETARY

Riverlands Marine Surveyors and Consultants, Inc., 2100002600; Kerrick Bachert PSC, 2100002612.

UNIVERSITY OF KENTUCKY

Omni Architects, A211190; Judith Jones-Toleman, K21-118; Trinity Consultants, K22-101; Grace Consulting, K22-103; Gray Miller Persh, LLP, K22-104; K&L Gates, LLP, K22-105; Waller Lansden Dortch and Davis, LLP, K22-106; Nichols Walter, PLLC, K22-107; Baker Donelson Bearman Caldwell & Berkowitz PC, K22-108; McMasters Keith Butler, Inc., K22-109; Benson Law Offices, K22-110; Robert W. Baird & Company, Inc., K22-112; LBMC, PC, K22-115; Whitecap Health Advisors, LLC, K22-116; PriceWaterhouseCoopers, LLP, K22-117; David Ware & Associates, LLC d/b/a Ware Immigration, K22-119; Steptoe & Johnson, K22-120; Sturgill Turner Barker & Maloney, PLLC, K22-121; Stoll Kennon & Ogden, PLLC, K22-122; Wyatt Tarrant & Combs, LLP,

K22-123; Kriz, Jenkins, Prewitt & Jones, K22-124; Lerch Bates, Inc., K22-126; Stites & Harbison, K22-127; Dinsmore & Shohl, LLP, K22-129; BKD, LLP, K22-130; Ernst & Young, LLP, K22-131; Miller, Canfield, Paddock and Stone, LLP, K22-133; CMTA, Inc., K22-134; Blue & Company, LLC, K22-135; Eyman Associates, PC, K22-136; Ankura Consulting Group, LLC, K22-137; Bluegrass Law Group, PLLC, K22-138; Rockcastle Regional Hospital and Respiratory Care Center, Inc., K22-139; St. Claire Regional Medical Center, K22-140; Enercon LTD d/b/a Grumman Butkus Associates, K22-141.

UNIVERSITY OF LOUISVILLE  
Husch Blackwell, LLP, 21-111.

WESTERN KENTUCKY UNIVERSITY  
Stokes Production Services, Inc., 2022-25; Multi, 2022-26; Lerman Senter, PLLC, 2022-28; Dinsmore and Shohl, LLP, 202230; Ukpeagvik Inupiat Corporation (UIC), 212201; Sodexo Management, Inc., 212204; Segal Consulting, 212205; Ruffalo Noel Levitz, LLC, 212206; Huron Consulting Group, 212207.

WORKERS' COMPENSATION FUNDING COMMISSION  
Conning, Inc., 2100002219.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS  
Dentons Bingham Greenebaum, LLP, 2000003548; Graydon Head and Ritchey, LLP, 2100000117; Dentons Bingham Greenebaum, LLP, 2100000648; Dentons Bingham Greenebaum, LLP, 2100001162; Dentons Bingham Greenebaum, LLP, 2100001657; Graydon Head & Ritchey, LLP, 2100001716.

AUDITOR OF PUBLIC ACCOUNTS  
Tichenor and Associates, 2000003784.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
George Freeman Gilbert, 2000004032; Terry A. Gray, 2000004033.

DEPARTMENT FOR NATURAL RESOURCES  
Pinnacle Actuarial Res, Inc., 2000003897.

DEPARTMENT OF CORRECTIONS  
Mid America Health, Inc., 2000003270; Wellpath, LLC, 2000003281.

DEPARTMENT OF EDUCATION  
ACT, Inc., 2000003348.

DEPARTMENT OF HIGHWAYS  
GRW Engineers, Inc., 1100000003; HMB Professional Engineers, Inc., 1100001265; Palmer Engineering Company, 1200003574; Burgess & Niple, Inc., 1300001653; Palmer Engineering Company, 1300001866; American Engineers, Inc., 1300002003; EA Partners, PLC, 1400001234; Gresham Smith

and Partners, 1700002781; DLZ Kentucky, Inc., 1800000300; QK4, Inc., 1800000321; DLZ Kentucky, Inc., 1800000398; HDR Engineering, Inc., 1900003978; Gresham Smith, 1900003982; QK4, Inc., 1900004878; American Engineers, Inc., 2000000705; Burgess and Niple, Inc., 2000001800; Gresham Smith and Partners, C-05260813.

FACILITIES & SUPPORT SERVICES  
Clotfelter Samokar PSC, 1700001117; Paladin, Inc., 1700002128; EOP Architects, PSC, 1900002963; EOP Architects PSC, 2000000693; KZF Design, Inc., 2000000980; EOP Architects, PSC, 2100000950.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM  
Language in Motion, 813.

NORTHERN KENTUCKY UNIVERSITY  
Dinsmore & Shohl, LLP, 2022-103.

TOURISM - OFFICE OF THE SECRETARY  
DSBeck, LLC, 2000004457.

TRANSPORTATION - OFFICE OF THE SECRETARY  
Kentucky Training, LLC, 2000002368.

UNIVERSITY OF KENTUCKY  
APAX Software, K20-148; Oak Ridge Associated Universities, Inc. (ORAU), K21-104; Apax Software, K21-107; Dentons US, LLP, K21-162; United Audit Systems, Inc., K21-167; Vimarc, K21-179; APAX Software, K21-181; APAX Software, K21-182; Trane US, Inc., K21-183; FTI Consulting, Inc., K21-198; Moran Technology Consulting, K21-200; New City Media, Inc., K21-204.

UNIVERSITY OF LOUISVILLE  
McCarthy Strategic Solutions, 21-002; Hyphae Design Laboratory, LLC, 21-014; QualityMetrics, LLC, 21-080.

WESTERN KENTUCKY UNIVERSITY  
Luckett and Farley, 202116.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ATTORNEY GENERAL  
Justice Cabinet Administrative Services, 2100002694.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES  
Lifeskills, Inc., 2100001798; Green River Regional MHMR Board, Inc., 2100001811; The Dry Dock Club, Inc., 2100001840; Green River Regional MHMR Board, Inc., 2100001843; Seven Counties Services, Inc., 2100001845; Comprehend, Inc., 2100001847; Mountain Comprehensive Care Center, 2100001849; Kentucky River Community Care, Inc., 2100001850; Cumberland River Behavioral Health, Inc., 2100001851; New Vista of the Bluegrass, Inc., 2100001853; Baptist Health Foundation Richmond,

Inc., 2100002067; Metro Louisville Harm Reduction Task Force, 2100002068; Mercy Health - Marcum & Wallace Hospital, LLC, 2100002069; Nspire A Park Community Initiative, Inc., 2100002070; Lifeskills, Inc., 2100002071; Kentucky Rural Health Information Technology Network, Inc., 2100002123; Western Kentucky Regional Mental Health & Retardation Advisory Brd, 2100002178; Pennyroyal Regional Mental Health Mental Retardation Board, 2100002194; Green River Regional MHMR Board, Inc., 2100002216; Lifeskills, Inc., 2100002221; Communicare, Inc., 2100002222; Seven Counties Services, Inc., 2100002226; Northern Kentucky Regional Mental Health Mental Retardation Board, 2100002229; Comprehend, Inc., 2100002231; Pathways, Inc., 2100002232; Mountain Comprehensive Care Center, 2100002242; Kentucky River Community Care, Inc., 2100002243; Cumberland River Behavioral Health, Inc., 2100002244; Lake Cumberland Mental Health Mental Retardation Board d/b/a The Adanta Group, 2100002245; New Vista of the Bluegrass, Inc., 2100002246; Pathways, Inc., 2100002372.

BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS  
Department of Professional Licensing, 2100002380.

BOARD OF MEDICAL LICENSURE  
Kentucky Physicians Health Foundation, 2100002385.

BOARD OF PROFESSIONAL COUNSELORS  
Public Protection Cabinet, 2100002330.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING  
Multi, 2100001810.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
City of Georgetown, 2100001869; United States Department of the Interior, 2100002263.

DEPARTMENT FOR LIBRARIES & ARCHIVES  
Louisville Jefferson County Metro Government, 2100002549; Louisville Jefferson County Metro Government, 2100002562; Elliott County Fiscal Court, 2100002595; Lexington Public Library, 2100002597; Madison County Public Library, 2100002599; Washington County Public Library, 2100002609; Grant County Public Library, 2100002616; Grant County Public Library, 2100002617; Fleming County Public Library, 2100002618; Casey County Public Library, 2100002619; Metcalfe County Public Library, 2100002625; Wayne County Public Library, 2100002626; Nelson County Public Library, 2100002627; Daviess County Public Library, 2100002682; Clark County Public Library, 2100002684; Wolfe County Public Library, 2100002691; Robertson County Public Library, 2100002695; Lee County Public Library, 2100002697; Hart County Public Library, 2100002700; Pulaski County Public Library, 2100002701; Corbin Public Library, 2100002703; McCreary County Public Library, 2100002704; Nicholas County Public Library, 2100002709.

DEPARTMENT FOR LOCAL GOVERNMENT  
Daviss County Fiscal Court, 2100000507; Lee County, 2100002188; Harlan County Fiscal Court, 2100002371; City of Sebree, 2100002436; Greenup County Fiscal Court, 2100002531; City of Midway, 2100002722.

DEPARTMENT FOR PUBLIC HEALTH  
Community Medical Associates, Inc., Norton Children's Medical Group, 2000002641-1.

DEPARTMENT FOR WORKFORCE INVESTMENT

University of Kentucky Research Foundation, 2100001807; University of Kentucky Research Foundation, 2100002432; University of Kentucky Research Foundation, 2100002650; University of Kentucky Research Foundation, 2100002652.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Eastern Kentucky University, 2100002407.

DEPARTMENT OF EDUCATION

Kentucky Special Parent Involvement Network, Inc., 2100001950; Ashland Board of Education, 2100001974; Kentucky Center for Education and Workforce Statistics, 2100001976; Central Kentucky Educational Cooperative, 2100002001; Henderson County Board of Education, 2100002002; Northern Kentucky Cooperative for Educational Services, Inc., 2100002008; Knox County Board of Education, 2100002018; Kentucky Educational Development Corporation, 2100002024; Kentucky Educational Development Corporation, 2100002025; Spencer County Board of Education, 2100002027; Knox County Board of Education, 2100002028; Barren County Board of Education, 2100002030; Leslie County Board of Education, 2100002031; Corbin Independent School District, 2100002032; Carter County Board of Education, 2100002034; Leslie County Board of Education, 2100002035; Scott County Board of Education, 2100002036; Kentucky Educational Development Corporation, 2100002043; Wayne County Board of Education, 2100002048; Glasgow Independent School District, 2100002051; Scott County Board of Education, 2100002052; Danville Independent School District, 2100002057; Kentucky Educational Development Corporation, 2100002058; Lincoln County Board of Education, 2100002059; Casey County Board of Education, 2100002065; Campbell County Board of Education, 2100002078; Campbell County Board of Education, 2100002079; Christian County Board of Education, 2100002084; Barren County Board of Education, 2100002086; Estill County Board of Education, 2100002090; Boyle County Board of Education, 2100002095; Cabinet for Health and Family Services - DBHDID, 2100002112; Clark County Board of Education, 2100002174; Ohio Valley Educational Cooperative, 2100002225; Arts for All Kentucky, Inc., 2100002241; CHS Department for Public Health Food Safety Branch, 2100002261; University of Kentucky Research Foundation, 2100002271; Central Kentucky Educational Cooperative, 2100002272; Bullitt County Board of Education, 2100002280; Bul-

litt County Board of Education, 2100002287; Indiana University, 2100002292; Frankfort Independent School District, 2100002308; Clark County Board of Education, 2100002309; Clark County Board of Education, 2100002326; Newport Independent School District, 2100002345; Whitley County Board of Education, 2100002357; Scott County Board of Education, 2100002358; Scott County Board of Education, 2100002361; University of Kentucky Research Foundation, 2100002373; University of Kentucky Research Foundation, 2100002388; University of Kentucky Research Foundation, 2100002429; Lyon County Board of Education, 2100002479; Kentucky Alliance of Boys & Girls Clubs, Inc., 2100002542; Lexington Hearing and Speech Center, 2100002543; Eastern Kentucky University, 2100002545; Green River Regional Educational, 2100002581; Kentucky Valley Education, 2100002582; Ohio Valley Educational Cooperative, 2100002583; West Kentucky Educational Cooperative, 2100002610; Kentucky Educational Development Corporation, 2100002611; Eastern Kentucky University, 2100002613; Northern Kentucky Cooperative for Educational Services, Inc., 2100002614; Carter County Board of Education, 2100002667; Eastern Kentucky University, 2100002678; Allen County Board of Education, 2100002732; Ballard County Board of Education, 2100002744; Bourbon County Board of Education, 2100002749; Bracken County Board of Education, 2100002753; Cloverport Independent School District, 2100002757; Covington Independent School District, 2100002759; Crittenden County Board of Education, 2100002760; Cumberland County Board of Education, 2100002761; Christian County Board of Education, 2100002772; Clark County Board of Education, 2100002774; Glasgow Independent School District, 2100002777; Clay County Board of Education, 2100002778; Johnson County Board of Education, 2100002788; Livingston County Board of Education, 2100002793; Menifee County Board of Education, 2100002801; Metcalfe County Board of Education, 2100002803; Middlesboro Independent School District, 2100002805; Paris Independent School District, 2100002810; Covington Independent School District, 2100002813; Taylor County Board of Education, 2100002817; Webster County Board of Education, 2100002820; Williamstown Board of Education, 2100002860; Whitley County Board of Education, 2100002861; Henderson County Board of Education, 2100002863; Boys & Girls Club of Greater Cincinnati, 2100002867; Harlan County Boys and Girls Club, 2100002874; Historic Pleasant Green Missionary Baptist Church, 2100002876; Bethune Institute Education Corporation, 2100002882; Elliott County Board of Education, 2100002896; Daviss County Board of Education, 2100002898; Danville Independent School District, 2100002926; Floyd County Board of Education, 2100002955; Lincoln County Board of Education, 2100002959; Garrard County Board of Education, 2100002967; Grayson County Board of Education, 2100002972; Harlan County Board of Education, 2100002978; Harrison County Board of Education, 2100002979.

DEPARTMENT OF JUVENILE JUSTICE

Boyle County Board of Education, 2100001968.

DEPARTMENT OF MILITARY AFFAIRS

Western Kentucky University, 2100001075; University of Kentucky Research Foundation, 2100001958; Louisville & Jefferson Metropolitan Sewer District, 2100001969; City of Maysville, 2100002133; Louisville Jefferson County Metro Government, 2100002134; University of Louisville Research Foundation, 2100002140; Floyd County, 2100002146; Louisville & Jefferson MSD, 2100002148; Louisville & Jefferson MSD, 2100002149; Louisville & Jefferson MSD, 2100002151; Louisville & Jefferson MSD, 2100002152; Oldham County Fiscal Court, 2100002154; Oldham County Fiscal Court, 2100002155; Kentucky Community and Technical College System, 2100002370.

EMPLOYMENT SERVICES

Multi, 2100001327; University of Kentucky Research Foundation, 2100002879.

JUSTICE - OFFICE OF THE SECRETARY

Kentucky Pharmacy Education and Research Foundation, Inc., 2100002147; Kentucky Chamber Foundation, Inc., 2100002374; Unlawful Narcotics Investigations Treatment and Education, 2100002377; Volunteers of America Mid-States, Inc., 2100002378; Corbin Independent School District, 2100002554; Seven Counties Services, Inc., 2100002569; Trigg County Board of Education, 2100002570; Pennyroyal Regional Mental Health Retardation Board, 2100002646; Pathways, Inc., 2100002649; Barren River District Health Department, 2100002671; Comprehend, Inc., 2100002765; Communicare, Inc., 2100002827; Communicare, Inc., 2100002829.

KENTUCKY HORSE PARK

Georgetown Scott County Parks and Recreation, 2100001957.

KY HOUSING CORPORATION

University of Kentucky Research Foundation, 1.

STATE TREASURER

Mattingly Center, Inc., 2100002211.

TOURISM - OFFICE OF THE SECRETARY

Trail of Tears Commission, Inc., 2100001947.

TRANSPORTATION - OFFICE OF THE SECRETARY

Center for Employment Opportunities, Inc., 2100002601; University of Louisville Research Foundation, 2100002602; University of Louisville Research Foundation, 2100002603.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Oxford House, Inc., 2000001625; People Advocating Recovery, 2000001639; Hazelden Betty Ford Foundation, 2000001655; Voices of Hope - Lexington, Inc., 2000001738; Norton Healthcare, 2000001841; Achieving Recovery Together, Inc., 2000001843; Ap-

palachian Regional Healthcare, Inc., 2000001846; Baptist Health Care System, Inc., 2000001853; Young People In Recovery, 2000001867; Kenton County Fiscal Court, 2000001878; Kentucky Primary Care Association, Inc., 2000001884; Ashland Hospital Corporation d/b/a King's Daughters Medical Center, 2000001887; University of Kentucky Research Foundation, 2000002099; University of Kentucky Research Foundation, 2000002174; University of Kentucky Research Foundation, 2000002211; University of Louisville, 2000002218; Multi, 2000002409; University of Kentucky, 2000002872; New Vista of the Bluegrass, Inc., 2000003043; New Vista of the Bluegrass, Inc., 2000003154; Education Development Center, Inc., 2100001120; Communicare, Inc., 2100001154; Recovery Cafe Lexington, Inc., 2100001659.

BOARD OF BARBERING  
Public Protection Cabinet, 2000002229.

BOARD OF PROFESSIONAL COUNSELORS  
Public Protection Cabinet, 2000002142.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Nursing Home Ombudsman Agency of the Bluegrass, Inc., 2000002606; Elderserve, Inc., 2000002607; University of Kentucky Research Foundation, 2000002877; Multi, 2000002889; University of Kentucky Research Foundation, 2000003475; Multi, 2000004400; Multi, 2100000242; Multi, 2100000262.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS  
Lincoln Trail District Health Department, 2000002618.

COUNCIL ON POSTSECONDARY EDUCATION  
Bellarmine University, 2100000021; Centre College, 2100000029; Kentucky Wesleyan College, 2100000047; Lindsey Wilson College, 2100000053; University of Pikeville, 2100000067; Kentucky Valley Education Cooperative, 2100001734.

DEPARTMENT FOR COMMUNITY BASED SERVICES  
Community Action Lexington Fayette, 2000003731.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES  
Multi, 2000001719; Multi, 2000001720; Multi, 2000001721; Multi, 2000001722; Multi, 2000001724; Multi, 2000001725; Multi, 2000001726; Multi, 2000001727; Multi, 2000001728; Multi, 2000001729; Multi, 2000001730; Northern Kentucky Cooperative for Educational Services, Inc., 2000001731; Multi, 2000002172.

DEPARTMENT FOR NATURAL RESOURCES  
University of Kentucky Research Foundation, 2100000270.

DEPARTMENT FOR PUBLIC HEALTH  
Go-Hire Employment and Development, Inc.,

2000001850; University of Louisville Research Foundation, 2000002641; Kentucky Cancerlink, Inc., 2000002707; Center for Human Entrepreneurship, 2000002896; University of Kentucky Research Foundation, 2000003140; University of Kentucky Research Foundation, 2000003610; Kentucky Primary Care Association, Inc., 2100000628; Pennyroyal Healthcare Services, 2100000738; University of Kentucky Research Foundation, 2100000739; American Cancer Society, 2100000740; Norton Healthcare Foundation, 2100000741; Pikeville Medical Center, Inc., 2100000751; Primary Care Center of Eastern Kentucky, 2100000752; Shawnee Christian Healthcare Center, Inc., 2100000796; University of Kentucky Research Foundation, 2100000892; University of Louisville Research Foundation, 2100000906.

DEPARTMENT OF AGRICULTURE  
Multi, 2100001804.

DEPARTMENT OF CORRECTIONS  
Breckinridge County, 2000001535; Christian County Jail, 2000001540; Daviess County, 2000001541; Fulton County, 2000001544; Grayson County Detention Center, 2000001561; Hardin County Fiscal Court, 2000001562; Henderson County, 2000001563; Hopkins County, 2000001565; Boyle County, 2000001583; Laurel County, 2000001642; Pike County, 2000001649; Marion County, 2000001653; Powell County Fiscal Court, 2000001666; Attorney General, 2100001789.

DEPARTMENT OF EDUCATION  
University of Kentucky Research Foundation, 2000002450; University of Kentucky Research Foundation, 2000002473; University of Kentucky Research Foundation, 2000002575; Eastern Kentucky University, 2000003153; Murray State University, 2000003634; University of Louisville Research Foundation, 2000003636; Kentucky School Board Association Educational Foundation, Inc., 2000003905; Eastern Kentucky University, 2000003911.

OFFICE OF INSPECTOR GENERAL  
University of Kentucky Research Foundation, 1900002938-1.

UNIVERSITY OF KENTUCKY  
Department of Corrections, Commonwealth of Kentucky, 007-21.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
RFH, PLLC, 2100001873. Tony Hatton and Cori Troutman discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

DEPARTMENT OF EDUCATION  
University of Kentucky Research Foundation, 2100002276. Karen Wirth, Gretta Hylton, and Veroni-

ca Sullivan discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

DEPARTMENT OF JUVENILE JUSTICE  
Diamond Drugs, Inc., 2100002258. William Codell discussed the contract with the committee. A motion was made by Representative Minter to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

DEPARTMENT OF REVENUE  
Russell M. Sloan, 2100002999. Melissa Klink and Bethany Atkins Rice discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY  
Multi, 670-2021. Ethan Witt, Bryan Makinen, and Andrea Cashell discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

ECON DEV - OFFICE OF THE SECRETARY  
Shaping Our Appalachian Region, Inc., 2100002535; Central Region Innovation and Commercialization Center, Inc., 2100002536; Awesome Center for Entrepreneurship, Inc., 2100002537; Amplify Louisville, Inc., 2100002538; Sprocket, Inc., 2100002546. Anthony Ellis discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Representative Minter seconded the motion, which passed.

KENTUCKY LOTTERY CORPORATION  
Bandy Carroll Hellige, 22-16-044-1; The Buntin Group, Inc., 22-16-044-2. Mike Denney, Edie Frakes, and Chip Polston discussed the contracts with the committee. A motion was made by Representative Bowling to consider the contracts as reviewed. Senator Meredith seconded the motion, which passed with Senator Southworth voting no.

NORTHERN KENTUCKY UNIVERSITY  
Academic Partnerships, 2022-140. Mike Hales, Samantha Langleys, and Carmen Hickerson discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Meredith seconded the motion, which passed.

UNIVERSITY OF KENTUCKY  
Barry Swanson and Bart Hardin requested that contracts submitted for Impact Advisors, LLC, K22-114; PriceWaterhouseCoopers, LLP, K22-132 be withdrawn. All4 Environmental, LLC, K22-102; Deloitte Consulting, LLP, K22-111; Huron Consulting Services, LLC, K22-113; CorVel Enterprise Comp, Inc., K22-125; Kaufman, Hall & Associates, K22-128. Bart Hardin and Barry Swanson discussed the contracts with the committee. A motion was made by Representative Bowling to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed

with Senator Southworth voting no.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**DEPARTMENT OF CORRECTIONS**

Diamond Drugs, Inc., 2000003271. Hilary Daley discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

**MURRAY STATE UNIVERSITY**

Academic Partnerships, LLC, 019-20. Beth Ward, Jackie Dudley, and Dr. Bob Jackson discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Spalding University, 2100002192. Stephanie Craycraft and KOLEEN SLUSHER discussed the contract with the committee. A motion was made by Senator Southworth to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

**DEPARTMENT OF EDUCATION**

Greenup County Board of Education, 2100002724; Rockcastle County Board of Education, 2100002726; Eminence Independent Board of Education, 2100002728; Robertson County Board of Education, 2100002729. Micki Ray and Danna Steele discussed the contracts with the committee. A motion was made by Representative Minter to consider the contracts as reviewed. Representative Koch seconded the motion, which passed with Senator Southworth voting no.

**ECON DEV - OFFICE OF THE SECRETARY**

Kentucky Science and Technology Corporation, 2100002706. Anthony Ellis discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**DEPARTMENT FOR PUBLIC HEALTH**

University of Kentucky Research Foundation, 2000002718. Bob James discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed with Senator Southworth voting no.

**OFFICE OF HEALTH DATA AND ANALYTICS**

University of Kentucky Research Foundation, 2100001118. Andrew Bledsoe discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Minter seconded the motion, which passed with Senator Southworth voting no.

The committee discussed consulting with the Finance Department regarding statute 45A and possible ways of saving money in the procurement process. The committee hopes in doing this, it would make it more accessible to other vendors. A motion was made by Senator Meredith to contact the Finance Department. Senator Southworth seconded the motion, which passed.

There being no further business, the meeting adjourned at 11:12 AM.

**MEDICAID OVERSIGHT AND ADVISORY COMMITTEE**

**Minutes of the 2021 Interim**

May 20, 2021

**Call to Order and Roll Call**

The meeting of the Medicaid Oversight and Advisory Committee was held on Thursday, May 20, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative 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: Representative Kimberly Poore-Moser; Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Dr. Beth Partin, Chair, Advisory Council on Medical Assistance.

LRC Staff: Chris Joffrion, Hillary Abbott, and Amanda DuFour.

**Approval of Minutes**

A motion to approve the October 28, 2020 minutes was made by Representative Elliott, seconded by Senator Alvarado, and was approved by a voice vote.

**Update from the Advisory Council on Medical Assistance**

Elizabeth Partin, Chair, Advisory Council on Medical Assistance (MAC) presented the following information to the committee: a review of the MAC's end-of-the-year reports, review of potential legislation impacting COIV-19 emergency regulations, and information and recommendations related to infant mortality and maternal morbidity as requested by the Department for Medicaid Services (DMS).

In response to questions from Senator Alvarado, Dr. Partin stated that she did not disagree with his position regarding the risks associated with substance

use, specifically marijuana, during pregnancy and that disclosure of substance use by a patient would be subject to patient/provider confidentiality.

In response to questions from Representative Sheldon, Dr. Partin stated that the MAC did not contribute to the reimbursement methodology for Medicaid pharmacy benefits developed by DMS in implementing in 20RS Senate Bill 50.

In response to questions from Senator Meredith, Dr. Partin stated that there has not been a resolution reached with DMS regarding cross payments for rural health clinics.

**Update on the Impact of COVID-19 on the Kentucky Medicaid Program**

Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services provided the following updates on COVID-19's impact on Medicaid: increased enrollment; changes in Medicaid expenditures in both the managed care and fee-for-service (FFS) populations; changes in utilizations of emergency rooms, in-person encounters and telehealth encounters; increased reimbursement rates; and administrative regulation changes.

In response to questions from Representative Elliott, Commissioner Lee stated that presumptive eligibility has been around for a while and unless an applicant's official application is completed and processed, the applicant will fall off the list at the end of their period of presumptive eligibility. Commissioner Lee stated that just because someone qualified under presumptive eligibility, does not guarantee them Medicaid coverage. The application process is what helps DMS ensure that only qualified applicants receive Medicaid.

In response to questions from Representative Sheldon, Commissioner Lee stated that the increase in usage of chiropractic services is most likely due to the lifting of prior authorization requirements.

In response to questions from Representative Moser, Commissioner Lee stated that the number of people who qualified for Medicaid under presumptive eligibility will drop off based on when they first qualified and when their period of eligibility ends.

In response to questions from Senator Meredith, Commissioner Lee stated that she would provide the committee pre and post-COVID Medicaid enrollment numbers, as well as past presumptive eligibility figures.

**Legislative Implementation Update: 20RS SB50, 20RS HB8, 21RS HB183, 21RSHB276, and 21RS HJR57**

Commissioner Lee provided the committee with an update on implementation of the following recently enacted pieces of legislation:

20RS SB50 which requires DMS to establish and directly administer the outpatient pharmacy benefit program for all Medicaid beneficiaries.

20RS HB8 which establishes the Medicaid ground ambulance service provider assessment and requires the Cabinet to promulgate administrative regulations to implement and pay for the assessment.

21RS HB183 which was signed into law on March 22, 2021 and requires DMS to enact a hospital rate improvement program.

21RS HB276 which requires DMS to accept employment of temporary COVID-19 personal care attendants as meeting training for state registered nurse aides.

21RS HJR57 which requires the Cabinet for Health and Family Services to implement a bridge insurance work group.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that DMS is meeting the single source credentialing obligations outlined in 21RS HB438. Commissioner Lee stated that while fears of technology glitches are warranted with new rollouts, DMS is doing all they can to ensure no glitches happen for providers when new DMS issued software is implemented.

In response to comments from Representative Sheldon, Commissioner Lee stated that she will look into the data source discrepancy in the determination of cost of goods to ensure the most equitable data is used.

#### **Status Report on Outstanding Medicaid Waiver and State Plan Amendment Applications**

Commissioner Lee informed the committee that the 115 demonstration waiver to provide Medicaid coverage for substance use disorder treatment to eligible incarcerated individuals is pending final review by the Federal Centers for Medicare and Medicaid Services.

Lee also provided the committee with an update on other pending state plan amendment applications and pre-prints including updates on changes to reimbursement for school-based services, mandatory medication assisted treatment for substance use disorder coverage, a Case Mix Nursing Facility per diem rate add on, Program for All-Inclusive Care for the Elderly (PACE), Kentucky Child Health Insurance (KCHIP) coverage for pregnant women between 185-200 percent of the federal poverty level (FPL), a pharmacy pre-print for state fiscal years 2019, 2020, and 2021, a pre-print for implementation of the single pharmacy benefit manager for all Medicaid beneficiaries, and a durable Medicaid equipment (DME) pre-print.

#### **Medicaid Managed Care Organization Request for Proposal Process (RFP)**

Commissioner Lee testified that due to ongoing legal disputes, she was unable to comment on the status of managed care organization contracts.

In response to questions and comments from Senators Alvarado and Meredith, Commissioner Lee stated she could not comment on any pending litigation.

In response to questions from Representative Elliott, Commissioner Lee stated that DMS is not considering any home and community based program that requires additional funding.

#### **Adjournment**

There being no further business, the meeting adjourned at 2:31pm.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 3rd Meeting of the 2021 Interim**

May 24, 2021

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

The 3rd meeting of the Public Pension Oversight Board was held on Monday, May 24, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Robby Mills, Gerald A. Neal, Dennis Parrett, and Mike Wilson; Representatives Derrick Graham, Jerry T. Miller, Jason Petrie, James Tipton, Russell Webber, and Buddy Wheatley; John Chilton, Mike Harmon, John Hicks, James M. "Mac" Jefferson, and Sharon Mattingly.

Guests: Bo Cracraft, Executive Director, Judicial Form Retirement System; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement System; and David Eager, Executive Director, Kentucky Public Pensions Authority; Rebecca Adkins, Executive Director, Office of Operations, Kentucky Public Pensions Authority; Laura Owens, Community Mental Health Centers; Joe Dan Beaver, CEO, Life Skills.

LRC Staff: Brad Gross, Jennifer Black Hans, and Angela Rhodes.

#### **Approval of Minutes**

Representative Tipton moved that the minutes of the April 26, 2021, meeting be approved. Representative Wheatley seconded the motion, and the minutes were approved without objection.

#### **Investment Update - Judicial Form Retirement System**

Bo Cracraft, Judicial Form Retirement System (JFRS), started his presentation with investment performance as of March 31, 2021. He reviewed the trailing performance for the fiscal-year-to-date, 1-, 3-, 5-, 10-, 20-year, and inception-to-date for defined benefit and cash balance plans for each of the judicial and legislative plans as compared to benchmarks.

Next, Mr. Cracraft discussed asset allocation. He discussed investment policy targets and defined benefit portfolios rebalanced in April 2021. The cash balance and defined benefit plans are targeting at 70 percent equity and at 30 percent fixed income. The investment manager has discretion within the +/- 10 percent range. Historically, over the short term, JFRS has been overweight on equity and, in January, they rebalanced due to being close to 80 percent equity and rebalanced again in April to about 72 percent.

Lastly, Mr. Cracraft discussed cash flow. He discussed cash inflows, cash outflows, net cash flow before asset gain/losses, realized/unrealized asset gains/losses, and change in net position for the judicial and legislative retirement plans as of March 31, 2021.

In response to a question from Representative Tipton regarding the cash balance plan, where members are guaranteed a 4 percent return investment with any returns over the 4 percent the member is credited

at 75 percent with 25 percent held in a reserve in case the 4 percent needs to be balanced out in the future, Mr. Cracraft stated the reserve is not accounted for in a separate pool of assets. When the cash balance plan was created, the board made the decision to invest in a separate pool, and there was not any reserve credited until there were vested members. So, during the first five years, members earned a flat 4 percent. Since then, the plan has earned in excess of 4 percent, so there have been gains from an actuarial standpoint. Last year, the interest credited around 7.5 percent, which JFRS was able to capture some of the 25 percent for reserve. In response to a follow up, Mr. Cracraft stated that, as to the LRP where the General Assembly has not provided funding, if there were prolonged periods of negative experience, the surplus could be impacted due to having to use some of its surplus assets on the defined benefit plan.

#### **Investment Update - Teachers' Retirement System**

Beau Barnes, Teachers' Retirement System (TRS), began his presentation with investment performance for the quarter as of March 31, 2021, which was 3.36 percent net, and discussed the gross and net performance for fiscal-year-to-date, 1-, 3-, 5-, 10-, 20-year trailing time periods, and the 30-year compounded gross return of 8.45 percent. Mr. Barnes added that from 2008 to March 2021, TRS investment returns totaled a net \$19.3 billion, compared to the average plan's \$14 billion. This outperformance generated \$5.3 billion to the benefit of Kentucky's teachers.

Mr. Barnes reviewed cash flow for the pension fund FYTD 2021 compared to FYTD 2020. He pointed out the cash inflows, including member contributions, employer contributions/appropriations, and investment income. He explained that the investment income declined over the comparative period due in part to a lower interest rate from 2 percent to nearly 0 percent and less dividends compared to gains as to investments.

In response to questions from Representative Miller, Mr. Barnes stated the first quarter of the calendar year, TRS rebalanced its portfolio, pulling \$2 billion out of the stock market and moving it to cash and treasuries. In response to a second question regarding the decreased amount of investment income for the FYTD 2021 compared to FYTD 2020, Mr. Barnes further explained that over the last 9 months the interest was at 0 percent compared to 2 percent in the previous 9 months. Representative Miller requested more data with prior years included.

In response to a question from Representative Wheatley, Mr. Barnes stated AON is one of the largest consultants in the world that provides investment and medical insurance consulting for pensions. The AON Rank compares pension plans of \$1 billion of assets or greater. TRS ranks in the top 49 percent out of a probable 150 to 170 public pension funds. In response to a follow up question, Mr. Barnes confirmed that TRS outperformed an average pension plan by over \$5 billion between 2008 to March 2021.

In response to a question from Representative Tipton, Mr. Barnes affirmed that the TRS experience study is based on the previous five years ending June 30, 2020. In response to a follow up, Mr. Barnes stated



that the actuaries also look at capital market assumptions going forward, what other investors are looking at, and consider what they see going into the future.

Mr. Barnes continued with an update of outflows, investment gains or losses, and the total net plan assets across FYTD for 2021 and FYTD 2020. The actuaries agree that the \$435 million negative cash flow is still manageable, and the asset base has grown. Mr. Barnes went on to discuss the investment gains or losses and net plan assets, which stood at over \$24.7 million by the end of the period.

Lastly, Mr. Barnes continued with a review of cash flow for the health insurance fund through FYTD 2021 compared to FYTD 2020. He pointed out cash inflows, outflows, investment gains or losses, and the total net plan assets across both time periods. Cash flow remained positive.

In response to a question from Auditor Harmon, Mr. Barnes stated that the funding level percentage is 58.4 percent as of June 30, 2020, and the unfunded liability stood at \$14.8 billion in the pension trust.

In response to a question from Representative Miller, Mr. Barnes stated the experience study will be presented to the TRS Board on June 21, 2021. He added that assumptions can change depending on the outcome of the experience study.

In response to questions from Mr. Jefferson, Mr. Barnes stated that the net returns, within the presentation, do not include carried interest and stated that it is included in the comprehensive financial report as a separate item. He added that TRS does not consider carried interest an expense. In response to a follow up, Mr. Barnes stated that as of June 30, 2020, the pension trust's funded status was 58.4 percent and the health insurance trust's funded status was 61.7 percent. Further, TRS is comfortable with the cash flow numbers in both pension and health.

In response to a question from Representative DuPlessis, Mr. Barnes stated that there is certainly a lot of talk about inflation moving upward.

#### **Investment Update – Kentucky Public Pension Authority**

David Eager, Kentucky Public Pension Authority (KPPA), began by responding to a question from Representative Tipton from the last Public Pension Oversight Board (PPOB) meeting in April. He stated that KPPA cannot project the liability of June 30, 2021, and did not know the market value of the assets. KPPA may have an estimate by late July from GRS.

Mr. Eager began his presentation discussing performance and cash flow highlights stating that all pension year-to-date performance was 18.44 percent resulting in a net increase of \$2.3 billion in assets. The insurance performance was 18.74 percent resulting in a net increase of \$1.0 billion in assets. Performance above the benchmark was 106 basis points for pension, which is equal to \$134.9 million and 102 basis points for insurance, which is equal to \$55.9 million. Mr. Eager provided cash flow highlights, stating that Kentucky Employees Retirement System (KERS) non-hazardous is cash positive and County Employees Retirement System (CERS) is not cash positive.

Mr. Eager discussed the pension and health investment updates as of March 31, 2021. He discussed the net of fees rates of return for the FYTD, 1-, 3-, 5-,

10-, 20-, and 30-year periods for all plan systems along with their plan index.

Mr. Eager discussed the cash flow for the pension funds. He discussed the cash inflows, cash outflows, net contributions, and change in net position for the period of ending on March 31, 2021, compared to the prior year ending on March 31, 2020.

In response to a question from Representative DuPlessis regarding the funding ratio, Mr. Eager stated that he would have to get back with an answer.

Mr. Eager continued to discuss cash flow for the health insurance funds. He discussed the cash inflows, cash outflows, net contributions, and change in net position for the period of March 31, 2021, compared to March 31, 2020.

In response to a question from Mr. Jefferson, Mr. Eager stated that he believes that the member contributions have been negative for the last ten years. Representative DuPlessis stated that he hopes that HB 8 stops the negative decline in member contributions.

In response to a question from Representative Miller regarding de-emphasizing national equities, Mr. Eager stated that he believes there would be some reduction due to KPPA lowering risk. It is anticipated that the value is going to be added more in active managers versus the index funds.

In response to a question from Representative Tipton regarding the KPPA plans' investments in hedge funds, Mr. Eager stated KPPA had about \$1.5 billion at one point and are down to about \$300 million at present.

#### **House Bill 8 Appeal Process Discussion**

Representative DuPlessis explained that he, Mr. Eager, and representatives from regional/community mental health centers (CMHCs) have had several conversations regarding how KPPA would calculate the actuarially accrued liability contribution (unfunded liability) of CHMCs for payment on or after July 1, 2021. The CHMCs had asked for particular data, and KPPA was, at that time, not willing to share some of the data.

Laura Owens, Partner JYB3 Group, stated that she was here as a legislative agent for Life Skills and Pennyrile and that many of the CHMCs have reached out asking for the information.

Joe Dan Beaver, CEO, Life Skills and the Pennyrile Center, discussed the importance of this issue and appreciates the help from the legislators. HB 8 has provided the ability to move forward with the challenges of paying the employer costs of pensions, particularly with the appeal process. The data that the CMHCs, specifically Life Skills and the Pennyrile Center, are seeking relate to employee information and will be a material component in determining the unfunded liability. Under the appeal process, it will also allow fraud-based analytical reviews. He added that transparency is the hallmark of good governance and a good aspect to have in order to pay their fair share.

Representative DuPlessis stated that the whole point of HB 8 was to pay what is owed and trust what is being paid.

Mr. Eager discussed the HB 8 appeals process. He stated that HB 8 is going to cause a lot of employers' rates to go down and others to go up. The KPPA's concern is that for those employers that also have the

option to cease participating, the additional data requested could be used adversely against employee members. Rebecca Adkins, Director of Operations, KPPA, explained that such employee liability data has never been provided to agencies that had the option to voluntarily cease participation. While CHMCs can no longer cease under the terms of HB 1 (19 SS), they can still voluntarily cease participation under KRS 61.522.

Representative DuPlessis commented that HB 8 provides that you can no longer cease employment to save money. In response to a question from Representative DuPlessis regarding why KPPA is unwilling to give the data information, Mr. Eager stated that these agencies can also cease participation. In response to a question from Representative DuPlessis, Ms. Adkins clarified that the cessation liability is a different calculation than the HB 8 liability.

Representative Tipton commented that Mr. Eager is correct. In 2015, legislation was enacted that would allow certain quasi-governmental employers to cease participation, either voluntarily or involuntarily, under a formula specific to cessation. He added there may need to be more research and discussion.

Representative DuPlessis added that there might need to be a legislative change relative to data availability to employers.

Members of the PPOB asked if a concern was that the agency receiving the data would then determine which individuals make up a larger share of the unfunded liability and then terminate an individual's employment prior to ceasing participation in the system. Mr. Eager responded yes. Mr. Beaver stated that he believes that is illegal.

Representative DuPlessis commented that KPPA's purpose is not hiring and employment decisions of participating employers, but to manage money and the data associated. Mr. Eager stated that in order to get an accurate number an actuary would need to verify the liability. Mr. Beaver added that they are not asking to recalculate the number, but reasonableness. Ms. Owens added this is information is something that quasis should have the right to have for their employees.

In response to a question from Senator Higdon regarding KPPA having a hold harmless type contract, Mr. Eager stated that he would need to consult with his legal department.

In response to a question from Representative Wheatley, Mr. Beaver stated that there could be an audit required regarding the data received for an accurate confirmation.

Representative Miller commented that he believes there could be a hold harmless agreement to be able to move forward. Mr. Beaver, agreed.

Representative Tipton commented that the appeal has to take place on or before July 1.

Senator Parrett commented that the process needs to be done quick and very thorough.

Representative DuPlessis commented that KPPA needs to have a better answer as to why they are not sharing the data information.

With no further business, the meeting was adjourned.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

**Minutes of the 3rd Meeting of the 2021 Interim**  
May 18, 2021

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

The 3rd meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Tuesday, May 18, 2021, at 10:30 AM, in Room 129 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Dennis Parrett, Robin L. Webb, and Whitney West-erfield; Representatives George Brown Jr., Kim King, Phillip Pratt, Brandon Reed, and Rachel Roberts.

Guests: Warren Beeler, former Executive Director, Kentucky Office of Agricultural Policy (KOAP); Brian Lacefield, Executive Director, KOAP; Bill McCloskey, Deputy Executive Director, KOAP; Vic Mad-dox, Associate General Counsel, Kentucky Office of the Attorney General (KOAG); Carmine Iaccarino, General Counsel, KOAG; and Michael Plumley, Assistant Attorney General, KOAG.

LRC Staff: Stefan Kasacavage, Nathan Smith, Kelly Ludwig, and Rachel Hartley.

The committee presented an award to Warren Beeler for his service to Kentucky.

### **Kentucky Office of Agricultural Policy Report**

Brian Lacefield provided a brief personnel up-date and stated there has been no disruption of service during KOAP's transition from the Governor's Office to the Kentucky Department of Agriculture.

Bill McCloskey described the Agricultural De-velopment Board's projects for April under the pro-gram. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Deceased Farm Animal Removal, Shared-Use Equip-ment Program, and Youth Agriculture Incentives Pro-gram.

The projects discussed included:

Jessamine County Future Farmers of America (FFA) Alumni Association was approved for up to \$8,000 in Jessamine County funds for a Jessamine County 4-H and FFA cost-share program.

Washington County Fiscal Court was approved for up to \$6,953 in Washington County funds to purchase a dump trailer for its deceased animal removal program.

### **Overview and Update on the Master Settle-ment Agreement**

Michael Plumley stated Kentucky signed the Master Settlement Agreement (MSA) in November 1998. The MSA payments are based on traditional cig-arettes sold in the United States by participating man-ufacturers. Kentucky has received \$2.4 billion since the inception of the MSA, and payments will continue as long as traditional cigarettes are sold. After a por-tion of the MSA funds are used to pay debt service on rural water and sewer lines, the remaining funds are

divided into three accounts: 50 percent to agricultural development, 25 percent to early childhood develop-ment, and 25 percent to health care improvement.

The potential causes of future declines in MSA funds are a reduction in sales of cigarettes by partic-ipating manufacturers and the growth of electronic cigarettes sales. Electronic cigarettes are generally not covered in the MSA and are estimated to displace a growing share of the traditional cigarette market.

In response to Senator Webb, Mr. Plumley stat-ed electronic cigarettes are not covered by the MSA and there should be a structure similar to the MSA for electronic cigarettes.

There being no further business, the meeting was adjourned.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

**Minutes of the 4th Meeting of the 2021 Interim**  
June 10, 2021

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

The 4th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, June 10, 2021, at 10:30 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Paul Hornback, Robin L. Webb, and Whitney West-erfield; Representatives George Brown Jr., Kim King, Phillip Pratt, Brandon Reed, and Rachel Roberts.

Guests: Brian Lacefield, Executive Director, Kentucky Office of Agricultural Policy (KOAP); and Bill McCloskey, Deputy Executive Director, KOAP.

LRC Staff: Stefan Kasacavage, Nathan Smith, and Rachel Hartley.

### **Kentucky Office of Agricultural Policy Report**

Brian Lacefield stated Kentucky will be hosting the National Association of State Departments of Ag-riculture (NASDA). The Commissioner of the Ken-tucky Department of Agriculture, Ryan Quarles, is the President of NASDA.

Bill McCloskey described the Agricultural De-velopment Board's projects for May under the pro-gram. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Deceased Farm Animal Removal, Next Generation Farmer, Shared-Use Equipment Program, and Youth Agriculture Incentives Program (YAIP).

The requested program amendments discussed included:

Owen County Farm Bureau requested an addi-tional \$300,000 in Owen County funds for CAIP. The board recommended approval, which would bring the program total to \$305,000.

Caldwell County and Lyon County Cattle-men's Association requested an additional \$7,071 in Cald-well County funds for CAIP. The board recommend-ed approval, which would bring the program total to \$93,790.

Taylor County Cattlemen's Association request-ed an additional \$8,400 in Taylor County funds for YAIP. The board recommended approval, which would bring the program total to \$16,400.

Greenup County Conservation District request-ed an additional \$83,940 in Greenup County funds for CAIP. The board recommended approval, which would bring the program total to \$226,104.

Whitley County Cattlemen's Association re-quested an additional \$5,679 in Whitley County funds for CAIP. The board recommended approval, which would bring the program total to \$36,679.

Fleming County Conservation District request-ed an additional \$20,000 in Fleming County funds for CAIP. The board recommended approval, which would bring the program total to \$228,613.

Shelby County Farm Bureau requested an addi-tional \$30,000 in Shelby County funds for CAIP. The board recommended approval, which would bring the program total to \$305,000.

Campbell County Conservation District re-quested an additional \$33,008 in Campbell County funds for CAIP. The board recommended approval, which would bring the program total to \$60,598.

The approved funds for level two of the meat processing expansion included:

Ray's Custom Processing in Grayson County was approved for \$6,650.

Freeman's Catering in Union County was ap-proved for \$13,674.

Ronald P. Halsey in Wolfe County was approved for \$25,492.

Moonlight Meat Processing in Whitley County was approved for \$21,042.

The projects discussed included:

Lorenze and Hammond LLC was approved for up to \$250,000 in state funds, as a forgivable loan, and \$30,000 in multiple county funds, as a cost-reimburse-ment grant, to build a United States Department of Agriculture (USDA) processing facility in Anderson County.

Farmstead Butcher Block LLC was approved for up to \$250,000 in state funds, as a forgivable loan, and \$20,000 in multiple county funds, as a cost-reimburse-ment grant, to build a USDA processing facility for beef, pork, lamb, poultry, and deer.

Hayz Meatz LLC was approved for up to \$149,350 in state funds, as a forgivable loan, and \$11,969 in multiple county funds, as a cost-reimbursement grant, to build a USDA processing facility in Warren County.

The Western Kentucky University Research Foundation was approved for up to \$227,896 in state funds to establish a SmartHolstein Lab, which is a re-search, development, and demonstration center for the dairy industry.

AW Farms LLC was approved for up to \$250,000 in state funds, as a forgivable loan, and \$2,000 in Boyd County funds, as a cost-reimbursement grant, to purchase processing equipment and build a USDA pro-cessing facility for beef, pork, and deer in Greenup County.

The Corbin Tourism and Convention Commis-sion was approved for up to \$100,000 in state funds and \$1,500 in Whitley County funds to build a pavil-ion for the Whitley County farmers market in down-town Corbin.

The City of Whitesburg was approved for up to \$250,000 in state and \$84 in Letcher County funds, as a cost-reimbursement grant, to build a farmers market pavilion with a commercial kitchen.

Daviess County Conservation District was approved for a grant up to \$20,000 in Daviess County funds for the Daviess County Youth Agriculture Production Cost-Share Program.

Logan Premium Meats and Processing LLC was approved for up to \$250,000 in state funds, as a forgiv-

able loan, to purchase processing equipment and build a USDA processing facility for beef, pork, goat, turkey, ducks, and poultry in Logan County.

Owensboro Catholic High School was approved for up to \$15,000 in multiple county funds to construct a new greenhouse.

In response to Representative Reed, Mr. McCloskey stated \$6 million has been disbursed to 30 meat processors. There is uncertainty of the demand for meat processors after COVID-19.

In response to Representative King, Mr. Lacey stated having small meat processing operations spread throughout the state mitigates the risk of cyber threats.

Representative Dossett stated the meat processing expansion will make Kentucky more secure and will reduce the risk of increased meat prices.

There being no further business, the meeting was adjourned.

## New state laws, from page 2

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day for early, in-person voting. It will allow county clerks to continue to offer ballot drop boxes for those who do not wish to send their ballots back by mail. It will also counties to offer voting centers where any registered voter in the county could vote.

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

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

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

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

**Late fees.** House Bill 272 will allow water districts to impose a 10 percent late fee and cut

off service for nonpayment of bills. Customers who receive financial assistance for their bills are exempt.

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

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

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

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

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

**Public records.** House Bill 312 will revise the states open records laws. It will limit the ability of people who do not live, work or conduct business in Kentucky to obtain records through open records laws. These restrictions do not apply to out-of-state journalists. The legislation specifies that open records requests can be made via email. It also calls for a standardized form to be developed for open records request but does not require its use. It will allow the legislative branch to make final decisions that can’t be appealed regarding decisions on open records requests it receives. The bill will allow government agencies up to five days to respond to open records requests.

**Sexual abuse.** Senate Bill 52 will amend third-degree rape, third-degree sodomy and second-degree sexual abuse statutes so law enforcement officers could be charged with those crimes if they engage in sexual acts with a person under investigation, in custody or under arrest.

**Theft.** House Bill 126 will increase the threshold of felony theft from \$500 to \$1,000. It will also allow law enforcement to charge members of organized shoplifting rings with a felony if a member steals a total of \$1,000 worth of merchandise over 90 days.

**U.S. Senators.** Senate Bill 228 will change the way vacancies are filled for a U.S. senator from Kentucky. The bill will require the governor to select a replacement from a list of three nominees selected by the same political party of the departing senator.

**Worker safety regulations.** House Bill 475 will prohibit, starting on July 1, the Kentucky Occupational Safety and Health Standards Board from adopting or enforcing occupational safety and health administrative regulations that are more stringent than the corresponding federal provisions.

2021 Interim  
**LEGISLATIVE  
RECORD**

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The Kentucky Legislative Research Commission is a 16-member committee of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the LRC constitutes the administrative office for the General Assembly. Its director serves as chief administrative officer of the Legislature when it isn't in session.

The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

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**LEGISLATIVE  
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**KENTUCKY GENERAL ASSEMBLY**

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