



# INTERIM RECORD

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## Lawmakers hear Veterans group's 2021 priorities

by Jim Hannah

FRANKFORT – Protecting the Kentucky Department of Veterans Affairs (KDVA) budget while providing property tax relief for veterans service organizations is at the top of the wish list for the state's veterans advocates.

During a Nov. 19 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection, lawmakers were told that the top priority of the Joint Executive Council of Veterans Organizations (JECVO) for the 2021 Regular Session of the Kentucky General Assembly is protecting KDVA's budget, said Larry Arnett, the group's legislative officer.

KDVA Commissioner Keith Jackson testified that his department returned \$263,000 to the state general fund in response to the governor's budget reduction request in April. The General Assembly will convene on Jan. 5 to pass the state's next fiscal budget.

Jackson also said his department has received \$3.9 million from the Coronavirus Aid, Relief and Economic Security (CARES) Act. As of Oct. 31, the department has spent \$1.9 million and obligated the remaining amount for similar COVID-19 expenses, including increases in medical costs for veterans.

JECVO'S second, and final priority, is legislation, known as Bill Request 153, that would create a property tax exemption for property owned by veterans service organizations. To qualify for the tax exemption, over 50 percent of an organization's annual net income has to be expended on behalf of veterans and other charitable causes, according to language in the bill.

The sponsor, Rep. Matthew Koch, R-Paris, testified similar legislation was filed during the last two regular sessions. He said 31 states already have laws governing property tax exemptions for veterans service organizations.

Arnett said if BR 153 was enacted it would mean a loss of about \$300,000 annually in tax revenue. Only 8 percent of that figure currently goes to the state, he said. The majority goes to the cities or counties where the veterans service organizations have posts.



Veterans issues were spotlighted in the Nov. 17 meeting of the Veterans, Military Affairs and Public Protection Committee. Pictured, from left, are Rep. Matthew Koch, R-Paris; Joint Executive Council of Veterans Organizations (JECVO) Chairman Edwin Vincent and JECVO Legislative Officer Larry Arnett.

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# Lawmakers discuss COVID-19 vaccine plan

by Jordan Hensley

FRANKFORT— At a legislative meeting several weeks before vaccine producers announced encouraging results on the effectiveness of vaccines in early testing, lawmakers discussed how vaccine distribution might be handled in Kentucky.

Dr. Steven Stack, commissioner for the Kentucky Department for Public Health, noted that there are still unknowns regarding a COVID-19 vaccine during the Oct. 28 Interim Joint Committee on Health, Welfare and Family Services meeting. While an exact date of when the vaccine will become available has not been set, Stack testified he was optimistic there will be a COVID-19 vaccine available in the U.S. in December.

Rep. Russell Webber, R-Shepherdsville, asked if a vaccine would be required for the general public or any specific group.

Stack responded that the choice will be voluntary and the goal is “that they are making a fully informed decision about the risks and benefits.”

According to Stack’s presentation, high-risk health care workers and first responders would receive the vaccine in Phase 1a followed by Phase 1b with people with underlying health conditions that put them at a higher risk of dying from COVID-19 along with older adults living in nursing homes, assisted living or rehab facilities.

The phases continue, with teachers and childcare workers and people living in homeless shelters, prisons and jails, and more people with underlying health conditions along with critical workers in high risk settings receiving the vaccine in Phase 2.

Healthy young adults and children would receive the vaccine in Phase 3. By Phase 4, the vaccine will be available to everyone who wants one.

If a vaccine becomes available for those in Phase 1 in December, Stack said it take all of 2021 before everyone who wants a vaccine will have access to one.

While the promise of a vaccine by December is looking optimistic, there are some challenging logistics concerning storage and shelf life of a vaccine



Rep. Russell Webber, R-Shepherdsville, asks Department for Public Health Commissioner Dr. Steven Stack a question about COVID-19 vaccine distribution during a meeting of the Interim Joint Committee on Health, Welfare and Family Services.

once a vial is in use, Stack said. It is also likely everyone will need to receive the vaccine twice for it to be effective, he added. Pharmacies and hospitals are more than likely going to be the ones administering the vaccine.

Overall, Stack said the task of administering the vaccine is going to be “very difficult.”

Several lawmakers, including Rep. Tom Burch, D-Louisville, also had concerns about the logistics of distribution because of social distancing requirements and the vaccine’s shelf life.

“I just wonder if we’re being realistic about what you’re saying, about how this is going to be done?” Burch said.

Stack said Burch’s concerns are valid and he’s trying to be realistic about how the process will unfold.

# Committee hears testimony on proposed education legislation

by Jordan Hensley

FRANKFORT— With the 2021 session of the Kentucky General Assembly fast approaching, lawmakers shared ideas in a Nov. 13 committee meeting about improving education in the commonwealth.

Two presentations during the Interim Joint Committee on Education informed lawmakers on plans to improve accountability and literacy in K-12 schools.

Rep. Tina Bojanowski, D-Louisville, and Rep. Kim Banta, R-Ft. Mitchell, presented Bill Request 176: A Joint Resolution Related to School Accountability, to the committee.

“We would like to develop a committee that evaluates flexibility in the federal required assessments, so that we can have accountability measures that don’t just provide data to the state at the end of the year, but that they also provide information that can drive instruction,” Bojanowski said.

According to the presentation, Kentucky requires more testing for K-12 students than the federal government requires and spends roughly \$21 million assessments each year. Individual districts also spend millions on testing each year.

Bojanowski and Banta have several concerns with the current accountability system. According to their presentation, the current system results in test-based instruction and does not give teachers information that improves instruction, among other concerns.

If passed, BR 176 would require that, “the commissioner of education to convene a strategic Assessment and Accountability Committee to examine opportunities to improve the approach to assessment and accountability.”

The committee would be required to report their findings to the Interim Joint Committee on Education by Dec. 1, 2021 and again on Dec. 1, 2022.

According to the presentation, the committee’s findings could lead the state to implement testing that more accurately measures what a student knows and gives teachers a better idea of who

is falling behind throughout the school year. Currently, students as young as third-grade are only given end-of-the-year assessments instead of assessments throughout the school year.

While the resolution’s goal would be to find a way to reduce the amount of state required testing, Banta clarified that: “In no way would we ever interfere with a district’s decision to have more tests... We’re simply addressing the mandatory testing.”

Sen. Stephen West, R-Paris, and Rep. James Tipton, R-Taylorsville, also gave a presentation on efforts to improve early literacy. Both lawmakers proposed “Read to Succeed” measures in the General Assembly’s 2020 session.

“I’m convinced that this initiative, with appropriate funding, is the best way to improve Kentucky’s standing and reduce achievement gaps in the state,” West said.

According to the presentation, the expanded early literacy measures envisioned by the legislators would amend parts of KRS 158 and KRS 164 while also introducing a new chapter to KRS 164. It would



also create a literacy coaching program, repurpose the reading diagnostic and intervention fund to train and support teachers and library media specialists and more.

## Veterans Group’s, from page 1

“They don’t mind losing that \$275,000 because they get much more than that in charitable contributions and civic involvement by our veterans organization folks,” Arnett said about support for BR 153 from the Kentucky Association of Counties and Kentucky League of Cities.

Arnett said BR 153 was critical to the viability of Kentucky’s veterans service organizations, many of which were in financial difficulty even before COVID.

Jackson said his department would also like to see legislation to align Kentucky’s education benefits with the U.S. Department of Veterans Affairs, establish a veterans suicide prevention program within his department, and designate June 12 as Women Veterans Appreciation Day.

Rep. Jim DuPlessis, R-Elizabethtown, said he would like to see the state’s veterans advocates push for the passage of proposed legislation to provide tax incentives for service members to retire in Kentucky. His district includes a portion of Fort Knox, with a daytime population of about 25,200 soldiers, civilian employees and family members, according to the U.S. Army.



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# Committee Meetings

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Minutes of the 5th Meeting of the 2020 Interim

October 21, 2020

#### Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, October 21, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Steven Rudy, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Tom Buford, Matt Castlen, David P. Givens, Alice Forgy Kerr, Morgan McGarvey, Stephen Meredith, Gerald A. Neal, Michael J. Nemes, Dennis Parrett, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Lynn Bechler, Danny Bentley, Myron Dossett, Joseph M. Fischer, Kelly Flood, David Hale, Mark Hart, Angie Hatton, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Brandon Reed, Steve Riley, John Sims Jr, Wilson Stone, James Tipton, and Susan Westrom.

Guests: Tom Miller, CEO, University of Louisville (UofL) Health; Ken Marshall, COO, UofL Health; David McArthur, UofL Health; Shannon Rickett, Government Relations, University of Louisville; Nancy Galvagni, President, Kentucky Hospital Association; Sheila Currans, Chief Executive Officer, Harrison Memorial Hospital; Dan Mosely, County Judge Executive, Harlan County; Steve Henry, County Judge Executive, Webster County; David Fields, County Judge Executive, Pendleton County; and J. C. Young, Executive Director, Kentucky Coal & Mineral County Coalition.

LRC Staff: Cameron Childress, Jennifer Hays, Sarah Watts, and Chase O'Dell.

#### Approval of Minutes

A motion was made by Representative Reed, seconded by Representative Hart, to approve the minutes of the September 16, 2020, meeting. The motion passed by voice vote.

#### University of Louisville Hospital Purchase Update

Tom Miller, CEO, UofL Health; Ken Marshall, COO, UofL Health; David McArthur, UofL Health; and Shannon Rickett, Government Relations, University of Louisville, provided an update on the University of Louisville hospital purchase.

Tom Miller expressed UofL's gratitude for the

legislature's support of its acquisition of KentuckyOne Health hospitals in Louisville. Without the support of the legislature and local foundations, jobs and access to care would have been jeopardized in the Louisville community. UofL Health is one of several economic development engines in the community. It provides care for patients in every county in the state. UofL Health has over 12,000 full-time and part-time team members.

Mr. Miller provided a recap of the timeline of events that led to UofL's acquisition. He continued to review the numbers and costs of the acquisition.

UofL Health met every objective that it outlined to the legislature during the 2020 regular session. The system made approximately \$34 million in normalized net income in Fiscal Year 2020; it had expected to lose about \$11 million. For Fiscal years 2020-2021, \$140 million have been budgeted for capital investments back into the hospital. COVID-19 has had a negative \$93 million impact on UofL Health. The system has received CARES Act funding from the federal government which has offset that amount by \$31 million.

Mr. Miller discussed the keys to the success of the acquisition. UofL Health received enhanced reimbursement from the federal government, which was facilitated by the state. Operational improvements in the revenue cycle has allowed the system to collect more from its patients and ensure that they are billed appropriately. Corporate overhead was reduced. Capital investments were made in MRIs, information technology, and more.

The integration of KentuckyOne Health and UofL health into one system has been successful while dealing with the pandemic, community and social unrest, and the difficulty of credentialing some insurance payers. The Leapfrog rating of Jewish Hospital has improved from an "F" to a "C" rating.

UofL Health is continuing to expand its medical education out into communities, including into rural communities. The system has also continued to make capital investments into its hospital. All of the current commitments of the loan from the Kentucky Economic Development Finance Authority (KEDFA) have been met. The loan requires UofL Health to maintain 5,880 full-time Kentucky jobs. There are over 6,000 Kentucky jobs within the system today. The system is also meeting the needs of the underserved and investing in new clinics in West Louisville and in rural communities.

In response to a question from Senator McDaniel, Mr. Miller testified that UofL Health had approximately \$650 million in net revenues before its acquisition of KentuckyOne Health. The system has

close to \$1.7 billion after the acquisition. In response to another question, Mr. Miller stated that the 5,880 jobs benchmark in the KEDFA loan included UofL Health and KentuckyOne Health jobs. In response to further questioning, Mr. Miller confirmed that the KEDFA loan did not require UofL Health to retain the Old Jewish hospital in Downtown Louisville. UofL has invested millions of dollars into Jewish Hospital, and that it is the system's intent to continue to operate both Jewish Hospital and the University Medical Center. UofL Health could not take care of all its patients without Jewish Hospital. The hospital hit records on its inpatient census last month.

In response to a question from Representative Bechler, Mr. Miller testified that the KEDFA loan is being used to invest back into hospitals. In response to another question, Mr. Miller testified that the increase of reimbursement generated \$50 million that UofL Health did not anticipate. Without this increase, the system would have lost \$11 million. In response to further questions, Mr. Miller defined a rural community as any community with a certain population base that is not served well by healthcare. Every medical student at UofL has to go to a rural area as a part of their training requirements. With telehealth, academic medicine can be provided anywhere in the state.

#### **Update on Effect of COVID-19 on Kentucky Hospitals**

Nancy Galvagni, President, Kentucky Hospital Association; and Sheila Currans, Chief Executive Officer, Harrison Memorial Hospital, provided an update on the effect of COVID-19 on Kentucky Hospitals

Nancy Galvagni testified that the collective speed of response to COVID-19 both federally and in Kentucky has been unprecedented. Ms. Galvagni reviewed the timeline of events of the COVID-19 pandemic. The impact on Kentucky hospitals has been no less acute than on any other business. Hospitals throughout Kentucky have been hit hard. Hospitals are doing an excellent job at managing their capacity. The Kentucky Hospital Association works with hospitals daily to ensure that capacity and PPE needs are met. Hospitals will continue to face significant challenges from COVID-19 in the year ahead. It will take time for a vaccine to become widely accepted and used.

Hospitals are on the frontlines fighting COVID-19, and will continue to face financial challenges from the effects of the pandemic. Hospitals are also economic engines for their community. Kentucky hospital losses in 2020 from responding to COVID-19 are estimated to exceed \$2.6 billion. Federal relief funds have covered less than half of that amount, leaving over \$1 billion in uncovered losses by the end of 2020. Ms. Galvagni expressed her appreciation for the work done by Kentucky's federal congressional delegation.

Hospitals have faced losses due to the shutdown of elective procedures and from fear. Inpatient treatment has returned to better than 85 percent of pre-COVID levels. Emergency room use has not

rebounded above 70 percent of pre-COVID levels. Ms. Galvagni cited a study conducted by the CDC which found that 41 percent of adults have avoided treatment during COVID-19. She continued to say that citizens should not skip or delay treatment, adding that hospitals are clean, safe, and ready to offer care.

Many hospitals requested and received advance payments from Medicare to help with critical cash flow when elective procedures were stopped. Under the CARES Act, these payments are treated as loans and must be repaid. Hospitals are the largest employer in many communities. Hospitals had to furlough over 3,000 employees as elective procedures were stopped and a surge of COVID patients into hospitals didn't occur. If a number of hospitals are forced to close or cut back on services, the impact on employment and the economy will be devastating on many communities. Ms. Galvagni also discussed the impact of hospital closings on healthcare availability in rural communities.

Sheila Currans testified that Harrison Memorial Hospital is completely independent and has a wholly rural service area. It is the only remaining hospital in its service area. The hospital depends significantly on its Disproportionate Share Hospital (DSH) classification since the service area serves a large share of Medicare and Medicaid patients. The hospital also employs over 450 people, whose wages are higher than most in the community. The ability to provide care is as threatened today as it has ever been in the history of the hospital.

Harrison Memorial Hospital became the first hospital in Kentucky to treat a known COVID patient on March 6, 2020. Fifty-four clinical employees had to isolate for 14 days after the patient's diagnosis. The hospital had to shut down elective procedures 16 days earlier than the rest of the hospitals in the Commonwealth. The expense of COVID response continued to grow as little revenue came in. A surge never happened for Harrison Memorial. By the end of April, the hospital was at a 159 percent negative operating margin. Fear causes people to put off their preventative and chronic care.

Harrison Memorial Hospital ended the fiscal year on September 30 with a negative 21 percent operating margin. Had it not been for the paycheck protection program, the advance payments from Medicare, and CARES Act money, the hospital would have faced dire consequences as early as May. Utilization is down by double digits in most service areas. Ms. Currans testified that rural hospitals are critical to a community when facing a pandemic.

In response to questioning from Representative Rudy, Ms. Currans stated that the positivity rate in Harrison County is determined by the number of swab tests that come back positive out of all swab tests administered. She continued to say that in Harrison County the positivity rate is measured by the total number of swabs that have been executed for testing and have resulted in a positive test result.

In response to a question from Representative

Tipton, Ms. Galvagni testified that the number of people on Medicaid has gone up because of presumptive eligibility. Up to 1.6 million people in Kentucky are now on Medicaid, representing an increase of 400,000. On average, about 70 percent of patients in hospitals are covered by a government program. Medicare on average only pays 90 cents of every dollar in costs. Medicaid pays about 75 percent of actual costs. Elective procedures are crucial to hospitals. Kentucky was one of the first states to order elective procedures to be stopped. The hospital association is working with the state's federal delegation to get additional relief to Kentucky hospitals.

In response to a question from Representative Flood, Ms. Currans advocated for improving the Medicare and Medicaid reimbursement of costs.

In response to a question from Representative Stone, Ms. Currans testified that no one owns Harrison Memorial Hospital, and that it does not receive support from the local fiscal court. If the hospital were to fail, the assets of the hospital would be taken to cover the debt service. Ms. Currans stated that her belief was that the county would then decide what would happen to what remained of the hospital.

In response to a question from Senator Wheeler, Ms. Currans stated that the Harrison Memorial Hospital operates as a non-profit. She continued to say that nothing in the facility is owned by the county, and that the hospital does not receive any tax dollars. She concluded by stating her assumption that if the hospital were to fail the county would have to determine what to do with the building.

#### **Coal & Mineral Severance for Counties**

Dan Mosely, County Judge Executive, Harlan County; Steve Henry, County Judge Executive, Webster County; David Fields, County Judge Executive, Pendleton County; and J. C. Young, Executive Director, Kentucky Coal & Mineral County Coalition, discussed coal and mineral severance for counties

Dan Mosely testified that even though production is down, coal is still viable for many Kentucky counties and still provides jobs. The 2021 state budget projects coal severance tax revenues to the state to reach \$46.1 million in Fiscal Year 2021. The budget appropriated \$26.2 million of these revenues for debt service. A projected \$18.2 million in revenues will be returned to coal producing counties. Collections were slightly above projections through the first quarter of Fiscal Year 2021.

Steve Henry testified that coal severance revenues are used by county governments to provide basic services such as 911 call centers or jails.

Mr. Mosley stated that mineral severance, like coal severance, is a state-assessed tax shared with counties. Mineral severance revenues are projected to total \$32.6 million in Fiscal Year 2021. Historically, the state splits collections in half with mineral producing counties. A projected \$16.3 million in revenues will be returned to mineral producing counties in Fiscal Year

2021. Mineral severance is slightly down through the first quarter of the fiscal year.

David Fields stressed the importance of mineral severance funds for counties. The bulk of these funds are used for providing emergency services in Pendleton County. The funds are also used for roads, bridges, and economic development.

The Kentucky Coal & Mineral County Coalition requests that mineral and coal severance revenues continue to be returned to local communities.

In response to a question from Senator Wheeler, Mr. Mosley requested that the debt service be evaluated.

With no further business before the committee, the meeting was adjourned at 2:27 p.m.

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

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

November 10, 2020

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

The 6th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, November 10, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Tom Buford, Matt Castlen, David P. Givens, Morgan McGarvey, Stephen Meredith, Gerald A. Neal, Michael J. Nemes, Dennis Parrett, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Lynn Bechler, Danny Bentley, Myron Dossett, Joseph M. Fischer, David Hale, Angie Hatton, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Brandon Reed, Steve Riley, Sal Santoro, John Sims Jr, Wilson Stone, James Tipton, and Susan Westrom.

Guests: John Hicks, State Budget Director; Janice Tomes, Deputy State Budget Director, Governor's Office for Policy and Management; Kevin Cardwell, Deputy State Budget Director, Governor's Office for Policy and Management; Greg Harkenrider, Deputy Executive Director, Governor's Office for Economic Analysis; and Michael Jones, Deputy Executive Director, Governor's Office for Policy and Research.

LRC Staff: Jennifer Hays, Cynthia Brown, Cameron Childress, Sarah Watts, and Chase O'Dell

#### **Approval of Minutes**

A motion was made by Representative Santoro, seconded by Representative Rudy, to approve the minutes of the October 21, 2020, meeting. The motion passed by voice vote.

#### **Most Recent Revenue Estimates and Expected Budgetary Needs for Fiscal Year 2022**

John Hicks, State Budget Director; Janice

Tomes, Deputy State Budget Director, Governor's Office for Policy and Management; Kevin Cardwell, Deputy State Budget Director, Governor's Office for Policy and Management; Greg Harkenrider, Deputy Executive Director, Governor's Office for Economic Analysis; and Michael Jones, Deputy Executive Director, Governor's Office for Policy and Research were present to testify or answer questions from the committee.

John Hicks testified that the administration has agreed to deliver the Governor's budget recommendation on a fast-track basis so that it will be available in the first week of January.

The Office of State Budget Director (OSBD) forecasts a general fund revenue shortfall of \$99 million compared to the enacted revenue estimate. OSBD also forecasts a \$9 million overage in road fund revenue. No budget cuts are expected for fiscal year 2021. This is because of better than expected revenues and more flexibility in the federal Coronavirus Relief Fund.

General fund revenues for fiscal year 2021 are expected to total roughly \$11.5 billion. Individual income and sales and use tax revenues are expected to see small growth. Corporate income tax and limited liability entity tax revenues will see a substantial decline. A significant reduction is expected in coal severance revenues.

Revenues for the road fund are expected to reach \$1.55 billion in fiscal year 2021, which is nine million dollars more than the enacted estimate for the year. Motor fuels revenues were down five percent in the first quarter, but are expected to recover to reflect a two percent growth for the full year. Motor vehicle usage revenues have bounced back after April and May.

July to September of 2020, saw a loss of 153,000 non-farm employment jobs compared to the same time last year. The bulk of these were service-providing jobs.

October general fund receipts are up three percent compared to last year. Sales tax revenues are up almost seven percent year-to-date. Individual income receipts are up over four percent year-to-date. This increase would only be over one percent with the exclusion of unemployment insurance. Corporation income revenues are down one percent year-to-date. The remaining tax revenues are up over four percent year-to-date.

Road fund receipts are up more than one percent year-to-date. Motor fuels revenues have declined almost five percent year-to-date. Motor vehicle usage revenues have grown almost 12 percent year-to-date.

Lower revenues are expected in fiscal year 2022 than what was originally considered in the 2020 regular session.

In response to a question from Senator Wheeler, Mr. Hicks stated that revenue in the last several months has been lifted by additional unemployment benefits, the paycheck protection program, and the \$1,200 and \$500 federal stimulus payments. A weakening of state

revenues is expected from the termination of these programs.

In response to a question from Senator McDaniel, Mr. Hicks testified that GDP is not expected to recover to its prior peak until the later part of fiscal year 2022. A number of states are forecasting reduced revenues in fiscal year 2022 compared to fiscal year 2021.

Mr. Hicks testified that the base calculation of Support Education Excellence in Kentucky (SEEK) is not expected to change much. Additionally, Medicaid enrollment has risen. The federal government increased its share of Medicaid spending as a result of the national public health emergency. Medicaid enrollment has increased by six percent from the fiscal year 2021 enacted enrollment. No reduction in enrollment is expected through fiscal year 2022. The additional six percent federal share of Medicaid spending is effective through March 31, 2020. Through the enhanced federal share, Kentucky has received a budget benefit of \$450 million.

In response to a question from Senator McDaniel, Mr. Hicks stated that roughly 100,000 more people would be enrolled in the Medicaid system than was anticipated by the fiscal year 2021 budget.

In response to a question from Representative Tipton, Mr. Hicks stated that most of the increased Medicaid enrollment is within the expansion population.

Mr. Hicks testified that in fiscal year 2021 the average daily population of inmates is expected to be 5,200 fewer than was initially considered during the 2020 regular session and for fiscal year 2022 there is expected to be 4,600 fewer. This will result in a decrease in the Community Services and Local Facilities' county jail bed budgets for fiscal years 2021 and 2022 compared to the 2020 regular session budget.

In response to a question from Senator McDaniel, Mr. Hicks stated that the new correctional facility in Wheelwright, Kentucky, is nearly ready but not yet running. In response to another question, Mr. Hicks stated that the facility will have an effect in the budgets for the current year and in fiscal year 2022.

Mr. Hicks testified that the Kentucky Employees Retirement System (KERS) non-hazardous employer contribution rate will slightly increase for fiscal year 2022. The employer rate will slightly decrease for the KERS hazardous plan. The rate will slightly increase for the state police.

In fiscal year 2020, the combined cash deficits of state parks, the State Fair Board, and the Kentucky Horse Park, totaled more than \$15 million. The lost revenues exceed the reduction in costs.

Coronavirus relief fund dollars will cease on December 30. There will still be costs associated with testing, contact tracing, and distributing vaccines.

Kentucky received \$1.6 billion from the federal government for the Coronavirus Relief Fund. The funds were prohibited from being used to replace lost revenues. Initial flexibility allowed for these funds to be used for payroll expenses for employees that

were substantially dedicated as well as total payroll expenses of front-line state police. New flexibility was added that permits the use of these funds for total payroll expenses of correctional officers and their supervisors.

In response to a question from Senator McDaniel, Mr. Hicks testified that the \$99 million shortfall is simply a revenue number, and that the application of Coronavirus Relief Fund dollars will put the state in a much better year-ending situation. In response to another question, Mr. Hicks stated that a team in the OSBD works with agencies to assist with the application for relief funds and how those funds can be expended. Mr. Hicks continued to say that agencies report expenses to the OSBD monthly and quarterly.

In response to a question from Representative Santoro, Mr. Hicks testified that just under \$500 million of Coronavirus Relief Fund dollars have been expended. The Governor has announced that all \$1.6 billion have been committed or allocated. Of this, \$300 million has been allocated to cities and counties for COVID-19 response. At a minimum, \$200 million will be reserved to repay the unemployment insurance trust fund's federal borrowing.

In response to a question from Senator McDaniel, Mr. Hicks stated that the unemployment insurance trust fund has borrowed \$475 million thus far. The number of initial claimants for unemployment insurance has declined in recent weeks. In response to another question, Mr. Hicks testified that it is uncertain how much more money the trust fund will need to borrow. In response to a final question, Mr. Hicks said that OSBD advises agencies on which expenses can be reimbursed during the application process.

In response to a question from Representative Santoro, Mr. Hicks testified that Coronavirus Relief Funds not spent will go back to the federal government. He added that Kentucky will spend all of the funds.

With no further business before the committee, the meeting was adjourned at 2:00 p.m.

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

### **Budget Review Subcommittee on Education Minutes of the 4th Meeting**

**of the 2020 Interim**

**September 16, 2020**

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

The 4th meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 16, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgry Kerr, Co-Chair; Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senators C.B. Embry Jr., Johnny

Ray Turner, and Mike Wilson; Representatives Kim Banta, Tina Bojanowski, Randy Bridges, Joseph M. Fischer, Kelly Flood, Cluster Howard, Regina Huff, C. Ed Massey, Bobby McCool, and Attica Scott.

Guests: Gene Hutchins, Executive Director, Kentucky Higher Education Assistance Authority; Becky Gilpatrick, Director of Student Aid, Kentucky Higher Education Assistance Authority; Beth Roark, Executive Director, Office of Administrative Services, Education and Workforce Development Cabinet; Larry L. Rogers, Secretary, Labor Cabinet; Amy Cubbage, General Counsel, Labor Cabinet.

LRC Staff: Chuck Truesdell, Jennifer Krieger, Seth Dawson, Nick Peak, and Amie Elam

#### **Kentucky Higher Education Assistance Authority (KHEAA)**

Mr. Hutchins and Ms. Gilpatrick spoke about the impact of COVID-19 on statewide financial aid programs.

In response to a question from Chair Tipton, Mr. Hutchins said the current administration prioritizes education. Thus, KHEAA has not been impacted by any recent budget cuts. Mr. Hutchins added that HB 171 provided KHEAA a manageable level of pension funds.

In response to a question from Representative McCool, Ms. Gilpatrick said there is no mechanism to ensure that scholarships are used towards degree-seeking. She added that scholarships are awarded to high school students that often have not decided what degree they will pursue. Ms. Gilpatrick stated that the financial aid office at each institution handles the appeals process for students. She added that the time for that process varies.

In response to a question from Representative Howard, Ms. Gilpatrick said that there are mechanisms in place for recalculations due to a change in student status. She added that COVID-19 happened so late in the school year that it would not have affected many student's bottom line.

#### **Career Centers and Unemployment Insurance**

Representatives from the Education and Workforce Development Cabinet and the Labor Cabinet provided an update on Career Centers and the Unemployment Insurance transition.

In response to a question from Chair Tipton, Mr. Roberts said the Labor Cabinet has identified 30,000 residents as chronically unemployed individuals. He added that targeted outreach to those individuals will be completed by the career centers to see what resources and training can be provided.

In response to a question from Representative Massey, Ms. Cubbage said that unemployment insurance claims are running around four and a half weeks behind. She added that it would be another couple of weeks before the situation gets any better. Ms. Cubbage said she understands how critical consistency is, and that her office is working to relay clear and straightforward information.

In response to a question from Chair Tipton, Ms. Cubbage said increases will occur in 2021 and the average increase will be ninety dollars per year, per employee. CARES act funding will cover any deficits.

In response to a question from Representative Bridges, Ms. Cubbage said her office will work on getting a letter for the legislature to send to constituents. She added that her office is working on providing more clarity on their website in order to relay honest expectations about claims.

There being no further business to come before the subcommittee, the meeting adjourned at 11:56 a.m.

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

### **Budget Review Subcommittee on Education Minutes of the 5th Meeting**

**of the 2020 Interim**

**October 21, 2020**

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

The 5th meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, October 21, 2020, at 10:30 AM, in Room 169 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senators C.B. Embry Jr., Gerald A. Neal, Johnny Ray Turner, and Mike Wilson; Representatives Kim Banta, Tina Bojanowski, Randy Bridges, Joseph M. Fischer, Kelly Flood, C. Ed Massey, and Bobby McCool.

Guests: Jason E. Glass, Commissioner of Education and Chief Learner, Kentucky Department of Education; Robin Fields Kinney, Associate Commissioner, Kentucky Department of Education; Karen Wirth, Budget Director, Office of Finance and Operations, Division of Budget and Financial Management, Kentucky Department of Education.

LRC Staff: Chuck Truesdell, Seth Dawson, and Amie Elam

#### **Kentucky Department of Education**

Representatives from the Kentucky Department of Education (KDE) presented a proposed budget reduction plan. The presentation included the potential impact on services KDE and school districts provide.

In response to a question from Representative McCool, Ms. Kinney said that the proposed budget reductions would impact current fiscal year operations.

In response to a question from Representative Tipton, Ms. Kinney said school districts are in the process of data checking current enrollment numbers. She said KDE will provide the members of the committee with that information as soon as possible. She added that 14 school districts chose to use 2018-

2019 attendance data when calculating average daily attendance. The rest of the school districts chose to use 2019-2020 data. She said between December 2020 and March 2021, KDE should have an idea of what the impact to SEEK will be. Ms. Kinney said KDE is in favor of not reducing funding for Family Resource and Youth Services Centers (FRYSCs). She answered that the department had not communicated with the Cabinet for Health and Family Services regarding FRYSCs.

In response to a question from Senator Givens, Ms. Kinney said that KDE holds regular meetings with district superintendents and school finance officers. She said that KDE did communicate the budget reduction request and that finance officers and superintendents were invited to today's subcommittee meeting.

In response to a question from Representative Banta, Ms. Kinney said KDE will share the same percentage of budget cuts as the local school districts.

There being no further business to come before the subcommittee, the meeting adjourned at 11:23 a.m.

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

### **Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement Minutes of the 4th Meeting of the 2020 Interim**

October 21, 2020

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

The fourth 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, October 21, 2020, at 8:30 AM, in Room 169 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair and Representative Jim Stewart III, Co-Chair; Senators Dennis Parrett, Reginald Thomas, and Phillip Wheeler; Representatives Kevin D. Bratcher, Jim Gooch Jr., Joe Graviss, Adam Koenig, Michael Meredith, Suzanne Miles, Jerry T. Miller, Phillip Pratt, Wilson Stone, and Nancy Tate.

Guests: Larry Potter, Executive Director, Kentucky Fire Commission (KFC); Howdy Kurtsinger, Legislative Director, KFC; Brenda Goddard, Finance Director, KFC; Rick Rand, Commissioner, Department of Housing, Buildings, and Construction (HBC), Public Protection Cabinet (PPC); Mike Haney, State Fire Marshal, and Director, Division of Fire Prevention, HBC, PPC; Tammy Branham, Budget Director, PPC; and, Scott Foreman, Fire Chief, City of Henderson, KY.

LRC Staff: Chuck Truesdell, Emma Mills, Nick Peak, and Spring Emerson.

#### **Approval of Minutes**

A motion was made by Representative Meredith to approve the minutes of the September 16, 2020 meeting. The motion was seconded by Senator Parrett, and the minutes were approved without objection.

#### **Kentucky Fire Commission (KFC)**

Director Potter provided an overview of the KFC and the services it provides, as well as issues related to the COVID-19 pandemic and agency budget information.

In response to a question from Representative Koenig regarding software issues, Director Potter said there had been some glitches and delays in getting so many departments trained on the new system. He said the new system also allows for tracking and monitoring the trainings.

In response to a question from Chair Mills regarding oversight authority, Director Potter said all fire departments receive statutory training. Mr. Kurtsinger said that in addition to free training for all fire departments throughout the state, the municipal fire departments have their own training facilities, and the KFC is able to utilize those facilities.

Chair Mills commented that the volunteers should receive some rewards or incentives, because more volunteers are needed.

#### **State Fire Marshal**

Commissioner Rand spoke briefly about the Division of Fire Prevention (DFP) within the HBC, adding that the responsibility of the Public Protection Cabinet is public safety, which includes fire prevention. Mr. Haney provided an overview of the DFP and the activities performed there.

In response to a question from Representative Miller regarding the lost contract with State Risk Management, Mr. Haney said Johnson Controls was awarded the contract.

In response to a question from Representative Graviss regarding Johnson Controls using Kentucky-based employees, Mr. Haney said some of them are former employees of the DFP. Ms. Branham said the contract was lost due to a decreasing number of staff in Hazardous Materials and General Inspection units, and the department is studying several options to address those issues.

In response to a question from Representative Graviss regarding the statutory obligation of the agency, Commissioner Rand said the decrease in revenue has jeopardized those obligations, and it will continue if the issue is not addressed. Representative Graviss thanked them for their efforts.

#### **Local Fire Department – Henderson, KY**

Fire Chief Scott Foreman provided an overview of the Henderson fire department and its activities.

In response to questions from Senator Thomas, Chief Foreman said Corydon has their own volunteer fire department, but the Henderson fire department provides mutual aid when requested, and rely on

partners in Evansville if necessary. In the case of a large fire, the biggest issue would be a lack of personnel. The mutual agreements held with other departments help with those incidences.

In response to a question from Representative Miles regarding the new software system, Chief Foreman said anytime a new system is implemented, there will be issues. He added that the pandemic has caused initial hurdles with the training program, and spoke about the benefits of the system from his previous employment in Indiana.

In response to a question from Representative Miles regarding 911 dispatch calls, Chief Foreman said 911 calls can go to different places, depending on which cell tower is in use. He added that local emergency dispatch could better address her question.

#### **Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 9:39 AM.

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

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

#### **Minutes of the 5th Meeting of the 2020 Interim**

November 10, 2020

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

The fifth 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 Tuesday, November 10, 2020, at 8:30 AM, in Room 129 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representatives Jim Stewart III, Co-Chair, and Myron Dossett, Co-Chair; Senators Christian McDaniel, Reginald Thomas, and Phillip Wheeler; Representatives Kevin D. Bratcher, Jim Gooch Jr., Joe Graviss, Mark Hart, Adam Koenig, Michael Meredith, Suzanne Miles, Jerry T. Miller, Patti Minter, Phillip Pratt, Wilson Stone, and Nancy Tate.

Guests: Holly Johnson, Secretary, Finance and Administration Cabinet (FAC); Tina Howard, Executive Assistant, Office of Administrative Services, FAC; Gerina Whethers, Secretary, Personnel Cabinet (PC); Reina Diaz-Dempsey, Commissioner, Department for Employee Insurance, PC; Jana Smith, Executive Director, Office of Administrative Services, FAC; Kenny Hobbs, Budget Specialist, Office of the Governor; Billie Johnson, Executive Director, Federal and State Grants, Department for Local Government (DLG); Laura Redmon, Budget Director, DLG; Aaron Jones, Local Government Advisor, Office

of State Grants, DLG; Daniel Cameron, Attorney General; Stacy Woodrum, Executive Director, Office of Administrative Services, OAG; Allison Ball, State Treasurer; Lesley Bilby, Assistant State Treasurer; Rebecca Comley, Assistant Director, Office of State Treasurer; Joe Bilby, General Counsel, Department of Agriculture (DOA); Lee McIntosh, Director, Office of Budget and Fiscal Management, DOA; Jamie Link, Executive Director, Kentucky Communications Network Authority (KCNA); Steve Murphy, Chief Financial Officer, KCNA; David Eager, Executive Director, Kentucky Retirement Systems (KRS); Rebecca Adkins, Executive Director of Operations, KRS; and, Beau Barnes, Deputy Executive Secretary and General Counsel, Kentucky Teachers' Retirement System (TRS).

LRC Staff: Chuck Truesdell, Emma Mills, Liz Columbia, Nick Peak, and Spring Emerson.

#### **Approval of Minutes**

A motion was made by Representative Miles to approve the minutes of the October 21, 2020 meeting. The motion was seconded by Representative Miller, and the minutes were approved without objection.

#### **Finance and Administration Cabinet**

Secretary Johnson provided a brief overview of the FAC and its budgetary needs.

In response to a question from Representative Koenig regarding unfilled vacancies, Secretary Johnson said those revenue generating positions were included in the Governor's requested budget until the pandemic, then were dropped.

In response to a question from Senator Thomas regarding the greatest need, Secretary Johnson said John Hicks, State Budget Director, will address those questions at the meeting of the Interim Joint Committee on Appropriations and Revenue today at 1:00 PM.

#### **Personnel Cabinet**

Secretary Whethers provided a brief overview of the Personnel Cabinet and its budgetary needs. There were no questions.

#### **General Government Cabinet – Office of the Governor**

Tina Howard and Kenny Hobbs provided a brief overview of the Office of the Governor, its budgetary needs, and any effects of COVID-19.

In response to a question from Senator McDaniel regarding information for the 2022 budget, Ms. Howard said that would be covered by State Budget Director John Hicks at the meeting of the Interim Joint Committee on Appropriations and Revenue today at 1:00 PM. Senator McDaniel expressed his disappointment in the cabinet and requested cooperation as budget timelines approach.

In response to a question from Representative Miller regarding federal funds, Ms. Howard said the \$900,000 was a grant through the Kentucky Commission on Military Affairs for cyber security. Mr. Hobbs added that it was a two-year \$2 million

grant through the Department of Defense and a sub grant through the University of Louisville, to assist military personnel and their spouses to obtain cyber security certifications.

In response to a question from Representative Graviss regarding the health fund balance, Ms. Howard said that is not in the Personnel Cabinet budget. Chair Mills asked that the information be provided at a later date.

#### **General Government Cabinet – Department for Local Government**

Billie Johnson provided an overview of the Department for Local Government, its budgetary needs, and effects of COVID-19.

In response to a question from Representative Miles regarding any balance outstanding, Ms. Johnson said a recent update showed approximately \$175 million.

#### **General Government Cabinet – Office of Attorney General**

General Cameron provided an overview of that office, its budgetary needs, and any effects of COVID-19.

Senator McDaniel requested that information be provided at a later date on the Department of Criminal Investigations (DCI) and number of complaints, as well as the Office of Senior Protection (OSP), and nursing homes in particular.

#### **General Government Cabinet – Department of the Treasury**

State Treasurer Allison Ball provided a brief overview of the office, its budgetary needs, and any effects of COVID-19. There were no questions.

#### **General Government Cabinet – Department of Agriculture**

Joe Bilby provided a brief overview of the Department, its budgetary needs, and any effects of COVID-19. There were no questions.

#### **General Government Cabinet – Kentucky Communications Network Authority**

Jamie Link provided a brief overview of the KCNA, its budgetary needs, and any effects of COVID-19.

In response to a question from Senator McDaniel regarding availability payments in 2022, Mr. Link said that was around \$32 million. Mr. Murphy confirmed the amount to be \$31.9 million. Senator McDaniel requested that more information be provided on assessments to state agencies.

In response to a question from Senator Thomas, Mr. Link said broadband is an essential infrastructure and vital to everyday life, and mentioned that there could be statutory regulatory issues such as that of utilities.

#### **General Government Cabinet – Kentucky Retirement Systems**

Mr. Eager provided a brief overview of the KRS, its budget, and any effects of the pandemic. There were no questions.

#### **General Government Cabinet – Teachers'**

#### **Retirement System**

Mr. Barnes provided an overview of the TRS, its budgetary needs, and any effects of the pandemic.

In response to a question from Representative Graviss, Mr. Barnes said additional contributions helped with cash flow, and any negative cash flow is now manageable.

In response to a question from Senator McDaniel regarding the experience study, Mr. Barnes said it will impact future budgets.

In response to a question from Representative Gooch regarding negative cash flow, Mr. Barnes said the cash flow is manageable now.

In response to a question from Senator Thomas, Mr. Barnes said the cash flow shows incoming contributions versus outgoing payments and does not account for investment earnings. He will share more information at a later date.

#### **Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 10:05 AM.

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

### **Budget Review Subcommittee on Transportation Minutes of the 5th Meeting of the 2020 Interim**

**October 21, 2020**

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

The fifth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, October 21, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Sal Santoro, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Sal Santoro, Co-Chair; Senators Christian McDaniel, Dennis Parrett, and Robin L. Webb; Representatives Chris Fugate, Chris Harris, Samara Heavrin, Thomas Huff, Bart Rowland, and Ken Upchurch.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Ron Rigney, Transportation Engineering Director, Division of Program Management, KYTC; Vickie Bourne, Executive Director, Office of Transportation Delivery, KYTC; and, Todd Bloch, Commissioner, Department of Aviation, KYTC.

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

#### **Approval of Minutes**

A motion was made by Senator Parrett to approve the minutes of the September 16, 2020 meeting. The motion was seconded by Representative Fugate, and the minutes were approved without objection.

## **Transportation Cabinet – Use of Federal Funds**

Secretary Gray provided a brief overview and introduced the presenters.

Director Rigney provided information relating to the use of federal funds in the Division of Program Management. There were no questions.

Director Bourne provided information relating to the use of federal funds in the Office of Transportation Delivery. There were no questions.

Commissioner Bloch provided information relating to the use of federal funds in the Department of Aviation. There were no questions.

Secretary Gray commented that the numbers translate to drastic revenue losses.

### **Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 11:39 AM.

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

### **Budget Review Subcommittee on Transportation**

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

**November 10, 2020**

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

The sixth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, November 10, 2020, at 10:30 AM, in Room 169 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Sal Santoro, Co-Chair; Senators Robin L. Webb and Max Wise; Representatives Chris Fugate, Chris Harris, Samara Heavrin, Thomas Huff, John Sims Jr, and Ken Upchurch.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC; Sarah Jackson, Project Manager, REAL ID; and, Bobbi Jo Lewis, Commissioner, Office of Rural and Municipal Aid, KYTC.

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

#### **Approval of Minutes**

A motion was made by Senator Wise to approve the minutes of the October 21, 2020 meeting. The motion was seconded by Co-Chair Santoro, and the minutes were approved without objection.

#### **Kentucky Transportation Cabinet**

Secretary Gray, Ms. Brewer, and Ms. Lewis provided an overview of the KYTC, its budgetary needs, and any effects of COVID-19.

In response to a question from Chair Higdon regarding projected revenues for the upcoming

budget, Ms. Brewer said that information will be forthcoming when the Consensus Forecasting Group meets again in a few weeks.

In response to a question from Chair Higdon regarding the Highway Maintenance budget, Secretary Gray said it has been moving forward for the last three months. He added that the Bridging Kentucky project is being evaluated.

In response to a question from Chair Higdon regarding the Louisville-Southern Indiana Ohio River Bridges project, toll collections, and debt service, Ms. Brewer said Megan McLain, Innovative Finance Manager, would better answer that. She added that there is money in reserve for debt service payments, and will provide a status update at a later date.

In response to a question from Chair Higdon regarding tax expenditures for the upcoming budget, Secretary Gray said KYTC functions with efficiency and effectiveness.

In response to a question from Co-Chair Santoro regarding deadlines for federal grants, Secretary Gray said the Cabinet is very mindful of federal requirements.

In response to a question from Chair Higdon regarding REAL ID, Ms. Jackson provided an update of the regional offices and the expansion plan, despite the process being slowed due to the pandemic. She said Hopkinsville and Louisville will be larger offices to increase output.

In response to a question from Chair Higdon regarding CDL licensing, Ms. Jackson said the CDL requires in-person applications and cannot be done online.

### **Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 11:17 AM.

## **INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

### **Minutes of the 1st Meeting of the 2020 Interim**

**September 15, 2020**

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

The 1st meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, September 15, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Bart Rowland, Co-Chair; Senators Tom Buford, Rick Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, John Schickel, Brandon Smith, and Reginald Thomas; Representatives Terri Branham Clark, Joseph M. Fischer, Deanna Frazier, Jim Gooch Jr., Kathy Hinkle, Adam Koenig, Derek Lewis, Michael Meredith, Sal Santoro, Dean Schamore, Wilson Stone, and Rob Wiederstein.

Guests: Ballard Cassady, President and Chief Executive Officer, Kentucky Bankers

Association, John P. Cooper, Governmental Affairs Consultant, Kentucky Bankers Association; Corey Craig, President, Bluegrass Community Bankers Association, Christy Carpenter, Director, Bluegrass Community Bankers Association, Gary Broady, Executive Director, Bluegrass Community Bankers Association; Debbie Painter, President and Chief Executive Officer, Kentucky Credit Union League

LRC Staff: Jessica Sharpe, Breanna Miller, and Elizabeth Hardy

### **Banking During Covid-19**

Ballard Cassady, President and Chief Executive Officer of the Kentucky Bankers Association (KBA), discussed the extraordinary nature of the COVID-19 pandemic and stated that banks were deemed an essential business that continued to operate despite other businesses closing. County clerk offices, whose services are necessary for banking operations, had differing practices across the state, and some offices offered limited or no services. Mr. Cassady stated that county clerk offices must adopt consistent practices and restored services without delay. He also stated that all clerks should be required to offer electronic filing. According to a meeting of the legislature's special committee involving county clerks, electronic filing of official documents can be available statewide by December 31, 2021.

Businesses were mandated to close in Kentucky weeks before the state and federal government could provide any aid. Because customers could not wait, banks did not wait for government relief. Many provided modified loans and suspended foreclosures and evictions. For that reason, the Federal Deposit Insurance Corporation (FDIC) reported a 70 percent decrease in earnings for banks in the second quarter compared to a year ago.

Due to the pandemic, banks had to implement human resources and operational policies to protect their employees and customers. Many banks rotated staff on a two week basis, allowing one team to work remotely and the other team to work in-person. Most lobbies were closed so business was handled through drive-thru lanes, ATMs, interactive teller machines, and other means. In case of a bank shutdown, the KBA requested a list of core processors to facilitate the completion of transactions by another bank that shares the same processor.

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act included the Paycheck Protection Program (PPP). The PPP is a Small Business Administration (SBA) program, but banks created, funded, and underwrote these loans. Reimbursement from Washington D.C. will only occur when PPP loans are forgiven or paid off. Thus far, banks have not been reimbursed despite banks loaning \$650 billion to American businesses. Mr. Cassady discussed challenges in administering the PPP and uncertainty in meeting reimbursement requirements due to changing rules.

Despite these risks, by June 30, 2020, banks statewide made about 47,000 PPP loans, which

protected around 592,000 jobs. \$4 billion of the banks' money was loaned out with an interest rate of one percent over a two year maturity. All other lenders, such as credit unions, farm credit, and others, made a total of 1,393 PPP loans in Kentucky during the pandemic. The loan amounts ranged from \$100 to over \$5 million, and community banks were the first to make loans under the program.

John P. Cooper, Governmental Affairs Consultant with the KBA, stated that county clerks also faced great operational challenges during the pandemic. The KBA has been working with county clerks and a coalition of stakeholders on fee structures to encourage electronic filings and to advance the electronic filing process. Mr. Cooper stated that the pandemic exposed existing vulnerabilities in the system and he hopes to start on electronic filing legislation during the 2021 session.

Co-chair Carpenter commented that he has observed people moving from larger cities to his district because of the pandemic. He also discussed how financial services during COVID-19 have adapted to accommodate changing needs.

In response to Representative Branham Clark's question about electronic filings in other states, Mr. Cooper responded that there are several states that are further along in the different stages of modifying their filing systems.

Representative Meredith discussed challenges banks face in bond portfolio yields and with federal loan forgiveness guidelines. Mr. Cassady responded that the industry is asking for the government to only audit PPP loans over \$150,000 so as to decrease burdens to banks. The industry is also asking for less burdensome forgiveness procedures.

In response to Senator Thomas' inquiry about access to capital and PPP funds for black and brown-owned businesses, Mr. Cassady stated that there was virtually no underwriting criteria for PPP loans. Since the Black Lives Matter movement, he is aware of at least one bank in Kentucky that set aside funds to lend to people of color and black and brown-owned businesses. The KBA is currently working with the regional president of the Federal Reserve in Louisville, and panels are being created, to address institutional racism.

Corey Craig, President of the Bluegrass Community Bankers Association (BCBA) stated that they have about 53 member banks across the state. Many of their members are also KBA members. He stated that the average asset size of a community bank is about \$250 million and that community banks tend to serve smaller communities. Gary Broady will be Executive Director of the BCBA starting October 1, 2020. Mr. Brody stated that he has 40 years of banking experience and is eager to work with committee members in the future.

Christy Carpenter, Director of the BCBA, discussed the challenges community banks encountered in administering PPP loans during the pandemic. These challenges included communication

and processing issues, substantial regulatory uncertainty, and access to limited funds, all while bank staff worked under COVID protocols. Despite this, no one was turned away from Ms. Carpenter's bank for a PPP loan, even if they were not a bank customer.

Ms. Carpenter reported uncertainty entering the forgiveness phase of the PPP. Banks are still waiting on final directives from Congress. She stated that instituting a \$150,000 audit threshold would be an enormous help. To date, banks have collected most origination fees and are assisting clients with a confusing forgiveness process.

Ms. Carpenter said that PPP loans have made a difference in her community. 135 loans were approved and around \$8 million was brought into her town. She recalled several local businesses, firms, and independent contractors that were protected because of the PPP loan. Community banks have also built a strong network by helping each other during the pandemic as well as gaining new customers and improved relationships with current customers. Lastly, she discussed what legislators could do to help community banks.

Co-chair Carpenter commented that the PPP has made an impact and that small businesses are integral to our communities.

#### **Serving Credit Union Members during COVID-19**

Debbie Painter, President and Chief Executive Officer of the Kentucky Credit Union League (KCUL), explained what a credit union was and the status of credit unions in Kentucky. There are 63 credit unions in Kentucky, 22 are state-chartered and 41 are federally-chartered. Credit union assets in the state range from less than \$1 million to approximately \$1.8 billion. 48 credit unions in Kentucky have less than \$100 million in assets. Kentucky credit unions are well-capitalized and employ approximately 2,400 people.

Ms. Painter stated that credit unions adjusted their operating procedures when lobbies first started closing at the beginning of the pandemic. This included increasing drive through services, broadening service and call center hours, doing business in parking lots, and calling members. To Ms. Painter's knowledge, no employee at a Kentucky credit union has been laid off or furloughed. She also discussed ways that credit unions reached out to their employees and their communities during the pandemic.

Ms. Painter stated that credit unions do not usually make commercial loans. Rather, their niche is consumer loans, unsecured loans, auto loans, and mortgages. However, some Kentucky credit unions do participate in business lending. As of the end of August, four Kentucky credit unions made 273 PPP loans. A total of \$5.5 million was loaned and the average loan was around \$20,000.

The financial impact of COVID-19 has not been determined for Kentucky credit unions yet. Many credit unions went into payment deferrals. Some

deferrals were 60-90 days while others were up to 180 days, and this could have a financial impact on credit unions in the future. Ms. Painter stated that one area where business boomed was with mortgage refinancing, due to the low-rate environment.

Similar to the KBA, KCUL would also like the county clerk system to utilize electronic filing. An issue the KCUL recently encountered was the Transportation Cabinet issued 200 car titles without liens perfected. Due to this error, many financial institutions across the state had to assess whether their liens were impacted. Another issue is that the law requires lien filings to be made within 30 days, but Ms. Painter stated that the Governor released two executive orders delaying county clerk filings beyond 30 days. Despite these orders, one Kentucky credit union had their lien stripped by a bankruptcy court because the credit union didn't comply with the 30 day deadline. If this continues to happen, financial institutions across the state are at risk. Ms. Painter stated that county clerks, financial institutions, and bankruptcy trustees need to work together to address this issue.

## **INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

### **Minutes of the 2nd Meeting of the 2020 Interim**

October 20, 2020

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

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 20, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Representative Bart Rowland, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Bart Rowland, Co-Chair; Senators Tom Buford, Rick Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, John Schickel, Brandon Smith, and Reginald Thomas; Representatives Terri Branham Clark, Joseph M. Fischer, Deanna Frazier, Jim Glenn, Jim Gooch Jr., Kathy Hinkle, Adam Koenig, Derek Lewis, Michael Meredith, Sal Santoro, Dean Schamore, Wilson Stone, Ken Upchurch, and Rob Wiederstein.

Guests: Mark Treesh, Executive Director, Insurance Institute of Kentucky; Chris Nolan, Consultant, MML&K Government Solutions; Sharon P. Clark, Commissioner, Department of Insurance; DJ Wasson, Deputy Commissioner, Department of Insurance; Charles Vice, Commissioner, Department of Financial Institutions

LRC Staff: Jessica Sharpe, Breanna Miller, and Elizabeth Hardy

#### **Approval of September Minutes**

Representative Koenig moved to approve the September meeting minutes. The motion was seconded by Representative Santoro. The minutes were approved by voice vote.

## **Insurance Institute of Kentucky 2021 Legislative Priorities**

Mark Treesh, Executive Director, Insurance Institute of Kentucky (IIK), explained that IIK is a state trade organization for property, casualty, and life insurance issues. Mr. Treesh noted that the IIK is presenting a pared-down list of legislative priorities due to the nature of the upcoming session. These priorities include bills relating to towing and distracted driving.

Mr. Treesh stated that IIK is working on a towing bill, which is based on a National Conference of Insurance Legislators (NCOIL) model act. With this bill, IIK is trying to eliminate egregious practices some IIK members have observed relating to vehicle towing and storage businesses. These issues include inadequate rate transparency, differing rates for insurers and consumers, and expensive gate fees. He discussed some issues that the model act is intended to address.

According to Mr. Treesh, a towing bill was already passed about five years ago. The new legislation is going to incorporate the remaining model provisions that were not initially included. IIK has discussed the bill draft and received input from numerous stakeholders. Mr. Treesh gave a section by section summary of the bill, including provisions relating to definitions, emergency towing, private property towing, notice given to vehicle owners, rates, storage, release of vehicles, unfair and discriminatory fees, and representations made by towing companies.

Next, Mr. Treesh discussed legislation pertaining to distracted driving, which is also based on a proposed NCOIL model act. IIK members are seeing an increase in distracted driving and would like to be part of the solution to this problem. This bill would require hands-free cell phone usage while driving. Twenty-four states have adopted hands-free driving legislation, and 19 more are considering legislation. Mr. Treesh gave a section by section summary of the bill, including provisions relating to definitions, operation of vehicles, and penalties.

Chris Nolan, Consultant, MML&K Government Solutions, reiterated that distracted driving is a growing issue across the country. It is not only a business issue but a safety issue as well. From 2014 to 2018, there were almost 4,000 car-related fatalities in Kentucky and about 25 percent of those fatalities were related to distracted driving. The number could potentially be higher, because it can be challenging to determine what caused a car-related death.

Mr. Nolan also stated that IIK continues to have discussions about reforming the Personal Injury Protection (PIP) insurance laws in Kentucky. IIK has been working with the Kentucky Justice Association to come to some common ground. However, due to factors affecting the upcoming session, IIK will not pursue this issue in the 2021 legislative session.

In response to comments from Senator Schickel and Co-chair Rowland, Mr. Treesh responded that both bills were works in progress and that IIK will

continue to work with stakeholders.

## **Department of Insurance Update**

Sharon P. Clark, Commissioner, Department of Insurance (DOI) stated that the department implemented a three-fold plan of action to address the COVID-19 pandemic, which was focused on ensuring continuity of operations for both the agency and the insurance industry and addressing consumer-critical issues. To date, the department has issued 15 guidance policies, available on the department's website, eight of which have expired. The commissioner explained that the department has been carrying out its duties with employees working remotely. The first guidance was issued on March 9, 2020 and pertained to the elimination of cost sharing for COVID-19 testing. Similar guidance was issued in every other state. The department also issued guidance to clarify that insurance is an essential service during the pandemic and to require that coverage be available for restaurant employees using their personal vehicles for food delivery.

Commissioner Clark stated that DOI addressed incoming issues, as well as prepared for issues that could occur because of the pandemic, with its guidance documents. For example, DOI was proactive in locating medical malpractice insurance for out-of-state health care providers and medical students and in addressing the telehealth situation. DOI worked with the Kentucky Hospital Association to address the authorization and pre-authorization needed for patient admittance to field hospitals and to suspend hospital audits. Commissioner Clark stated that the department did not go as far as other states. For example, the agency did not order refunds from insurance companies, but companies did voluntarily lower their rates. DOI also issued guidance to enable insurers to work with consumers to address their needs. Commissioner Clark stated that DOI is well-prepared if there is another uptick in COVID-19 cases. Finally, she noted that temporary agent licenses were issued because of a testing shutdown, but that as of August 1, the DOI is testing again.

DJ Wasson, Deputy Commissioner, DOI, discussed how Kentucky is beginning to transfer from a federally-based health insurance exchange to a state-based health insurance exchange. DOI has been working collaboratively with the Cabinet for Health and Family Services (CHFS), which is in charge of implementing the transfer. DOI will approve policies and product rates and license agents. The state-based exchange is still in the planning stages. Both DOI and CHFS value the role of agents and have reached out to agents, through their associations, to include them in discussions relating to the operation of the exchange.

In response to questions from Co-chair Rowland relating to the state-based exchange, Deputy Commissioner Wasson stated that the exchange is expected to roll out for the 2022 plan year, starting with open enrollment on November 1, 2021. She stated that the state-based exchange will still have persons serving in the role of "connectors" that can facilitate

enrollment, but cannot solicit or explain the coverage that is offered. Finally, Deputy Commissioner Wasson said that it is her understanding that the state-based exchange platform will be expanded to include other state services.

In response to a question from Co-chair Rowland regarding legislation for the 2021 session, Commissioner Clark stated that DOI will not be requesting legislation.

Next, Commissioner Clark discussed workers' compensation rates. The National Council on Compensation Insurance files rates with the department that are used by the majority of workers' compensation insurers. For 2021, the rates dropped an average of 8.4 percent, which is good news for employers. Manufacturing classes decreased 7.4 percent, contracting decreased 10.4 percent, clerical decreased 10 percent, goods and services decreased 9.2 percent, and there was a miscellaneous decrease of 6.5 percent. The impact of COVID-19 on workers' compensation rates will not be fully known until next year.

Commissioner Clark also stated that Kentucky completed its five year accreditation process with the National Association of Insurance Commissioners the week of September 21, 2020. This accreditation is critical for the department, because it shows other states that they can rely on Kentucky's insurance companies in maintaining solvency. Kentucky was given a full recommendation for accreditation for the next five years with no exceptions.

Finally, Commissioner Clark praised the insurance industry for their response to the COVID-19 pandemic and also Co-chair Rowland for sponsoring a credit for reinsurance bill last session that was critical to the accreditation process.

Co-chair Rowland commented that he appreciated the department's responsiveness relating to agent licensing issues.

## **Department of Financial Institutions Update**

Charles Vice, Commissioner, Department of Financial Institutions (DFI) gave an update on the condition of state-chartered financial institutions, which includes depository, nondepository, and securities institutions. During the pandemic, the financial services industry is considered essential and have continued to conduct business. DFI issued guidance to its regulated institutions to limit face-to-face transactions and work with customers by providing loan extensions and modifications and by easing loan terms, when possible. The institutions have been innovative in serving customers while limiting face-to-face transactions. The guidance also provided relief relating to notary requirements for department filings and for securities form filings.

From an operational perspective, DFI continued its examination and supervisory activity throughout the pandemic. Between March 2020 and July 2020, DFI transitioned to 100 percent off-site examinations. The department has started to conduct some on-site examination procedures, but

the activity is limited. While conducting off-site examinations, the department received feedback from its regulated entities and used the opportunity to improve its processes. Off-site examinations will not be a permanent fixture of the department, but future examinations will utilize off-site procedures. The benefits of off-site examinations include reduced travel costs, less burden on the regulated entity, and the ability for the commissioner to participate in more activities.

Commissioner Vice discussed how the current economic situation is affecting financial institutions. Normally, banks suffer alongside the economy, but this has not been the case during the pandemic yet. Although there has been an economic shock, that shock has yet to flow to the financial industry. Banks and credit unions have actually seen a short term increase in earnings, in some cases, and in deposits and assets. It will take time to see the full impact of the COVID-19 economic shock on financial institutions.

Commissioner Vice provided an update on the Paycheck Protection Program (PPP). In Kentucky, 50,655 PPP loans were made, which totaled \$5.4 billion. This injected liquidity into the system and increased bank and credit union balance sheets. Financial institutions are expected to experience margin compression in the future because of the low rate environment. DFI has also seen capital fluctuation of balance sheets, the worst being a leverage ratio decline of between 200 to 300 basis points due to asset growth. This is temporary, as many of the PPP loans are expected to be forgiven by the federal government. Financial institution earnings have also increased because of fee income. According to an article in the Lane Report, lending institutions generated fees totaling about \$159 million from the PPP.

Another loan program that was not used as much as the PPP is called the Main Street Lending Program. It contains \$600 million in funds at the Federal Reserve. To qualify for this program, the company has to have 15,000 employees or less with an annual revenue of \$5 billion or less. Companies can receive loans between \$250,000 and \$30 million and most loans are originated by banks with less than \$10 million in total assets.

Commissioner Vice discussed state-chartered bank conditions. Since 2017, the number of state-chartered banks decreased from 124 to 110. In 2019, state-chartered banks had \$53 billion in total assets, which increased 12 to 13 percent as of June 30, 2020, to a total of \$60 billion. The total number of loans also increased from \$37.9 billion to \$41.7 billion from 2019 to 2020. Compared to surrounding states, bank net interest margin was ranked number one at 3.72. Kentucky also ranked number one in capital ratio as of June 30, 2020. The return on average assets ratio was 1.22, placing Kentucky at number 2. Return on equity was at 10.72, ranking Kentucky at number three. These numbers reflect sound and stable bank performance, but this could change depending on how

the economy progresses in the future.

Commissioner Vice stated that Kentucky has 22 state-chartered credit unions, with a collective net worth ratio of 11.35, ranking Kentucky number three amongst the surrounding states. The return on average assets ratio was 0.30, which is a number eight ranking, and the net interest margin was 2.93, a number four ranking. Finally, 100 percent of Kentucky credit unions have a capital, or asset quality, rating of a one or two, which are the strongest ratings the department assigns.

With regard to the securities industry, Commissioner Vice noted that securities businesses have to register with DFI if they offer services to Kentucky residents. There are different registration categories, including broker-dealer, investment advisers, and investment adviser representatives. There was slight growth in registration numbers from 2019 to 2020.

He also reported that throughout the pandemic, the mortgage industry has seen a financial boom. There was an increase in the number of loans, which include refinances and origination to purchase. For the first 6 months of 2020, the registrations for mortgage companies and brokers were up 6.3 percent, and the number of loan originators increased 8.31 percent. There was a small decline in the number of registered consumer and industrial loan companies and deferred deposit businesses, while money transmitters stayed the same.

Nationally, home loans outstanding are expected to rise by 8.4% by year-end 2020, with additional increases expected in 2021. According to a Lane Report article published August 20, 2020, for the Louisville market, July 2020 home sales volume was 8.6 percent higher versus the same time last year. Total year-to-date sales were down because of a halt in activity through April and May due to COVID-19, but has shown strong growth since May. The average home price was up 5.3 percent, as well as up 4.2 percent on year-to-date sales versus 2019. Commissioner Vice explained that this was because of supply and demand. The inventory of available properties was 41.5% lower than at the same time last year, which drives up price.

In response to Representative Stone's question as to whether there has been an increase in business bankruptcies in Kentucky, Commissioner Vice stated that he did not have that information. However, due to his service on a national work group, he has witnessed a decrease in personal bankruptcies in the Charlotte market. He believes this is because the Coronavirus Aid, Relief, and Economic Security (CARES) Act offered financial assistance to businesses.

Representative Meredith commented that he appreciated regulators, including the DFI, being proactive in working with financial institutions to provide modifications, extensions, and deferments for customers. Commissioner Vice discussed his pride in the response he observed from regulated institutions.

Senator Thomas commented that from his

observations, credit unions were easier than banks to deal with and more accessible to small businesses with regard to CARES Act funding. He said that he is a credit union member and applauds the work of credit unions during the pandemic. Commissioner Vice stated that he was pleased with the work of many financial institutions in the facilitation of PPP loans, even with customers that did not have an account with the institution.

In response to a question from Co-chair Rowland regarding legislation for the 2021 session, Commissioner Vice stated that DFI is looking at possible legislative initiatives relating to third-party debt service providers, cryptocurrencies in relation to the regulation of money transmitters, and contingency planning and cybersecurity for securities businesses.

There being no further business the meeting adjourned at 9:33 AM.

## **CHILD WELFARE OVERSIGHT AND ADVISORY COMMITTEE Minutes**

**October 14, 2020**

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

The Child Welfare Oversight and Advisory Committee meeting was held on Wednesday, October 14, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative David Meade, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative David Meade, Co-Chair; Senators Denise Harper Angel, Reginald Thomas, and Whitney Westerfield; Representatives Lynn Bechler, Angie Hatton, Joni L. Jenkins, and Nancy Tate.

Guests: Norma Hatfield, President, Kinship Families Coalition of Kentucky; Shannon Moody, Senior Policy and Advocacy Director, Mahak Kalra, Senior Policy and Advocacy Director, Kentucky Youth Advocates; Marta Miranda-Straub, Commissioner, Christa Bell, Director of the Division of Protection and Permanency, Melissa Goins, Director of Family Resources and Youth Services Centers, Department for Community Based Services, Cabinet for Health and Family Services; Justice Debra Hembree Lambert, Supreme Court of Kentucky, Third Supreme Court District; Honorable Marcus Vanover, Family Court Judge for Lincoln, Pulaski, and Rockcastle Counties, Kentucky Administrative Office of the Courts; and Nathan Goins, Family Court Liaison, Kentucky Administrative Office of the Courts.

LRC Staff: Ben Payne, Lead Staff, Becky Lancaster, and Shyan Stivers.

### **Approval of Minutes**

A motion to approve the minutes of the October 16, 2019 meeting and July 22, 2020 meeting were made by Representative Bechler, seconded by Senator Westerfield, and approved by voice vote.

### **A Kentucky Grandparent and Relative Caregiver Handbook**

Norma Hatfield, President, Kinship Families Coalition of Kentucky, stated that the relative caregiver handbook is needed, because kinship or fictive kin families are in extreme duress when called for a child placement. It is very overwhelming and emotional, and the caregivers need time to digest information given at the time of placement. Kinship caregivers are not able to plan for items such as childcare, food, and clothes expenditures before the child's placement. The relative caregiver handbook is written from the perspective of families that have children in the custody of the Department for Community Based Services of (DCBS) or families that are not formally in the system. The relative caregiver handbook explains what to expect while in the process of child placement. The relative caregiver handbook discusses court hearings, DCBS and Court Appointed Special Advocates (CASA) home visits, acronyms and terminology, home assessment details, and the chain of command for issues.

The creators of the handbook tried to cover as many services as possible so that families will know what to ask or what to look for when a placement is made. The handbook gives families links to forms to review, information on clothes closets, food banks, and other services available to kinship families. The relative caregiver handbook is viewable and easily accessible online. The relative caregiver handbook is free and can be downloaded from the Kinshipky.org website.

In response to questions and comments from Representative Tate, Ms. Hatfield stated that the legislature can help kinship families by spreading the word about the handbook. The Kinship Families Coalition of Kentucky has worked with Kentucky Youth Advocates (KYA) to let kinship support groups and family resource coordinators know about the handbook. She stated that when the kinship families that receive foster care payments case closes, the foster payments stop. She stated that about two years ago, DCBS was looking at kin gap program that would continue guardian assistance after the case closed. The families on the old Kinship Program receive about \$300 a month per child. There is a gap in the number of families that receive that pay and newer families that receive kinship foster pay.

In response to questions and comments from Representative Bechler, Ms. Hatfield stated that access to services and consistent communication are concerns in the kinship community. During the pandemic, the Kinship Families Coalition of Kentucky had conversations with the DCBS Commissioner and other policy makers regarding concerns about internet accessibility and infrastructure so that kinship families have choices. She stated there are things being put in place to support the needs of kinship families.

In response to questions and comments from Representative Meade, Ms. Hatfield stated that most caregivers need financial resources to care for their placements. Legislators could review the services and funding sources that are in place and figure out new

ways to make the services and funding more available and understandable for families.

Mahak Kalra, Senior Policy and Advocacy Director, Kentucky Youth Advocates, stated that KYA is the independent voice for Kentucky kids. KYA's vision is to make Kentucky the best place in America to be young. KYA works with decision-makers, educates and mobilizes advocates, publishes data and research, and convenes stakeholders across the state to achieve its goals. The Blueprint for Kentucky's Children is a continuum that believes thriving communities launch strong families, strong families create successful kids, and successful kids form thriving communities.

Shannon Moody, Senior Policy and Advocacy Director, Kentucky Youth Advocates, stated that in Kentucky there are approximately 81,000 children being cared for by kin both formally and informally, with the majority of those children being with grandparents. Kentucky has the highest rate in the nation of children being raised by relatives. Of the 81,000, there are 31,000 children who are being raised by relatives with some type of DCBS services involvement. For every six children that go into foster care, there are approximately 10 that will end up in kinship care. There are less than 5,000 children in the original Kentucky Kinship Care Program. There is approximately 1,222 relatives who are participating in the relative foster care program which is an increasing number. The service array by DCBS for relative or fictive kin caregivers consists of the following: Relative Caregiver Program, Relative Placement Support Benefit, Child Care Assistance Program (CCAP), and Kentucky Children's Health Insurance Program (KCHIP). Depending on the region of residence, an informal caregiver could have access to the national or Kentucky Caregiver Program. The Caregiver Program is specific to grandparents with specific income requirements and is a one-time benefit for financial support.

Ms. Moody stated that 43 percent of the kinship caregivers surveyed by KYA needed more emotional support than before the pandemic. The survey also found that 57 percent of kinship caregivers needed more financial support than before the pandemic. The Family Resource Youth Service Centers from schools helped with food and basic needs. Many caregivers expressed concern regarding children mental health needs due to lack of socialization during the pandemic. KYA found that there is a need for peer supports and respite care for relative caregivers. KYA found that Kentucky needs to better recruit and retain quality DCBS workers. KYA found there was a need for a stipend to caregivers for internet services for non-traditional instruction required for the children. The relative caregivers suggested the idea for kinship co-op groups, hubs, or pods for caregivers and children to receive peer support and guidance. Support groups are often provided by the Family Resource Youth Service Centers, Cooperative Extension Offices, or the area development districts.

In response to questions and comments from

Senator Thomas, Ms. Moody stated that Kentucky has a high rate of people struggling with substance use issues and often times family members step up to take of children when their parents are not able to care for them. Kentucky has parents in the military who are deployed and have relatives step in to take of the children. Kentucky has a higher rate than other states of young parents in the age range of 18 to 24 years old that may still lack the maturity or knowledge to care for a child. She stated that families who do not have regular, consistent access to the internet are being left behind, because they cannot learn about new resources, information, or connect with other people for support. Ms. Kalra stated that KYA understands that having internet access especially during the pandemic is a basic need.

In response to questions and comments from Representative Bechler, Ms. Moody stated that it is her understanding that the turnover or loss of social workers in DCBS creates problems for caregivers and the large caseloads create issues for workers.

In response to questions and comments from Representative Tate, Ms. Moody stated that KYA has been working with the Cabinet for Health and Family Services and the Administrative Offices of the Courts to make sure there is communication and a foundational knowledge on what the Family First Act is and what it does for families in Kentucky. KYA has been monitoring the implementation of the Family First Act for the last 12 months to see how things are going.

#### **COVID-19 Process and Procedure Changes for Child Abuse Reports, Investigations, and Casework**

Marta Miranda-Straub, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, stated that Kentucky has one of the highest child abuse rates in the nation. Kinship caregivers allow children to maintain a family connection when removed from their home. Melissa Goins, Director of Family Resources and Youth Services Centers (FRYSC), Department for Community Based Services, Cabinet for Health and Family Services, stated that there are 857 FRYSC serving approximately 1,200 schools in Kentucky. The FRYSC response to COVID-19 has included food and basic need assistance, NTI and online assistance, family welfare assistance, COVID-19 prevention information, and unemployment information. FRYSC offered referrals to mental health providers and wellness information. The Community Mental Health Centers (CMHC) are open for telehealth visits. Several FRYSC worked with local banks, business owners, and community members on the community need for better internet access by purchasing hot spots. The Red Cross offered babysitting training for older siblings caring for younger children. Ms. Goins shared comparison data from the same time periods in 2019 and 2020, regarding the numbers of coordinated home visits, parent contacts made, and parents or caregivers attending an online parent support group

workshop.

Honorable Marcus Vanover, Family Court Judge for Lincoln, Pulaski, and Rockcastle Counties, stated that during the pandemic judicial buildings reduced capacities but the courts did not close. Supreme Court Order 2020-63 states that proceedings shall be held remotely, but judges have the discretion to hold in-person hearings. In regards to in-person hearings, the persons were limited to people that were allowed by statute, the order, or the judge. Facial coverings, six-foot distancing, cleaning, and disinfecting were also required. Work groups were created and each were headed by an associate justice to expand operations quickly, safely, and effectively.

Nathan Goins, Family Court Liaison, Kentucky Administrative Office of the Courts, stated that proceedings involving child safety were not halted. The AOC-1026 Contact Information Form was created to ensure that all parties and essential persons had information to join the hearings online. Courts are using Zoom, Teams, and Skype to conduct remote hearings. AOC released emergency guidance allowing remote verification, created a foster parent and caregivers fact sheet, and has collaborated with DCBS, Kentucky Coalition Against Domestic Violence, and foster parent advocates to help all parties access the courts. He shared a graph that showed in March and April of 2020 the number of dependency, neglect, and abuse cases filed were much lower than March and April of 2019. The AOC was working on how to best proceed during the pandemic. Courts were not closed, but some cases or matters were prioritized due to safety or emergency situations.

In response to questions and comments from Representative Bechler, Judge Vanover stated that the pandemic caused the lower rate of reported cases of abuse and neglect. He stated that the abuse and neglect reports are typically done by third parties who are seeing the children at schools and daycares. With children having to stay at home, there are fewer eyes on the children and fewer reports of abuse and neglect.

In response to questions and comments from Representative Tate, Judge Vanover stated that there is not a court programs to assist children in homes that have not gone back to in-person schooling.

Christa Bell, Director of the Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that contacts in open DCBS cases, visits with birth parents, children in the home, and children in out-of-home care (OOHC) are occurring primarily via videoconferencing platforms by DCBS and private agency staff. DCBS staff still does assessments for safety, risk, family needs, and progress on the family's case plan. Face-to-face visits are required if there are identified safety concerns. Most families and children are also receiving services via telehealth. A COVID-19 screening tool was developed for DCBS staff and private agency partners to utilize in the event that face-to-face contact is necessary. She shared graphs that show the number

of children in OOHC in state fiscal year (SFY) 2019 versus SFY 2020. The OOHC numbers started rising in April and May of 2020 and reached the highest point ever with 10,047 in OOHC. During March 2020 to May 2020, with the transition of the courts going to remote meetings there were delays with some court proceedings. As of October 4, 2020, there are 9,383 children in OOHC, which is the lowest number of children in OOHC since May 2018.

Ms. Bell stated that at the onset of the pandemic emergency, all visitations occurred via videoconferencing. In May of 2020, DCBS began a phased approach to in-person visitation based on age and placement setting. She discussed the guidance that was put into place by DCBS regarding in-person visitation in congregate care settings. DCBS and private foster homes were surveyed on their capacity and willingness to accept additional children who were COVID-19 exposed or COVID-19 positive. The Stafford Act provided the flexibility to waive the fingerprint check for foster or adoptive parents during a state of emergency. However, name based checks are still being conducted. A face-to-face home visit must occur prior to placement of a child. Any foster home standard that cannot be met as a result of COVID-19 must be documented and must be met as soon as possible or when the pandemic ends.

Ms. Bell stated that the Stafford Act allowed older children in foster care to extend their commitment to the state without meeting the education or employment requirements during the state of emergency. Federal Chafee funds were utilized to pay for foster care or independent living programs for young people in foster care who have turned 21 since March. Coronavirus Aid, Relief, and Economic Security (CARES) Act funding was utilized to pay stipends to private child care residential and emergency shelter providers to help offset additional costs to meet the needs of children during the pandemic. The Pandemic Electronic Benefit Transfer (P-EBT) funds aided relative caregivers and foster homes in purchasing food for children placed in their homes. DCBS provided written guidance, FAQs, resources, and other supports to families in Kentucky. She shared a comparison graph that displayed the number of intakes by DCBS with an allegation of child abuse or neglect during January to September 2019 and the same time period in 2020. She discussed a comparison graph of the number of fatalities or near fatality referrals to DCBS from March to September of 2019 versus the same time period in 2020. She spoke about a graph regarding the statewide abuse or neglect substantiation rates in Kentucky.

Ms. Bell stated that DCBS has expanded the prevention provider services during the pandemic. Prevention providers are not required to provide in-person visits during the pandemic. Prevention providers may use HIPAA compliant platforms for services, including telehealth services. If safety threats are identified, the prevention provider must make a report to DCBS. Services to families are also

being offered in-person by being outdoors, socially distanced, and with masks. Prevention providers have focused on the provision of tangible items. Flex funds have been used for the purchase of masks and for access to phones and internet for families. DCBS developed training for educators, medical providers, and others that is specific to reporting maltreatment during the pandemic. She shared a graph that displayed the percentage of substantiation rates by specific reporting sources for SFY 2020. School personnel have the lowest percentage of substantiations when reporting child abuse and/or neglect. Social services personnel have the highest rate of substantiations when reporting child abuse and/or neglect.

Commissioner Miranda-Straub stated that shared lessons learned by DCBS during the pandemic. Surveys were conducted of staff and stakeholders with an overwhelmingly positive response by both regarding the use of virtual platforms and electronic means for all types of needs. DCBS has seen a rise in efficiency and an increase in the staff's work and life balance. DCBS has an opportunity to decrease the brick and mortar footprint. She stated that COVID-19, racial inequity and trauma, and the opioid crisis have created an opportunity for meaningful agency change. To recreate a 21st century DCBS, there will be three phases; stabilization, innovation, and thriving. Stabilization is planned to take six months to complete, innovation will be a redesign of DCBS programs that are not working or are not well received, and last a thriving DCBS will decrease barriers and increase access and efficiencies. DCBS will discuss and evaluate its five pillars; equity, trauma, family, health, and operations. The phases will be led by 25 DCBS staff members, trusted advisors, and community partners.

In response to questions and comments from Representative Tate, Commissioner Miranda-Straub stated that the DCBS immediate priority is to improve services within the limits of budget cuts and COVID-19. Post COVID-19, the priority will continue to be lowering the number of child abuse cases, improving efficiencies, better access to services, and supporting the DCBS workforce. DCBS is establishing a certification for child welfare workers so they are better prepared to handle the workload and the retention of employees will increase.

In response to questions and comments from Representative Meade, Commissioner Miranda-Straub stated that she could not confirm if families that were scheduled for reunification were asked to agree to an extended separation because of the pandemic. She stated she would follow up with that information and number of cases.

In response to questions and comments from Representative Bechler, Commissioner Miranda-Straub stated that there is an incredible amount of paperwork required but she believes the large caseloads are more of an issue causing worker burnout. DCBS is working on streamlining the paperwork process and has been able to reduce the caseloads in Jefferson

County from approximately 78 cases to 38 cases and is working towards the goal of 25 cases per social worker. DCBS received federal funding from the first distribution of the CARES Act and \$20 million was distributed to child care providers in Kentucky. Ms. Bell stated that the Stafford Act information and guidance comes from the federal level, the Stafford Act is cited to provide flexibility in three areas. One of the areas was regarding the federally required fingerprinting. She stated that states could request a waiver to have fingerprinting temporarily suspended during the state of emergency. The second area of flexibility was for older youth to stay in foster care and the third area was regarding the required caseworker visits that could be conducted by teleconference. The new policies were agency decisions based on federal government information and direction. The federal government cited the Stafford Act in order to offer those flexibilities to states. Commissioner Miranda-Straub added that the last installment of the CARES Act was \$20 million but in total there has been \$67 million allocated to keep childcare businesses open. Commissioner Miranda-Straub stated that during the pandemic and with a hybrid working model, the in-person meetings with the social workers have substantially decreased. DCBS continued face-to-face visits with families in crisis and children at risk during the pandemic. DCBS is reviewing a hybrid work model in every county to assure there is a way to accommodate face-to-face visits and teleconference meetings. Commissioner Miranda-Straub stated that DCBS has a plan to do a six-month stabilization program and then an 18-month strategic plan where DCBS will evaluate all programs. She stated that Ms. Hatfield's, other advocates, and other stakeholders' suggestions and ideas will be woven into the five pillars. She hopes to begin the 18-month strategic plan in January of 2021.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:02 PM.

## **INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT**

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

October 29, 2020

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

The 6th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, October 29, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Russell Webber, Co-Chair; Senators Karen Berg, Rick Girdler, Denise Harper Angel,

Jimmy Higdon, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Kim Banta, Lynn Bechler, John Blanton, Adam Bowling, Kevin D. Bratcher, R. Travis Brenda, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Kathy Hinkle, Thomas Huff, Nima Kulkarni, Savannah Maddox, Jason Petrie, Bart Rowland, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Sarah Butler, Director, Incentive Assistance Division, Cabinet for Economic Development; Kylee Palmer, Program Manager, Incentive Assistance Division, Cabinet for Economic Development; Doug Gorman, Chairman, Warren County Downtown Economic Development Authority; Cora McNabb, Executive Director, Office of Vocational Rehabilitation; Mary Pat Regan, Deputy Secretary, Education and Workforce Development Cabinet; Larry Roberts, Secretary, Labor Cabinet; Buddy Hoskinson, Interim Executive Director, Office of Unemployment Insurance, Labor Cabinet; and Amy Cubbage, General Counsel, Office of the Governor.

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

#### **Approval of Minutes**

A motion to approve the minutes of the September 24, 2020 meeting was made by Co-Chair Russell Webber, seconded by Representative Chris Freeland, and approved by voice vote.

#### **Update on Tax Increment Funding**

Tax Increment Financing (TIF) is an economic development tool to use future gains in taxes to finance the current public infrastructure improvements for development that will create those gains. When a public infrastructure project such as a road, sewer, or utility occurs, there is an increase in the property tax, as well as a potential increase in sales and withholding tax for that area, resulting in a potential increase in tax revenue. That tax revenue is known as the tax increment and can be used to assist in financing the cost of public infrastructure projects. Development areas must be either local only development areas or blighted urban redevelopment areas. Blighted urban redevelopment area projects may be eligible for state participation in funding. The TIF program was designed to assist with these areas that would otherwise have no development if not for public infrastructure improvement and creates funding for public projects that may be otherwise unaffordable to certain areas.

The process of creating a TIF includes establishing a local TIF, engaging the Cabinet for Economic Development to discuss a potential state TIF prior to submitting the application, negotiations of incentives, receiving final approval from the Kentucky Economic Development Finance Authority (KEDFA), and lastly activation of the project and eligibility for increments. There are other steps that do not apply to real property ad valorem tax revenue TIF projects such as receiving preliminary approval from KEDFA, having an independent consultant determine if the project will have a net positive impact on the state, and presenting

KEDFA with the consultant's report. Projects fall into one of three categories which include real property ad valorem tax revenues, signature projects, and mixed use redevelopment in blighted urban areas. Real property ad valorem tax revenue programs have a minimum capital investment of \$10 million and a maximum term of 20 years with up to 100 percent of state real property incremental tax revenues. The project must represent new economic activity in the Commonwealth and not more than 20 percent of the capital investment or finished square footage can be devoted to retail. Signature projects have a minimum capital investment of \$200 million and a maximum term of 30 years with up to 80 percent of incremental state tax revenues. Types of state taxes that may be pledged include real property ad valorem, individual income taxes, corporate income tax, limited liability entity tax, and sales tax. The project must represent new economic activity in the Commonwealth and not more than 20 percent of the capital investment or finished square footage can be devoted to retail. The mixed use redevelopment in blighted urban areas programs have a minimum capital investment of \$20 million, but cannot exceed \$200 million, and a maximum term of 20 years with up to 80 percent of incremental state tax revenues. Types of state taxes that may be pledged include real property ad valorem, individual income taxes, corporate income tax, limited liability entity tax, and sales tax. The project space must include at least two of the following uses: retail, residential, office, restaurant, or hospitality.

Although Covid-19 has had many effects on the Commonwealth's economy, it is difficult for the Cabinet to determine what the long term effects will be on the TIF program due to the pandemic. The TIF program allows for projects to begin generating taxes in the formative years. Many existing state TIF's that are claiming increment are for the years of 2017 to 2019. Some TIF programs may not see any effects until 2023 when tax increments for 2020 and 2021 are dispersed. TIF districts will be retooling the way business is done to prepare for a future increment that will more than likely be less due to the pandemic. The market feasibility and economic fiscal impact of the TIF components could be materially changed by the long term effects, and each project continues to be evaluated on a case by case basis. Despite uncertainty, there is still a strong interest in creating future TIF projects across the state.

In response to a question from Representative Buddy Wheatley, Kylee Palmer explained that the independent consultants used to determine the economic impact of TIF projects are selected through a request for proposal process, and the state currently has three consultants contracted. Answering a follow up question, Ms. Palmer said there is not a state requirement for a TIF project to go through a request for proposal process on the local level.

Addressing Co-Chair Danny Carroll, Ms. Palmer stated that new tax revenues are used for TIF projects which is why the independent consultant's economic

analysis projections are so vital. The tax increment amount relies on projections and the development of the TIF area.

Replying to Senator Karen Berg, Ms. Palmer reiterated that real property ad valorem tax revenue programs use property taxes, and signature projects and mixed use redevelopment in blighted urban areas projects may use property, withholding, and sales taxes.

Answering another question from Co-Chair Danny Carroll, Ms. Palmer said local government entities are given the opportunity to give opinions on local TIF programs.

Doug Gorman, Chairman of the Warren County Downtown Economic Development Authority, gave an update on the TIF district in his area, the WKU Gateway to Downtown Bowling Green. The WKU Gateway to Downtown Tax Increment Financing District was formed in October 2007 with a project agreement extended between the Warren County Economic Development Authority and KEDFA. The project was initially approved for 106 acres in downtown Bowling Green, but an expansion to 383 acres and encompassing 52 city blocks was approved in 2008 making it one of the largest TIF districts in the state. The signature project TIF required a \$150 million investment by December 31, 2014 but that goal was reached in January 2013. Once the capital investment was reached, then the project could begin accumulating its tax increment. The initial private and public funding included \$7 million bonds sold to local banks, a \$25 million general obligation bond issued by the city of Bowling Green for the construction of BG Ballpark, new market tax credits, and a partnership with the WKU Foundation. TIF incentives have gone towards adding an alumni center and student housing at WKU, the Southern Kentucky Performing Arts Center, and several privately developed hotels, apartments, and restaurants. For 2019 the total TIF payment was \$3.8 million compared to \$2.1 in 2014 with a large portion being made up of withholding and sales tax. The WKU Gateway to Downtown TIF District from its creation though 2019 had an increase in wages of \$79,601,000 with an estimated 1917 jobs. It is estimated that withholding and sales tax will be reduced for 2020. Withholding tax for 2020 is estimated to be \$2.7 million, and sales tax revenue for 2020 is estimated to be \$292,253.

Responding to Senator Mike Wilson, Mr. Gordman stated Commonwealth Economics is used to meet the independent consultant requirement the WKU Gateway to Downtown TIF District. The company does a physical walk through of the TIF each year and helps to identify new businesses and opportunities for the future.

#### **Update from Office of Vocational Rehabilitation**

The philosophy of the Office of Vocational Rehabilitation (OVR) is to recognize and respect the contribution of all individuals as a necessary and vital part of a productive society while assisting

Kentuckians with disabilities to achieve suitable employment and independence. The total percentage of individuals with disabilities across the state is 17.4 percent, and the employment rate for individuals with disabilities is 29.4 percent compared to the 75.7 percent employment rate of individuals without disabilities. The OVR almost equally serves males and females. Its consumer demographics include 88 percent White, 10 percent Black, and 2 percent other. There are a wide range of disability types that the individuals have been diagnosed with that the OVR assists with obtaining employment which include psychological and mental disabilities; cognitive disabilities; sensory disabilities; and physical disabilities. About 21.3 percent of funding for the OVR comes from the state while about 78.7 percent comes from federal funding. For every 22 cents funded by the Commonwealth, 78 cents in federal funds are received.

The OVR has all priority categories of service open and has suspended all cost sharing for individuals due to increases in financing and staff resources. Categories of service are broken into four different groups which include most significant disability with limitations in three or more functional capacities, most significant disability with limitations in two functional capacities, significant disability with limitation in one functional capacity, or non-significant disability. In 2019 only two categories of service were open. From January 1, 2020 to October 1, 2020, the OVR served 36,781 individuals with 17,421 students receiving pre-employment transition services, 4,468 individuals participating in training programs, 2,217 individuals ready for employment, and 2,052 employment outcomes. The average hourly wage for these individuals was \$15.45 with an average of 33 hour per week worked.

Effects of Covid-19 began to be seen by the OVR in March 2020 and numbers for referrals, potentially eligible individuals, applications, accepted individuals, individualized plans for employment, and positive employment outcomes drastically plummeted in April 2020. Those numbers have increased as of September 2020, but the OVR still has measures in place that have changed the logistics of their services. Staff are telecommuting and utilizing various platforms for remote service delivery. The OVR is working with other state agencies and workforce partners to assure essential service delivery and allowing exceptions in some service delivery. There has been additional staff training in suicide prevention and remote service delivery and development of online service curriculums. Providers of the OVR have experienced a reduction in referrals, decrease in revenue, staff turnover, and difficulty shifting from in-person services to remote service delivery. Providers have also struggled with personal protective equipment, technology, program viability, and the health and safety of staff and the individuals served. The OVR has developed a service fee memorandum process to better support providers. In addition, Covid-19 has also had an impact on individuals with disabilities

that the OVR serves. The lack of technology hinders learning and accessing services remotely. Some are at a high risk of contracting the virus due to health conditions and social distancing can create isolation and loneliness. There have also been interruptions in public transportation which can create hardships, and there are additional challenges with equitable healthcare.

Responding to Co-Chair Danny Carroll, Ms. McNabb stated the OVR did not receive any funds from the CARES Act. The OVR has received guidance from the Rehabilitation Services Administration about community rehab providers. One thing that can be done to offset costs for providers is to increase rates which is why the OVR is exploring options for higher rates for remote services. The OVR cannot use its own funding to help pay for the operation of community rehabilitation providers.

Answering a question from Co-Chair Russell Webber, Ms. McNabb explained that mental and psychological disabilities would include substance abuse, depression anxiety, obsessive compulsive disorder, schizophrenia, and behavioral disorders. Cognitive disabilities would include those caused by some type of brain injury or any disability that would affect cognitive processing.

#### **Unemployment Insurance Update**

Between December 8, 2019 and March 7, 2020, there were 44,841 new unemployment insurance claims filed and about 77 percent of eligible claims paid. From March 8, 2020 to September 30, 2020, there were approximately 1,126,000 new claims filed and over \$5 billion of UI funds distributed. There were 167,420 initial claims filed in March and about 3,195 claims are still in progress that need additional actions taken by the claimants or have an ongoing adjudication. The Office of Unemployment Insurance (OUI) has approximately 58 employees assigned to the Benefits Branch which includes 15 UI employees, 15 Adecco employees, and 28 employees have been detailed from the OUI's Career Development Office. Approximately 40 employees are assigned to the Adjudication Branch which includes 23 UI employees and 17 employees detailed from the Career Development Office. There are also about 50 contracted employees handling calls from claimants.

A request for proposal for technology upgrades was published in January 2020 with projected costs for the project estimated at \$60 million. Governor Beshear appropriated \$4.5 million of CARES Act funding for four projects that were included in the original proposal. The RFP was amended in September 2020 to reflect changes and vendors responses are due at the beginning of November 2020. The upgrades will be to the KEWES Siebel and Oracle systems and will include upgrades of operating systems and platforms; increased security; increased ability to scale based on volume of claims; and enabled access to documents via mobile devices. Web upgrades will also be performed to the Slalom and Salesforce systems which will make it easier to

use interface to file, update, and manage citizen UI claims; help reduce errors and duplicated claim; and improve self-service with automated assistance from Chatbot. Other upgrades will address the OUI phone system and FileNet to OnBase upgrades.

Labor Cabinet leadership also spoke about the Ernst and Young contract which will extend through the end of 2020. The \$4.9 million contract that was paid with federal funding and was approved in the Government Contract Review Committee on October 13, 2020. Ernst and Young will provide the workforce needed to address the 70,000 claim that are awaiting, or in the process of, adjudication. These claims require determination letters telling claimants whether their claim is approved or denied. Determination letters were previously required to be written by state employees. The U.S. Department of Labor waived this requirement, allowing Ernst and Young employees to draft the letters and making Kentucky only the second state with this waiver. For the first four weeks on the new contract, 100 Ernst and Young employees will focus on performing adjudicator functions, along with assisting OUI in reviewing claims and writing determination letters. For the remainder of the contract, 25 Ernst and Young employees will work on claims each week.

An update on the Lost Wages Assistance (LWA) was also provided. On August 8, 2020, the Presidential Memorandum for Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 was approved. This program, administered through the Federal Emergency Management Agency (FEMA), has a 75 percent federal cost share and 25 percent match from the state. Kentucky is one of only three states to provide the extra \$100 which increases additional UI payments to \$400. Benefits of this program are available August 1, 2020 to December 27, 2020, but the LWA may terminate earlier if FEMA expends the \$44 billion from the Disaster Relief Fund designated for LWA by the President, if the Disaster Relief Fund reaches \$25 billion, or if Congress enacts legislation to provide additional UI resources. A claimant is eligible for LWA benefits if their wage base is above \$100, their unemployment is specifically Covid-19 related. The total FEMA dollars to date were \$216,101,700, and the Labor Cabinet has submitted an application to FEMA in order to obtain grant funds to pay claimants who were found eligible upon “forced” self-certification and upon appeal.

The Unemployment Insurance Trust Fund has a deficit of \$460,207,409, and it is estimated by the end of 2020 the amount will be approximately \$600,000,000. Governor Beshear has committed to allocating CARES Act funds to the deficit. Interest on the loan taken out with federal government will begin accruing on January 1, 2021, but the U.S. Treasury will not take action to collect until January 1, 2023. The Federal Employment Tax Act (FUTA) set a rate of 6 percent and Kentucky contributing employers receive a credit of 5.4 percent when they file Form 940. When

a state has an outstanding loan balance on January 1 for two consecutive years and does not repay the full amount of its loan by November 10 of the second year, then the FUTA credit rate will be reduced each year until the loan is repaid. The OUI shall not allocate charges to employers’ reserve account for individuals who are paid for reasons related to Covid-19 based on the Administrative Order issued by Lt. Governor Coleman on March 25, 2020. Schedule E will be the applicable schedule effective January 1, 2021, and a majority of employers will experience a modest increase in their respective tax rate in 2021 and 2022. The current average UI tax rate is 1.76 percent, the projected average for 2021 is 2.52 percent, and the projected average for 2022 is 3.23 percent. Approximately 23,000 employers will not incur a percentage increase in 2021 as they have not been in business for over a year. Pursuant to KRS 341.614, there shall be a surcharge upon all subject contributing employers for any year there are insufficient funds in the Unemployment Compensation Administration Fund for the payment of interest on advances to the UI Trust Fund. The formula contained in the statute will be calculated at .19 percent of the first \$11,000 in wages paid to each worker by a subject contributing employer. This surcharge will increase the cost for contributing employers by \$21.09 and it will generate approximately \$38 million to \$40 million each year.

The Secretary briefly covered information regarding Pandemic Unemployment Assistance (PUA). In response to the effects of Covid-19, on March 27, 2020, Congress passed legislation which created PUA. Guidance at the time allowed for citizens to draw benefits on the basis of fear of exposure to Covid-19. On April 27, 2020, the U.S. Department of Labor changed PUA eligibility for individuals not to qualify on this basis alone. This created overpayments for those who were previously eligible, but Kentucky is currently not pursuing collection of these overpayments. On October 23, 2020, the Labor Cabinet submitted a request to the U.S. Department of Labor asking for a waiver of collection for those overpayments.

Answering a question from Representative John Blanton, Secretary Larry Roberts reiterated that individuals are no longer eligible for PUA payments solely based on fear of the Covid-19 virus as of April 27, 2020. Executive Director Buddy Hoskins added that the information regarding this change is published on the Labor Cabinet’s website.

Replying to Co-Chair Russell Webber, Secretary Roberts said there is a backlog of about 80,000 UI claims from April 2020 to September 2020. Answering a follow up question, Amy Cubbage, General Counsel for the Governor’s Office, stated that Ernst and Young employees processed about 141,000 claims during phase one of its contract and 19,417 claim thus far during phase two. During phase one of the contract, Ernst and Young employees reached out to claimants for additional information and contacted employers for information to determine if claims were payable

or not.

Addressing a question from Representative R. Travis Brenda, Executive Director Hoskinson explained that as increasing numbers of workforce participation rates are reported, then unemployment rates should decrease. There may be a lapse in the time that the statistics are reported to the respective agencies which may cause what seems to be conflicting figures. Secretary Roberts added that according to the Bureau of Labor Statistics, as of September 2020 Kentucky’s unemployment rate was 5.6 percent.

Responding to Senator Mike Wilson, Secretary Roberts stated a request for a total waiver for overpayment of PUA payments had been submitted to the U.S. Department of Labor.

Answering questions from Senator Jimmy Higdon, Secretary Roberts said that the federal government would hold the state liable for overpayments of PUA if the U.S. Department of Labor does not approve the requested waiver. The state would collect those funds and repay to the federal government. Responding to a follow up question, Secretary Roberts explained that although fraud has not been a major problem in Kentucky, he would provide at a later date any statistics relating to fraud. Executive Director Hoskinson also stated that Kentucky received \$1.75 million from the federal government to combat fraud. Ms. Cubbage inserted that due to enhanced verification processes that were implemented in 2019, UI identity fraud has been minimal.

Replying to Senator Reginald Thomas, Executive Director Hoskinson further detailed the LWA that is being administered by FEMA. The funding for the program was on a first come first serve basis and it was determined that the funding would last about six weeks. The short amount of time may have been in the hopes that Congress would put into place additional assistance.

Representative Lynn Bechler expressed the need for constituents to speak to a person at the OUI rather than an automated recording.

Addressing questions from Co-Chair Danny Carroll, Secretary Roberts explained that although the Cabinet is aware of the need for constituents to speak with a person, there is simply not enough staff to fully meet that need at this time. He is hopeful for additional funding to hire more staff, and the Cabinet continues to evaluate OUI needs. Answering a follow up, the Secretary said that March claims are being handled as quickly as the staff he has can process them. The oldest claims need to be processed first.

Representative John Blanton requested that the dollar amount for overpayment of PUA funds be submitted to the committee.

Responding to Co-Chair Danny Carroll, Secretary Roberts stated he did not recall setting an exact date for the backlog of claims to be processed. Ernest and Young employees assisted existing employees with claims during phase one of its contract, but overall staff have still been overwhelmed

with the 1,126,000 new claims filed from March 2020 to September 2020. It was never assumed that the contract with Ernst and Young would completely solve the backlog issue.

Answering a question from Senator Karen Berg, Secretary Roberts said there is no way to do a comparison to other states as it pertains to UI. Kentucky had 12 staff members who could adjudicate claims at the start of the pandemic. In order to compare to other states, staffing would have to be examined. Executive Director Hoskinson added that there is overview information given to the OUI by its national organization.

Co-Chair Danny Carroll restated that the oldest claims should be prioritized and processed first. Secretary Roberts said that he has met with the chiefs of staff of the majority and minority caucuses to discuss UI needs and concerns.

There being no further business, the meeting adjourned at 11:01 a.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 20, 2020

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

The 5th meeting of the Interim Joint Committee on Education was held on Tuesday, October 20, 2020, at 10:30 a.m., in Room 171 of the Capitol Annex. Representative Regina Huff, 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 David P. Givens, Jimmy Higdon, Stephen Meredith, Gerald A. Neal, Michael J. Nemes, Robert Stivers II, Reginald Thomas, Johnny Ray Turner, Stephen West, and Mike Wilson; Representatives Kim Banta, Tina Bojanowski, Randy Bridges, Jeffery Donohue, Jim Glenn, Mark Hart, Scott Lewis, Mary Lou Marzian, C. Ed Massey, Reginald Meeks, Kimberly Poore Moser, Melinda Gibbons Prunty, Steve Riley, Attica Scott, John Sims Jr, James Tipton, Russell Webber, Richard White, and Lisa Willner.

Guests:

LRC Staff: Jo Carole Ellis, Yvette Perry, and Maurya Allen.

#### **Approval of Minutes – September 15, 2020**

On a motion by Representative Tipton, seconded by Senator Wise, the minutes of the September 15, 2020, meeting were approved by voice vote.

#### **Having School During COVID – What’s Worked, What’s Changed, What’s Tough**

Steve Carter, Superintendent, McCracken County Schools, began his presentation with a brief demographic overview of his district to provide background to his remarks. School reopened on August 24 utilizing a virtual model and returned to in-person instruction in September utilizing an alternating schedule. There are two in-person groups,

each attending two days a week. Monday is left as a planning and cleaning day for teachers and staff. At the start of the pandemic, there were two main goals: to ensure the employees maintained getting a paycheck and to ensure that students were fed.

There have been many positives and negatives to returning to school in-person. Regarding that return to in-person instruction, a survey of district families showed that 80 percent of families wanted to return in-person, but over time more families and staff have expressed concerns about safety. Approximately 25-35 percent of students are still attending virtually to meet these desires and provide safety for higher risk students and families. While McCracken County Schools have only been providing in-person instruction for a short time, there has been positive attendance so far. Maintaining a planning day for staff has been very beneficial and supports the mental health of staff and students. However, there have also been challenges to planning for teachers who are striving to meet the needs of both in-person and remote attending students in the same “classroom.” There were multiple return plans developed over the summer which were modified and blended into the actual return that was implemented. Bussing was modified so that only students returning to the same building were bussed together and individual school buildings are still only virtual (no in-person return) because students or families in those buildings were known to have tested positive for COVID-19. Each building is deep cleaned daily, which is a great expense, but it is necessary to keep students and staff as safe as possible.

It is apparent there has been significant instructional “slide” or loss of proficiency since the shutdown, as illustrated from STAR testing. This information is preliminary and partial because school has only just come back in-person, but compared to last fall, less than half of students tested have proficiency in elementary math and reading. Focus has been on RTI and ESS, and is expanding into all student groups to address these declines. When evaluating high school students, using CERT assessments, there has been less of a slide, and even some improvements for reading and science scores. However, he cautioned that this data is very preliminary and only reflects small numbers of students.

To address access, they have provided all students with a Chromebook and have expanded distribution of hotspots throughout the community to ensure better virtual access for students who may not have internet accessibility at home. Other things that have worked well have been weekly leadership team calls and increased communication with members of the school community and the local health departments. Weekly calls with staff and students help to mitigate the loss of interpersonal well-being. Using a virtual platform has been a challenge because it was new and difficult to train users quickly. There is also stress every time a student or staff member tests positive for COVID-19 because of fear for their well-being. While there have

been positive cases, there has not been transmission within the school buildings, which is reassuring. There is also stress because of competing opinions about the precautions being taken. To some degree, everyone is right, but as a school, it is important to keep everyone as safe as possible and take any necessary steps.

Responding to questions from Chair Huff, Mr. Carter said there has been some after-school remediation offered, but it has been stressful. The focus in McCracken County has been on the “long game” and coming back safely and cautiously in order to catch students up in the classroom with in-person instruction. Regarding special needs students, their ratio is very similar to that of the general population regarding use of in-person or virtual instruction. However, these approaches have been specialized to the individual needs of the student in order to get them the best access to the services they need.

Responding to questions from Senator Wilson, Mr. Carter said precise numbers for the cost of increased cleaning are difficult to know because there is still potential for federal reimbursements, which may be used to offset costs. McCracken County is fortunate financially, but he estimates about a 10 percent increase in regular cleaning supplies for staff. The district utilized CARES funds for up-front costs to upgrade facilities. While there were some savings from shutdown of facilities and reduced transportation costs in the spring, it is too early to know if those will offset increased cleaning costs this fall.

In response to questions from Senator Thomas, Mr. Carter said they are not currently requiring COVID-19 testing of staff. Also, the causes for decline in participation with non-traditional instruction (NTI) are varied but tend to be a lack of technical support (such as reliable internet) or a lack of parental support. There is a consistent need to practice empathy toward students who are not attending. There are students having to work to support their families and those whose parents have lost jobs, therefore losing the ability to provide basic needs at this time. Of the approximately 2,000 students in the district, there are approximately 70 students with whom the schools have had no contact. Truancy officers have been trying to find them, and plans are in place to get those students caught up when they are found. No one wants to leave any students behind regardless of the challenges.

Following those questions, Alvin Garrison, Superintendent, Covington Independent Schools, began his presentation with a brief overview of his district demographics. He said there has been a very equal split among families wanting to return in-person, virtual only, or utilizing a hybrid model. They have had excellent communication with local health officials. With their guidance, Covington Independent developed and implemented a five-week hybrid opening. This resulted in an AA group attending in-person Monday/Tuesday and a BB group attending in-person on Thursday/Friday. There is also a virtual academy for online only students. They are four

weeks into the five-week plan. There is a hope to get full in-person instruction for those that are not in the virtual academy, especially those that are in the pre-k and elementary age groups, which have experienced similar instructional “slide” as seen earlier for McCracken County. However, with local COVID-19 positivity rates on the rise, that will be a significant challenge.

Positive outcomes have been seen for computer and food distribution in the district. Covington Independent had already reached one-to-one distribution of Chromebooks to students in middle and high schools, but there is still a strong need to increase connectivity for elementary students. The city of Covington has been stepping up to provide free WiFi for the next five years to all residents, but the estimated completion date for that project will not be until after the start of 2021. As a result, the school has worked to issue hotspots so that all students have improved internet connectivity at home. Mr. Garrison wanted to especially recognize the outstanding work of the custodians, food service personnel, and school nurses who have worked tirelessly to keep kids safe, buildings clean, and ensure students are fed and healthy.

The politics surrounding COVID-19 have been very challenging because they complicate the effectiveness of strategies to get students and staff back safely. There are several students and staff having to quarantine but not necessarily because they tested positive. Temperature checks have been a challenge to implement because of difficulty getting equipment. All of the continued unknowns and growing impatience with the process has been a challenge and a barrier. Everyone wants to return to yesterday, and that is not a possibility right now. Other immediate challenges include the increased training for teachers in how to provide quality asynchronous and synchronous instruction, which will take time. Lastly, communication has been a huge obstacle, because everyone wants information and answers, which are just not available yet.

Mr. Garrison concluded stating some COVID-19 testing of staff has been administered voluntarily, but this is more as a reassurance for staff than a mandatory procedure. Tutoring is also going to be provided 24/7 for all students using a nationally recognized third-party program. This will be launched on Monday for the high school with hopes to expand to all schools soon.

In response to questions from Chair Huff, Mr. Garrison said that all teachers are reporting in-person daily unless they are under quarantine or have a health related exemption. As of the Monday before this meeting, one teacher had returned from out-of-state and had been on campus just prior to testing positive for COVID-19. This resulted in the high school being closed to in-person access for deep cleaning, and school instruction was held virtually using the virtual academy already in place. He also said that there have been no adjustments to pay scale for teachers

in quarantine thanks to existing legislative provisions and other measures that allowed the use of emergency sick leave for those teachers.

Responding to a question from Representative Banta, Mr. Garrison said they are using the tutoring company FEV Tutoring, which had references from large school districts across the country, including Baltimore schools. Their model takes into account different modes of learning for students with different learning styles and provides access to professional tutors any time the students need them. The program is being piloted at the high school with hopes to expand to all grades. They found that even with wonderful and engaged parents and students, there was a desire for increased professional support for those learning at home.

In response to a question from Senator Thomas, Mr. Garrison said there had been a combination of factors preventing participation in NTI. Lack of broadband or other internet access is a major problem in Covington, but also the computer cannot replace the social/emotional interaction of a teacher with a student. Parents are supportive, but for many it has been a while since they were in school. Also, there are parents who are working, either from home or outside the home, and extended relative caregivers are not equipped to teach like trained educators. Kids need the caring adult interaction that they get from in-person school instruction. That passion cannot be communicated on a computer screen. Many students who are not participating fully with NTI are students who are disengaged, especially those who are ELL or special needs.

The third presentation was from John Siler, Superintendent, Whitley County Schools. He said that since the beginning of the pandemic, the district has been seeing relatively high numbers of positive COVID-19 cases. As a result, they have not done any in-person instruction and are utilizing a 100 percent virtual learning method. In his district, very preliminary MAP test data is showing a significant gap in math for elementary school students. Gaps were also evident in kindergarten through 8th grade proficiency in math but less so in reading. All of the data has been gathered from students taking MAP tests, largely at home. Only those students without any internet access were brought into the school, practicing social distancing, in order to take their MAP tests.

All K-12 teachers were provided touch screen Chromebooks, and there is a one-to-one distribution of Chromebooks to students. Through talks with local health officials, they do plan to open an A/B rotation model for students to come back in-person as soon as possible. Teachers have been in-person to provide virtual instruction from their classrooms. All teachers were trained on Chromebooks, and orientation was provided for parents and guardians. They received strong, positive feedback from teachers regarding the virtual teaching platforms Screencastify and Zoom in collaboration with Google Classroom.

A significant challenge has been providing equity in supporting the different levels of access faced by students. This has led to offering three approaches: virtual only learning, in-person learning (when safe), and paper/flashdrive packets for some elementary students. These packets are created at the district level and allow for consistency across the district. Partnerships have also been formed between the district and Berea College to expand availability of hotspots for students. Barriers to that include the need for cell phone signals, which some students do not have even for hotspots to work properly. Meal distribution has also remained critical. All students currently have access to delivery of school lunch and breakfast.

Further challenges include the lack of qualified substitutes. Some of the best substitutes have been retired teachers. Understandably, many of these individuals do not wish to be in the schools due to exposure risk. While Whitley County Schools are not in-person at this time, this will be a problem if there are rises in positive cases and widespread quarantine of staff. Preliminary data shows that approximately 70 percent of families would prefer to come to in-person. There are approximately 307 homes, with approximately 559 students, without reliable internet resulting in approximately 5 to 16 percent of students accessing virtual learning through paper packets. Extending distribution of hotspots and other wireless technology will be critical to help reach these students. And finally, there is no substitute to being in the classroom and forming the relationship with a teacher who can guide and inspire students.

In response to a question from Senator Thomas, Mr. Siler said Whitley County Schools had not yet set a date for return to in-person instruction but hopes it will be soon. There will be no requirement for teachers or staff to test for COVID-19, but access to virtual clinics and school nurses will be provided. Additionally, use of temperature checks will be standard for all teachers, staff, and students when they return in-person.

Responding to questions from Senator Meredith, Mr. Siler said, with the University of the Cumberlands so close, they have often utilized the ability to recruit substitutes from university students training as teachers. However, if there are not enough substitutes, even with that partnership, entire schools may be placed on virtual instruction.

Senator Wise commented that he recognized the desire to go back to before, but perhaps it is best not to go back. Now might be the time to incorporate the positives and address the negatives of the current education landscape into construction of a new future for education. Waiting on a vaccine is going to take a while, and this pandemic has changed families. It will change education.

Representative Riley also commented that the lack of qualified substitute teachers has been a problem for a while but has been exacerbated by the pandemic.

### **From the School Bus to the Couch: How Dual Credit & Other Policies Can Help Break the Cycle for Students with Disabilities**

Judith Bradley, Director, JackBeNimble, and Jack Bradley, Inclusion Ambassador, JackBeNimble, were present to discuss the need for expanded access to dual credit classes for students with disabilities. Mr. Bradley said over 70 percent of disabilities are invisible, including autism, and often these students get overlooked. He reminded the committee that their potential cannot be assessed by just looking at them. Also, these students simply are not on the educational radar for many school districts. However, as October is National Disability Employment Awareness Month, he appreciated the committee allowing him to speak on behalf of his peers. While dual credit is promoted for all students, it is not explicitly provided for students with disabilities, even as it could provide much greater employment opportunities for them. As a sophomore in college, he is passionate about studying history, because if you don't understand it you are doomed to repeat it. His grandfather was a Holocaust survivor and spoke to governments all over the world. He also took student groups to the Holocaust Museum. When Jack learned of the atrocities committed during that period, he learned he would have been executed, not because he was Jewish, but because he has a disability. Learning has been a long and difficult road for him. Personalized learning should be the norm, not only for the disabled, but for all students. He supports passage of legislation that helps other students with disabilities get access to learning that best helps them succeed. Students with these invisible disabilities are wired differently, but that does not mean they are not trying their best and are capable of success.

Mr. Bradley said the Kraft Academy initially denied him access unless he 'gave up' on his IEP and disability accommodations. He credits his mother for all her support and 'nagging' to get him where he is today. Ms. Bradley also thanked the committee for their support of students with disabilities and the recent House Concurrent Resolution calling for expanded opportunities for students with disabilities. The direction of education to provide personalized learning for all students is very welcome, but 30 percent of students with disabilities are disengaged one year out from high school. This will only worsen as a result of the pandemic. This is especially damaging for students with particular disabilities, such as autism. Transition to college is especially helped by participation in dual credit education for students with IEPs. Also helped by the attainment of postsecondary education is the employability and reduction in pay gap for individuals with disabilities. Not only does it improve their quality of life, but it helps them contribute more fully to society through taxes and reduced reliance on welfare programs.

Expectations and academic environment also make a huge difference on the success of students with disabilities. Participation in general education and dual credit education allows them to "hold their

own" and often successfully complete the courses. But Ms. Bradley said there is an uneven application of the term dual credit and its definition. This poses a concern when there is also a difference in expectations for students with disabilities compared to their neurotypical peers. Barriers do exist to the success of these students, least of which is the lowered expectations for their success. We need to look at this opportunity to change how we address students with disabilities and get them on the radar of school counselors and policy makers.

Chair Huff thanked the Bradleys for their presentation and said hopefully there would be more time in the future to further address this issue.

### **Kentucky School Nurse Initiative: Every School Needs a Nurse All Day Every Day**

Gannon Tagher, pediatric nurse practitioner, Kentucky Nurses Association School Nurse Task Force, came forward to present the Kentucky School Nurse Initiative to the committee. She began by asking, "If there was something that could keep our kids healthy, would we do it?" School nurses give students the ability to succeed because students do better academically when they are healthy. Healthy children build healthy communities. Schools are second only to homes in their influence on children. And those schools with nurses have better student outcomes physically, academically, and psychosocially. Unfortunately, the state of school health in Kentucky is poor. Kentucky is in the bottom 10 states for children's health in many categories including physical health, mental health, diabetes, oral health, obesity, and substance abuse. Additionally, from 2016 to 2019 the rate of uninsured children increased by 29 percent. Also, this is pre-COVID-19 data so it is unclear the long term impact the pandemic will have on these metrics.

There are many schools in the Commonwealth that have school nurses; however, there are great disparities in how these nurses are utilized. Some schools have a full-time nurse, but others have part-time nurses or share a nurse among several schools throughout a district. The National Association of School Nurses has recommended one school nurse for every 750 students. In Kentucky, 43 percent of schools do not meet this ratio. Other organizations, such as the American Academy of Pediatrics, also support increased hiring of school nurses. They opined that when schools have a nurse in them, it improves individual and population health, as well as reducing the use of emergency medicine and increasing keeping students in their medical home for preventative care. School nurses also support the social determinants of health. Students in schools with school nurses have decreased food insecurity, increased access to care, increased reading skills at 4th grade, reduced exposure to violence, and increased positive communications with parents at home.

Adverse childhood events, those that lead to childhood trauma, are also reduced when school nurses are in schools to recognize early warning signs and get students the supports they need. Superintendents

are in support of increased numbers of school nurses. And in the current climate of concern around school safety, it is important to not just prevent violence, but also reduce exposure to life-threatening emergencies such as those posed by food allergies and diabetes. With the ongoing pandemic, the need for safety provided by school nurses is only magnified. School nurses serve as a resource to parents, teachers, and students. They perform tests, assist in delivery of food and medications, and assist in answering questions regarding health care plans and IEP plans. Safe return to in-person instruction is greatly benefited by consultation with a school nurse poised to understand the local community and needs of the schools they serve.

Implementation of trauma-informed care is critical to preventing future school shooting tragedies, as was recognized by this committee following the Marshall County school shooting. School nurses are a critical part of the teams to implement that care in schools. All of this combines to result in the current initiative of the Kentucky Nurses Association School Nurse Task Force, which is to encourage that every school have a school nurse, all day, every day. Anecdotally, Ms. Tagher said she has had pediatricians tell her they always know when a patient/student has been referred by a school nurse versus other school staff. Generally, those seen by staff did not need to be out of school, because they were not truly in need of urgent medical care.

Funding for school nurses is clearly a concern, and Ms. Tagher discussed several pathways that school districts may be able to use. One is through the expansion of Medicaid billing for students receiving medically necessary services provided by school nurses. Partnerships with local health departments and hospitals may also be an option, where the school nurse would be employed by the local health agency but then housed in the school building. This option is used by some schools already. To provide an example of the costs of hiring a school nurse, Ms. Tagher said if one assumes an annual salary and benefits package of \$52,406 for a 43-week school year, it would cost approximately \$65 million, or \$96 per student, to fund a school nurse in every school, all day, every day.

Ms. Tagher concluded her presentation saying the Kentucky Nurses Association School Nurse Task Force was proposing a pilot project requiring a \$3 million allocation in the upcoming state budget to hire 56 school nurses in the highest need districts in all regions of the Commonwealth. They would then gather data on the impacts of adding nurses to these schools. Children are often victims of their circumstances, but those are circumstances children have not chosen. It is up to us to help mitigate these circumstances as much as possible by keeping our children safe and healthy. This will ensure the health of the state as well and allow teachers to do what they need to do to educate students to their full potential.

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

next meeting of the committee will be November 12, 2020.

## **INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 28, 2020

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

The 5th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, October 28, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Tom Buford, Danny Carroll, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Morgan McGarvey, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Tina Bojanowski, Adam Bowling, George Brown Jr, Tom Burch, Deanna Frazier, Robert Goforth, Scott Lewis, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Steve Sheldon, Cherlynn Stevenson, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Eric Friedlander, Secretary, Carrie Banahan, Deputy Secretary, Cabinet for Health and Family Services; Dr. Steven Stack, Physician Commissioner, Department for Public Health Cabinet for Health and Family Services; Bob Babbage, Rebecca Hartsough, Ph.D., Policy Director, Babbage Cofounder; Julie Babbage, National Executive Director, Diabetes Patient Advocacy Coalition, Babbage Cofounder; Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Jennifer Harp, Executive Director, Office of Application Technology Services, Jonathan Scott, Executive Advisor, Department for Medicaid Services, Cabinet for Health and Family Services; and Morgan G. Ransdell, General Counsel, Kentucky Board of Nursing.

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

#### **Approval of Minutes**

A motion to approve the minutes of the September 23, 2020 meeting was made by Representative Bowling, seconded by Senator Alvarado, and approved by voice vote.

#### **The kynect Relaunch**

Eric Friedlander, Secretary, Cabinet for Health and Family Services (CHFS), stated that kynect Self Service Portal (SSP) portal was launched on October 5, 2020. The SSP provides one common platform to access kynect benefits, kynect resources, and kynect health coverage. The previous benefits portion was called Benefind and the previous resources program

was called Backyard. The redesigned look increased access to all areas and allowed for a new mobile design. The state based exchange was not included in the design of the new kynect SSP. In the SSP, citizens can input their information to get assistance and a better understanding of what benefits are available to them. Members can track their application progress on the SSP. He listed different benefit programs related to food assistance, financial assistance, health assistance, child care assistance and premium assistance. CHFS is hoping to add more programs as the SSP expands.

Secretary Friedlander stated that through the Kentucky Health Benefit Exchange (KHBE), qualified health plans (QHP) may qualify for advance premium tax credits (APTC) and cost sharing reductions. The kynector assistance is provided to guide members to the right coverage. There has been a 50 percent increase of intakes and a 112 percent increase in document uploads from kynect benefits in comparison to the Benefind daily average in 2020. There were 157,000 users that visited the kynect benefits in the first 2 weeks of the kynect relaunch. There have been over 129,000 logins into kynect benefits. CHFS is partnering with United Way of Kentucky to provide the information for the resource guide across the state. He shared a timeline of events for the kynect relaunch.

Carrie Banahan, Deputy Secretary, Cabinet for Health and Family Services, stated that the key stakeholders and users are residents, community partners, the Department for Community Based Services staff, Kentucky Career Centers, and the kynectors. She explained how each group works with or for the kynect relaunch. She shared an example provided by the state's integrated eligibility and enrollment system. The example gave a holistic view of a resident's situation with notes from community partners that can be shared with other community partners.

In response to questions and comments from Representative Moser, Secretary Friedlander stated that CHFS has an open enrollment period set to begin on November 2, 2020. CHFS reviewed the options and will comply with Judge Shepherd's order and proceed with the enrollment. The open enrollment will proceed with all six managed care organizations (MCOs). CHFS disagrees with the judge's order but his emphasis on continuity of care and no disruption of the marketplace is well placed. CHFS is seeing a higher enrollment in Medicaid. The Federal Medicaid Assistance Percentage (FMAP) was a 7.6 percent increase, given to states for such a time when eligibility numbers would increase. With the FMAP extension through March 2021, CHFS is good with the eligibility increase in Medicaid. Presumptive eligibility is normally limited to hospitals, FQHCs, pregnant women, and specific entities. CHFS believes the vast majority that have enrolled with presumptive eligibility are eligible for Medicaid services. CHFS has extended presumptive eligibility into nursing facilities, to shorten the time frame for acceptance to ease the financial difficulties during the pandemic.

If someone has insurance, they cannot be eligible for Medicaid and will be disqualified. He stated that CHFS does not have enough time to prepare a new RFP and have a proper open enrollment period.

Ms. Banahan stated that there is no federal funding for the state-based exchange changes and it will cost \$5 million. The Kentucky Access Assessment is used to fund the state based exchange on a federal platform and any funds remaining from the Medicaid program are used to fund the Kentucky Health Information Exchange. Secretary Friedlander stated that the Kentucky Health Benefit Exchange, Medicaid administration, and the Kentucky Health Information Exchange will be funded by the Kentucky Access Assessment funds from the insurers.

In response to comments and questions from Senator Alvarado, Secretary Friedlander stated that with presumptive eligibility, CHFS deems someone eligible for Medicaid until CHFS finds out that they are not eligible. He stated that a person would have to repay funds to Medicaid if they already had insurance and did not disclose that to CHFS. He stated that part of the kynect relaunch was funded under the previous administration, particularly the resources, the benefits, and the SSP. He stated that when Benefind was rolled out it was too complex for users and workers. The new SSP will allow easier, mobile access to upload documents. The kynect marketing campaign which is spread across programs will cost \$3 million. He stated that he believes that as the pandemic ends, CHFS will see a significant return on investment in terms of the workforce and the amount of time spent by individuals engaging directly with office staff.

Secretary Friedlander stated that there will be six MCOs contracted with CHFS. He stated that CHFS disagrees with Judge Shepherd's order but proceeding with the open enrollment because CHFS is under a time constraint. CHFS believes that it will be able to fulfill the terms of the contracts for Molina Healthcare, United Healthcare, and Anthem. Secretary Friedlander stated that he does not have an opinion regarding Emily Parento or Molina Healthcare violating the law in the code of ethics.

In response to comments and questions from Senator Meredith, Secretary Friedlander stated that CHFS will reach decisions as the case is processed through the court system. He stated that the plan is for the MCOs' contracts to be multiple year contracts. CHFS is concerned with stability in the marketplace and continuity of care. He stated that five of the MCOs' contracts have been signed for multiple years.

In response to questions and comments from Representative Bowling, Ms. Banahan stated that CHFS has contracted and non-contracted kynectors. There are three organizations that have a contract with CHFS and those organizations employ 93 individuals. There are 331 non-contracted kynectors who are navigators and certified application counselors employed by hospitals, federally qualified health centers, healthcare providers, and social services agencies. The non-contracted kynectors do

not receive funding from CHFS. All kynectors are required to complete system, policy, privacy, and security, and on-demand trainings. She stated that the funding stream for contracted kynectors is from the Medicaid program and the Kentucky Health Benefit Exchange.

In response to questions and comments from Representative Bojanowski, Secretary Friedlander stated that CHFS wants to provide more opportunities for access to services on kynect. However, CHFS will begin with services within CHFS. As CHFS moves forward, the Cabinet will review what other systems or opportunities outside of CHFS are feasible. Ms. Banahan stated that advance premium tax credits, which lower monthly premiums, are available for individuals to purchase health insurance if their income is between 138 percent and 400 percent of the federal poverty level (FPL). If their income exceeds that level then they are not eligible for a tax credit to help with the premium cost.

In response to questions and comments from Representative Bentley, Secretary Friedlander stated that all six MCOs will be involved with 2020 Regular Session Senate Bill 50 requirements. He stated that the timeline from 2013 to 2020 in the presentation shows the progression of different technology upgrades. Ms. Banahan stated that in 2013, CHFS implemented the kynect program and used the system as a platform to build Benefind. In 2016, CHFS implemented an integrated eligibility enrollment system for all programs. Benefind was implemented in February of 2016.

In response to questions and comments from Representative Willner, Secretary Friedlander confirmed the state share for the Medicaid expansion is 10 percent and that the federal government pays the remaining 90 percent.

#### **COVID-19 Vaccine**

Dr. Steven Stack, Physician Commissioner, Department for Public Health (DPH), Cabinet for Health and Family Services, stated that McKesson was announced as the federal COVID-19 vaccine distributor on Aug. 14, 2020. On September 16, 2020, the Centers for Disease Control and Prevention (CDC) released the Vaccination Program Interim Playbook containing guidelines for states to create their own state-based distribution plans. Each state was asked to submit its plan within 30 days. The first draft of the Kentucky vaccination plan was submitted to the CDC on Oct. 16, 2020. The federal government announced partnerships with CVS and Walgreens for long-term care facilities. He stated that it is not likely that any state will have access to the vaccine until early or mid-December 2020. The vaccines have unprecedented challenges, particularly with storage and handling. The earliest vaccines will include one that must be stored at -80 degrees Celsius or -114 Fahrenheit.

Dr. Stack stated that some vaccines require extreme storage conditions will require elegant distribution systems. The vaccines will be supplied in vials of 100 doses or 1,000 doses. Some vaccines will

only be good for six hours once the vaccine vial has been accessed. Kentucky will rely on large healthcare entities and providers such as hospitals, pharmacies, and clinics to deliver the vaccine. Providers must sign a COVID-19 provider agreement. Vaccine providers must be connected to the Kentucky Immunization Registry (KYIR) and Kentucky Health Information Exchange (KHIE) to order, receive, and document the administration of the vaccine. KYIR is connected to the CDC software platform for ordering, tracking, and documenting doses. CHFS will have visibility of all vaccine doses shipped into the state and where they are administered. McKesson, a wholesale pharmaceutical distributor, will direct ship vaccines to enrolled vaccination providers. He shared a diagram from the CDC that displays the multiple critical components to the vaccine implementation. He stated that as the volume of the vaccine doses increases, the DPH will be able to vaccinate broader populations. He shared a four phase distribution chart of who will be given the vaccine with first doses going to high-risk health workers, first responders, people with underlying health conditions, and older adults living in congregated settings.

Dr. Stack stated that the CDC has a complex, established process for evaluating vaccines. Vaccines are safe in the United States and people should have confidence in the vaccines. Once the Food and Drug Administration (FDA) approves a vaccine for use, the vaccine will quickly be reviewed by the Advisory Committee and Immunization Practices (ACIP). All states will review the ACIP recommendations and align those with each state's distribution plan. He shared a chart of the vaccine developmental life cycle with safety as a top priority during each phase and cycle. Vaccine manufacturers will submit Emergency Use Authorization (EUA) applications to the FDA when there is sufficient data. He stated that multiple vaccine candidates are in phase three trials. He shared a diagram that lists various COVID-19 vaccine manufacturers that are in the human clinical trial phase in the United States.

In response to comments and questions from Representative Moser, Dr. Stack stated that the implementation of the vaccine delivery is a multiple stakeholder collaboration across nonprofit organizations and others in the state. He considers the statewide assessment survey as typical immunity surveillance and information seeking. It is important to be sensitive to the concerns, anxieties, and uncertainties that people have regarding the vaccine. DPH plans to address people's concerns, offer information in relatable, understandable ways, and allow people to make their own informed choice regarding the vaccine.

In response to comments and questions from Representative Tate, Dr. Stack stated that the federal government is directly contracting with commercial chain pharmacies regarding the COVID-19 vaccine. DPH was told via federal government webinars that health departments would not need to purchase

-80 degree Celsius freezers and other equipment. He stated that it is DPH's intention to partner and support the local health departments. He is in regular communication with the local health departments but that does not guarantee that everyone has the same information. The Coronavirus Aid, Relief, and Economic Security (CARES) Act funding expires December 30, 2020. The absence of additional resources from the federal government to help at the beginning of the year will make it difficult for every state to navigate the transitions regarding the vaccine roll-out. He stated that it is DPH's intention to support all 60 health departments.

In response to comments and questions from Representative Webber, Dr. Stack stated that DPH has not discussed mandating the vaccine but DPH hopes to make the COVID-19 vaccine available to everyone who can potentially benefit from it. DPH wants to assure the public that the COVID-19 vaccine is safe. He stated that DPH wants the public to get back to regular activities and if it is proved that the COVID-19 vaccine provides immunity then other measures, such as social distancing and masking, could be relaxed.

In response to comments and questions from Representative Burch, Dr. Stack stated that it will take all of 2021 to get through all of Phase Three of the COVID-19 vaccine implementation. There will be individuals who do not want to take the vaccine early, it will be their choice but those individuals may then not be able to get a vaccine until Phase Four. It is a massive, logistical challenge with approximately 334 million people in the United States and all but one of the vaccines requires two doses.

In response to comments and questions from Representative Bowling, Dr. Stack stated that in Phase 1 and most of Phase 2, hospitals and retail pharmacies will have the COVID-19 vaccine. The requirements for the CDC to allow a provider to receive shipments of the COVID-19 vaccine are very strict. If all doses of the COVID-19 vaccine given are not reported every day on a daily basis, the provider will no longer receive COVID-19 vaccine doses going forward. The COVID-19 vaccine vials come in large doses. He stated that the requirements for receiving, documenting, handling, and administering the COVID-19 vaccine will not be things regular doctors' offices or clinics will be able to meet early on in the process. Many of the larger hospitals in Kentucky are signed up and ready for COVID-19 vaccine to be distributed. The logistic side of the federal government is telling states to be ready to receive COVID-19 vaccines on November 15, 2020, even before the COVID-19 vaccine is available to be distributed.

In response to comments and questions from Representative Willner, Dr. Stack stated that with most vaccine processes, the public is not aware of the stages of implementation and the federal government has never moved as quickly on a vaccine development. More public attention has been drawn to the vaccination approval process because of the

speed to approval. Many parts of the process are happening at the same time that previously may have happened sequentially. Plans for distribution will have to be modified when complete distribution details are released.

In response to comments and questions from Representative Gibbons Prunty, Dr. Stack stated that the administration fees for vaccines are already established by Medicare, Medicaid, and private insurers. Providers will have to collect insurance information and bill for the fee. There will be a vaccine registry that will be a validating step to show that a real person received a vaccine dose.

### **Obesity, Diabetes, and COVID-19 - Three Epidemics Converge**

Bob Babbage, Babbage Cofounder, stated that COVID-19 does not cause obesity or diabetes and that obesity or diabetes does not cause COVID-19 but the converging of these conditions is proving to be more deadly than imagined. Rebecca Hartsough, Ph.D., Policy Director, Babbage Cofounder, stated that in May, New York doctors began noticing the elevated risks associated with obesity. Obese individuals had a 46 percent increased risk of testing positive for COVID-19. People with a body mass index (BMI) greater than 30 are at a greater risk of contracting the virus, being hospitalized, needing intensive care, and dying. Obesity is associated with hyper inflammation and shortness of breath, making immune responses more difficult. Coronavirus enters the body through an enzyme found in cells that line the lungs and fat tissue. The virus has an easier job replicating itself in patients with obesity because there are more targets. In multiple studies, immune cells examined from 30-year-old people with obesity looked like immune cells found in 80-year-old people.

Julie Babbage, National Executive Director, Diabetes Patient Advocacy Coalition, stated that approximately 107 million people, over 42 percent, of the United States' adult population is obese. She stated that chronic conditions put people at greater risk of illness and death. Kentucky has a significant population that falls into the obese category. In August, the CDC expanded its definition of elevated risk for severe COVID-19 to include individuals with a BMI greater than 25. This expansion means that up to 72 percent of all Americans are at high risk of severe COVID-19 outcomes. She stated that 37 percent of Kentucky adults are obese. Kentucky ranks number one in the United States for childhood obesity. Kentucky Diabetes Ranking is the fifth worst nationally. Since 1990, obesity in Kentucky increased over 200 percent. Since 2000, diagnosed diabetes in Kentucky doubled. The medical costs for people who have obesity is 42 percent higher than those of normal weight. During the pandemic, chronic diseases have the potential to gain new attention.

Mr. Babbage stated that Medicare and Medicaid do not allow adequate access for anti-obesity medications that can help individuals lose body weight. Individuals on Medicare and Medicaid may

have some access to nutritional counseling or bariatric surgery but not the medications that may help to avoid the surgery. Weight loss medications must be tied to another condition and deemed necessary by the doctor to be covered by Medicaid. Medicare Part D was created in 2003 when the drugs and treatments had not been created to treat and reduce obesity. He stated that to add the drugs and treatments for obesity into the Part D program would make a tremendous difference in the cost of human suffering. There are also other treatments in process that seem promising to help fight against obesity.

### **Consideration of Referred Administrative Regulations**

The following referred administrative regulation with amendments was placed on the agenda for consideration: **201 KAR 020:065 Proposed** - Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder (Deferred from 09/23/2020). A motion to accept the referred administrative regulation with amendments was made by Senator Alvarado, seconded by Representative Bowling, and approved with no objection.

The following referred administrative regulations were placed on the agenda for consideration: **907 KAR 001:604 Proposed and Emergency** - Recipient cost-sharing. Comments and concerns regarding the regulation were made by Senator Alvarado. Jonathan Scott, Executive Advisor, Department for Medicaid Services, Cabinet for Health and Family Services and Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, testified in regards to the regulations. A motion to defer the administrative regulations were made by Senator Alvarado and seconded by Representative Gibbons Prunty, and accepted without objection. The administrative regulations **907 KAR 001:604 Proposed and Emergency** were deferred.

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 025:011 Proposed** - Approved schools; licensure application; fees; **201 KAR 025:021 Proposed** - Annual renewal notice for licenses, fees; **201 KAR 025:031 Proposed** - Continuing education; **201 KAR 032:110 Proposed** - Telehealth; **201 KAR 032:110 Emergency** - Telehealth; **201 KAR 046:010 Proposed** - Definitions for 201 KAR Chapter 46; **201 KAR 046:035 Proposed** - Practice standards, scopes of practice, and ethical standards; **201 KAR 046:040 Proposed** - Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses; **201 KAR 046:050 Proposed** - Provisional training license for medical imaging technologists and radiation therapists; **201 KAR 046:060 Proposed** - Continuing education requirements; **201 KAR 046:070 Proposed** - Violations and enforcement; **201 KAR 046:081 Proposed** - Limited X-ray machine

operator; **201 KAR 046:100 Proposed** - Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund; **900 KAR 005:020 Proposed** - State Health Plan for facilities and services; **902 KAR 004:140 Emergency** - Enhanced HANDS services in response to declared national or state public health emergency; **902 KAR 030:010 Emergency** - Enhanced early intervention services in response to a declared national or state public health emergency; **922 KAR 006:010 Proposed** - Standards for community action agencies; **922 KAR 006:010 Emergency** - Standards for community action agencies; and **922 KAR 008:010 Proposed** - Standards for rape crisis centers. The administrative regulations were reviewed.

### **Adjournment**

There being no further business, the meeting was adjourned at 3:08 PM.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 22, 2020

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

The 5th meeting of the Interim Joint Committee on Judiciary was held on Thursday, October 22, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Alice Forgy Kerr, Gerald A. Neal, Michael J. Nemes, John Schickel, Wil Schroder, Robert Stivers II, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Charles Booker, Kevin D. Bratcher, McKenzie Cantrell, Daniel Elliott, Joseph M. Fischer, Angie Hatton, Nima Kulkarni, Stan Lee, Derek Lewis, Savannah Maddox, C. Ed Massey, Chad McCoy, Reginald Meeks, Patti Minter, Kimberly Poore Moser, Jason Nemes, Brandon Reed, Maria Sorolis, and Rob Wiederstein.

Guests: Treasurer Allison Ball, Noah Friend, and Owen Fielding.

LRC Staff: Katie Comstock and Yvonne Beghtol.

#### **Approval of the Minutes**

Senator Nemes made a motion to approve the September 17, 2020 minutes, seconded by Representative Blanton, and passed by voice vote.

#### **Accountability for State Expenditures During the Pandemic**

Allison Ball, Kentucky State Treasurer, stated that her job is to insure that state expenditures are constitutional, legal, and correct. The Kentucky Supreme Court has held that the Treasurer may question the validity of an expenditure based on the ground that it violates the Constitution. Treasurer Ball stated that she took an oath to uphold the constitutions of the

United States and the Commonwealth of Kentucky. The U.S. Constitution has strong first amendment protections, and the Kentucky Constitution has even stronger free exercise of religion, freedom of speech, and freedom of assembly protections. Treasurer Ball said that state unconstitutional expenditures have been made infringing the free exercise of religion and the freedom of assembly. Federal courts have been clear in their holdings that the Governor's Executive Order has violated the constitution. The declaring of a state of emergency does not warrant unconstitutional actions.

Treasurer Ball stated that her office's review showed police officers being sent to the Maryville Baptist Church to provide notice to churchgoers and to stop church activity. Federal court filings led the Treasurer's Office to investigate. Open records requests were sent out in mid-June 2020 to geographically diverse areas to determine if this practice was widespread. Responses received by September 2020 revealed that police officers being put in a position to either obey the Governor or follow the Constitution was a widespread problem.

The three categories of findings include: statewide directives, specific interactions with the Governor's administration and local county officials, and the coordinated efforts and responses to the Governor's directives.

The statewide directives include the Governor's initial order on March 19, 2020 banning all mass gatherings sent to Kentucky State Police (KSP) and local health departments. KSP Commissioner Rodney Brewer sent an email to KSP officials with a flyer from the Governor's Office via the local health departments, directed at churches expected to be non-compliant, to be placed on the windshields of vehicles in church parking lots. The notice stated that failure to comply may result in further enforcement measures, and would be subject to Open Records. The email also included a list of churches to be monitored by at least two uniformed officers. A "Church Protocol" document was circulated to all Sheriffs and many local health officials listing possible offenses non-compliant church officials could be charged with. The document also noted this could be a first amendment issue and any action taken could have significant potential to result in litigation, as well as the potential for the need for force, although a very low potential.

Specific communications with the Governor's administration include:

Contacting at least two County Judge/Executives about non-compliant churches within their counties;

Documentation from the health department to Dr. Steven Stack, Commissioner for the Kentucky Department for Public Health, discussing a church that intended to continue with services but limiting the number of people to maintain safe distancing;

Commissioner Brewer sent a report to La Tasha Buckner, Chief of Staff and General Counsel to the Governor, with the results of church surveillance from Easter Sunday;

Wesley Duke, General Counsel for the Cabinet for Health and Family Services, received a list containing license plate numbers of churchgoers; and

Emails exchanged between Dr. Stack, Wesley Duke, and Kelly Alexander, Chief of Staff for the Department of Public Health, regarding the Maryville Baptist Church.

Treasurer Ball stated that these communications confirm that the Governor's closest advisors were acting in furtherance of these unconstitutional orders. The coordinated efforts to follow the Governor's directives involve law enforcement being assigned to conduct surveillance and distribute notice of possible violations, as well as interaction and coordinated efforts with health departments and law enforcement. Treasurer Ball mentioned that correspondence discussing church gatherings would receive a quick response, but no action was taken when a large business reported employees with flu-like symptoms. Treasurer Ball noted that requesting law enforcement to monitor and give notices on Sundays results in overtime pay and comp time. One county indicated that it would probably need law enforcement assistance in closing a church that had been having a service. Treasurer Ball stated that she received an email stating how difficult it was to enforce the Governor's mandatory closings, and the reply from the health department stating that their issues are with churches.

Treasurer Ball stated that the funding of these directives involves KSP salaries and funding to local health departments, and it would be almost impossible to determine what specific part of their salary was used to do something unconstitutional.

Treasurer Ball stated that this information is helpful to legislators in making reforms to KRS Chapter 39A regarding freedom of religion, freedom of speech, and freedom to assemble. The information is important for constituents to be able to hold elected officials accountable. Treasurer Ball also stated that Governor Beshear stated in his filings against the Maryville Baptist Church that he wanted the federal courts to restore his leeway in this area.

In response to Representative Bratcher, Treasurer Ball stated that she did not see anything from the Governor's Office indicating similar treatment towards protestors, but there was a directive stating that there was to be no enforcement of the Governor's orders against protestors.

In response to Representative Maddox, Treasurer Ball clarified that it was a local health department member who stated in an email that "no one feels comfortable crossing that religion line". Representative Maddox agreed that reforms to KRS Chapter 39A needs to be considered due to the unequal

application of laws to different groups.

In response to Representative Sorolis, Treasurer Ball clarified that the Supreme Court did not declare that a state can limit in-person gatherings of church members. This does not cause a disagreement between the Kentucky Constitution and the US Constitution. Treasurer Ball indicated that a crisis situation does not impact the constitutionality of behavior.

In response to Representative Hatton, Treasurer Ball explained that it would be incredibly difficult to go through each KSP officer's and health department employee's salary to determine what portion was used for an unconstitutional action. Treasurer Ball reiterated that her job is to ensure that expenditures are constitutional, legal, and correct. Regardless of the amount, she is informing the committee that an unconstitutional expenditure occurred so that they can consider how to deal with it legislatively. The delay of this report is due to the information not being received until September 2020.

Senator Wheeler stated that the pandemic has confirmed that some leaders in this country want to decide what speech is appropriate or inappropriate. People were not allowed to hold religious gatherings, yet protestors were not kept from gathering and caused massive damage. Religious organizations not being allowed to gather has caused a spiritual desolation throughout our society.

In response to Representative Massey, Treasurer Ball stated that there has been no communication from the Governor's Office to the Office of the Kentucky State Treasurer.

In response to Senator Carroll, Treasurer Ball clarified that her report spans from March 1, 2020 to June 15, 2020. The bulk being before any federal court cases were decided.

In response to Representative Kulkarni, Noah Friend, General Counsel of the Kentucky State Treasurer's Office, stated that he would try to formulate figures indicating how many hours the Treasurer's Office spent on investigating and preparing this report. Secretary Ball advised that her testimony did not require a document presentation, but she felt it would be helpful for the members to have a report. She also clarified that the intention of this investigation was to confirm whether or not this unconstitutional activity was widespread or limited, not to come up with an amount on the spending.

Senator Neal commented that we need to join together in these times to protect the citizens of the Commonwealth and not try to pull each other down.

In response to Representative Cantrell, Secretary Ball stated that her job is to verify that all state expenditures do not violate the constitution.

In response to Senator Nemes, Mr. Friend advised that the list of license plates of church attendees was forwarded to the local health department, KSP, the Cabinet for Health and Family Services, and the health departments of any other county where a church member lives. Treasurer Ball added that the list is subject to public records, so the public can

request it.

In response to President Stivers, Treasurer Ball confirmed that she took an oath to uphold the constitution. Mr. Friend provided a brief overview of the cases brought against the Governor and their current status. The case filed by the Tabernacle Baptist Church is closed, due to an agreed order by the Governor stating that a suit could be brought again if the Governor attempts to violate the order. Treasurer Ball confirmed that the notices placed on churchgoer cars declared that their actions could result in one year of jail and a \$500 fine, a Class A misdemeanor. President Stivers mentioned that if the court's decision was that this action against church worshipers is wrong, then the people need to admit that it is wrong.

Chairman Westerfield commented that constitutional rights need to be protected, and should not be based on cost, and that this report will be useful when considering changes to KRS Chapter 39A during the upcoming session.

#### **NET Recovery Treatment**

Chairman Westerfield stated that he watched a documentary entitled "The Final Fix" about addicts in Kentucky being treated with NeuroElectric Therapy (NET) by the Isaiah House. As such, he reached out to NET to present to the committee.

Owen Fielding, Operations Manager for NET Recovery Corporation, commended Kentucky for supporting non-profit enterprises such as the Isaiah House in treating those with substance use disorders (SUD). Mr. Fielding stated that NET Recovery Corp is a U.S. company that developed NET as a non-medication monotherapy which attenuates withdrawal symptoms and cravings during opioid discontinuation and shows improved rates of relapse prevention. The technology was discovered in the 1970s by Doctor Margaret Patterson. The neuro-stimulation is delivered across the skull, applied to the skin and is noninvasive, using the company's NET Model 90 stimulator device. It is powered by a 9V battery and connected to adhesive electrode pads behind each ear for a 5-day treatment. Programming capabilities, patient management, and client support are provided through the company's software application, NETVue. NET works by accelerating the rate in which the body restores depressed neurotransmitter production, which gets disrupted during the addiction cycle. NET removes long-term cravings, enabling patients to be more successful with recovery. Patient studies in Kentucky show patients from two and half years ago continue to be drug-free, are employed, and paying rent. Wayne State University completed 26 studies comparing NET with 38 different medications used for inpatient opioid discontinuation. Results concluded that NET is a promising approach that merits prospective, randomized, sham-controlled efficacy studies for opioid discontinuation and relapse prevention. Mr. Fielding reviewed the success of over 250 Kentuckians, from 2011 to 2016, who received a 5-day treatment at the Isaiah House. "The Final

Fix" documentary covers the Subjective Opiate Withdrawal Scale that measures the reduction of withdrawal symptoms. "The Final Fix" was filmed at the Isaiah House in Willisburg, Kentucky in 2018 and is available on Amazon Prime.

Mr. Fielding believes that using NET reduces pressure on drug courts and county jails by giving treatment to individuals with SUDs, improving relapse prevention, and reducing reoffending behavior. However, NET can only be used in the U.S. as an investigational device until FDA clearance is granted. Mr. Fielding noted that Kentucky could work with a university to design and lead a study of individuals with co-occurring substance misuse disorder and offending behavior, measuring long-term relapse prevention rates and the reduction in offending behavior. The cost of the study would depend on the size of the study group and could cost up to \$2,000,000. In comparison, Methadone costs \$600 per month for a five year treatment, whereas NET is a onetime treatment that costs less than one years' worth of Methadone. While on Methadone a patient may not be able to work or drive, but a NET patient would be cognitively aware and engaged in 5 days.

In response to Representative Moser, Mr. Fielding clarified that The Bridge is minimally invasive, using needles, whereas NET is non-invasive. In addition, The Bridge is not a drug discontinuation device. It "bridges" a patient from opioids to a medicated treatment. NET is not on the commercial market, but the cost would be less than a methadone prescription.

Chairman Westerfield commented that it is good to be skeptical and to research, but you have to be open to new possibilities, and he encouraged members to watch "The Final Fix" on Amazon Prime to gather more information about NET.

There being no further business, the meeting adjourned at 12:05 PM.

## **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 27, 2020

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

The 5th meeting of the Interim Joint Committee on Local Government was held on Tuesday, October 27, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Stan Humphries, Christian McDaniel, Morgan McGarvey, Robby Mills, Michael J. Nemes, Damon Thayer, and Johnny Ray Turner; Representatives Danny Bentley, Randy Bridges, George Brown Jr, Jeffery Donohue, Deanna Frazier, Joe Graviss, Cluster Howard, Regina

Huff, Kim King, Adam Koenig, Jerry T. Miller, Brandon Reed, John Sims Jr, and Ashley Tackett Laferty.

Guests: Tammy Vernon and Bill Pauley, Department for Local Government; and Michael Kurtsinger and Chuck Bonta, Kentucky Fire Commission.

LRC Staff: Mark Mitchell, John Ryan, and Cheryl Walters.

#### **Approval of Minutes**

Upon the motion of Representative Reed, seconded by Senator Alvarado, the minutes from the September 22, 2020 meeting were approved.

### **Special Purpose Governmental Entity Reports and Technology Update**

Representative Meredith stated that HB 1 required Special Purpose Governmental Entities (SPGEs) to submit financial reports to the Department for Local Government (DLG).

Ms. Tammy Vernon, Cities and Special Districts (CSD) Branch Manager with the DLG, said that SPGEs are independent political subdivisions of the state which are government entities that exercise less than statewide jurisdiction and are organized for the purpose of performing specific services within limited boundaries.

DLG's responsibility per KRS Chapter 65A is to create and maintain an online central registry, reporting portal, and public access portal, and to monitor compliance by tracking status changes when notified, preparing statutorily required reports, and activating noncompliance procedures.

Ms. Vernon explained the SPGE 2020 timeline documenting changes to the system as well as normal events and duties, which occur February through December. Regarding the implementation of the new system, in September 2020, DLG and the Commonwealth Office of Technology (COT) entered into a Statement of Work Agreement to build the new SPGE system consisting of the following phases: Phase I SPGE User Dashboard, being delivered by February 2021. By December 2024, the following phases will be complete: Phase II SPGE Public Portal; Phase III DLG Administrative Dashboard; Phase IV Compliance; Phase V Reporting; and Phase VI Training Portal.

The solution development cost for Phase I of the new SPGE system was a one-time amount of \$355,025. The infrastructure cost is an annual, ongoing cost of \$11,136, presently. The base configuration of 3 servers is an annual cost of \$10,704 at present. Backups, also 3 servers, costs \$432 annually at present.

The SPGE Compliance Report percentages excluding Fire Departments are as follows: 100 percent for FY 2015; 99.77% for FY 2016; 99.16 percent for FY 2017; 97.93 percent for FY 2018; 92.17 percent for FY 2019; 90.17 percent for FY 2020; and 94.16 for FY 2021, for an overall percentage of 96.19 percent.

The SPGE Compliance Report percentages for fire departments with \$100,000 or higher of annual

receipts or annual expenditures from all sources are as follows: 100 percent for FY 2015; 100 percent for FY 2016; 85.43 percent for FY 2017; 75.50 percent for FY 2018; 64.90 percent for FY 2019; 28.48 percent for FY 2020; and 38.41 percent for FY 2021, for an overall percentage of 70.39 percent. In November 2020, the CSD Branch will contact the noncompliant fire departments by phone to assist in higher compliance. The CSD Branch plans to send the 30-day noncompliance notification to noncompliant fire departments by the end of November.

In response to a question from Representative Graviss, Ms. Vernon said the reason for seeing a falloff in compliance from the fire departments because the old system did not run non-compliance correctly, but now DLG knows who to contact now for non-compliance.

In response to a question from Representative Koenig, Ms. Vernon replied that all funding from the state will be stopped as punishment for non-compliance, a newspaper publication is made in the local paper, and the Auditor of Public Accounts will be notified. Penalties were not levied in the past three years because of the faulty legacy system not providing the data. For 2021, using the manual process, the notifications will recommence.

Mr. Bill Pauley, Staff Attorney for DLG, stated that the new system will greatly assist with data for non-compliance and data gathering purposes.

Representative Meredith commented that he was glad to see the system going live.

In response to a question from Representative Meredith, Ms. Vernon said that regarding non-compliance data, in the span 2015 to 2017, the old legacy system was in good shape. There was a major decline in 2018 through 2020 because the online system did not run non-compliance correctly. There was no data in 2020 to determine compliance. Numbers in 2019 were way off and were not consistent. For 2021, more compliance is expected because DLG staff can reach out to non-compliant SPGEs because the data is more accurate.

In response to another question from Representative Meredith, Ms. Vernon stated that the transfer of fire departments using the criteria of non-recurring funds back and forth between DLG and the Fire Commission was rocky due in part to a programming error at one time. DLG is working with the Fire Commission to ensure the proper placement of fire departments with the appropriate agency.

Mr. Michael Kurtzinger, Legislative Director for the Kentucky Fire Commission, told the Committee that fire departments did have issues with DLG's system. It has been difficult to contact non-compliant fire departments because of COVID and the fact that many are volunteer fire departments and firefighters are spending less time at the firehouses.

In FY 18, 458 of 460 (99 percent) fire departments complied with reporting; in FY 19, 492 of 499 (98 percent) fire departments complied with reporting; and in FY 20, 381 of 487 (80%) reported to the Fire

Commission thus far.

Mr. Chuck Bonta, Auditor for the Fire Commission, discussed the reporting overview process and told the Committee that agencies are mailed and emailed forms and instructions in May. Data is collected July 1 through September 1. Late reports are accepted, but may not appear on LRC report in October. The report is prepared for LRC mid-October. The Fire Commission continues efforts to acquire reports throughout the year. Agencies that remain non-compliant are held to penalties outlined in KRS 95A.055. Funding and state aid money are held. Usually any remaining non-compliant fire departments come into compliance in January once they understand the funds have been withheld and they cannot schedule training because of their non-compliant status.

At the time of the submitted report on October 19, 2020, there were 106 of 487 fire departments non-compliant (22 percent) for FY 20 year end actuals. Letters were sent to all non-compliant departments. At reporting time in 2019, non-compliance was at 17 percent. COVID caused delays and meeting cancellations, and DLG's system inadvertently sent correspondence to agencies that should report to the Fire Commission causing some confusion. These were some reasons for higher non-compliance numbers.

There are 33 Chapter 75 fire departments that report to the Fire Commission; 443 Chapter 273 fire departments report to the Fire Commission; and there are 11 Chapter 75 Fire Tax Districts that are money raising districts and who contract out for their firefighter service coverage for a total of 487 reporting FY 20 to the Fire Commission. There are 780 total fire departments in the state.

There are six fire departments, representing 2 percent of the total, reporting over \$500,000 in revenues; 44 fire departments, representing 12 percent of the total, are reporting over \$100,000, less than \$500,000 in revenues; and 321 fire departments, representing 86 percent of the total, are reporting less than \$100,000 in revenue.

Mr. Kurtzinger added that the majority of the fire departments are small ones. Also, the Fire Commission is working with DLG to isolate and account for the departments notified by DLG in error so that they can be accounted for in the Fire Commission's system.

In response to a question from Representative Sims, Mr. Kurtzinger stated that the Fire Commission is still requiring 20 hours of training during COVID but is extending the requirement until July of 2021.

In response to a question from Representative Meredith, Mr. Kurtzinger replied that the Fire Commission is offering virtual training in addition to hands-on training.

In response to another question from Representative Meredith, Mr. Bonta said the 151 fire departments that report to DLG are stand-alone fire agencies, and the number is a little hard to come up with from the Fire Commission's point of view. Twenty-one counties and 197 cities report through

other means.

In response to one more question from Representative Meredith, Mr. Bonta stated that DLG's fire department figures should be fairly close between the fire departments that report to DLG and the ones that report to the Fire Commission.

Representative Meredith noted that he wanted to ensure that the fire departments were reporting to the correct agency.

In response to a question from Representative Miller, Mr. Kurtzinger said all Fire Departments in Jefferson County are reporting to DLG.

Mr. Pauley pointed out that there are fire departments that do not exist anymore that DLG has not been made aware of that can affect compliance numbers.

Representative Meredith announced that the next meeting of the Committee will be November 17, 2020.

There being no further business, the meeting was adjourned at 9:52 a.m.

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

### **Minutes of the 5th Meeting of the 2020 Interim**

October 22, 2020

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

The 5th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, October 22, 2020, at 1:00 PM, in Room 171 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., Robby Mills, John Schickel, Reginald Thomas, Johnny Ray Turner, Robin L. Webb, Whitney Westerfield, and Phillip Wheeler; Representatives Charles Booker, Adam Bowling, Terri Branham Clark, R. Travis Brenda, Randy Bridges, Myron Dossett, Jim DuPlessis, Daniel Elliott, Chris Fugate, Cluster Howard, Derek Lewis, Suzanne Miles, Melinda Gibbons Prunty, Josie Raymond, Cherlynn Stevenson, Jim Stewart III, Richard White, and Rob Wiederstein.

Guests: Carson Harkrader, CEO, Carolina Solar Energy; Cari VanAmburg, Manager, Policy and Government Affairs, Recurrent Energy; and Michael Baute, Director of Regenerative Energy and Land Management, Silicon Ranch.

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

#### **Update on Solar Energy in Kentucky**

Carson Harkrader stated she is the CEO and owner of Carolina Solar Energy (CSE) based in North Carolina that develops utility scale solar

projects. There are currently 40 projects that produce 500 megawatts in North Carolina and there are five solar projects in Kentucky. CSE focuses on engaging landowners, applying for permits, and environmental and cultural reviews.

The main economic drivers of solar energy are the cost, which has been decreasing, and the efficiency, which has been increasing. There is more corporate and utility demand to add solar to the energy mix.

Each solar project will pay over one million dollars in new county property taxes over the first 20 years of its operation. The solar projects bring jobs to local communities in rural areas. The jobs do not require any significant specialized training or education.

All of the projects start with an individual landowner signing a 40-year lease. The landowners profit three times or more by investing in solar energy than if they leased their land for farming uses.

In response to Senator Smith, Ms. Harkrader stated battery storage technology for solar energy is becoming more efficient. Most new solar projects will have battery storage planned into the project.

In response to Representative Gooch, Ms. Harkrader stated 6 to 10 acres is needed to produce one megawatt of solar energy.

In response to Representative DuPlessis, Ms. Harkrader stated the duck curve is real and is seen mostly in California. The price of batteries is dropping faster than anticipated, and CSE projects going into production in 2023 have batteries planned into them.

In response to Senator Wheeler, Ms. Harkrader stated there has been no impact on property values when a solar farm is built near residential areas. The panels are low profile, and they do not make noise, have any odor, or generate heat.

Cari VanAmburg stated Recurrent Energy (RE) is a leading utility-scale solar developer with projects across the United States. Since 2006, RE has completed development and construction of over 70 projects and is currently in the early stages of development on a project in Kentucky.

When RE locates a potential site for a solar project, they work with the local community to identify willing landowners. Projects typically range from 50 to 200 megawatts in size and require 1,000 to 2,000 acres of land. The land is leased from the landowner in return for annual payments for the life of the project. The projects are developed on farmland, pasture land, and timber ground. Recently, developers are exploring solar projects on reclaimed mine land. The development of the land can last 3 to 5 years. Each site is screened by RE and identifies any natural,

cultural, or environmental issues that would prevent a project from going forward. When it is determined the project will go forward, the plans are submitted to Kentucky's Electric Generation and Transmission Siting Board. Environmental issues, economic impact, and the impact on the electrical grid are considered by the board.

In response to Senator Wheeler, Ms. VanAmburg stated solar power purchase agreements are 15 to 25 years, and the solar panels are being warrantied up to 35 years. There are decommissioning agreements with a bond and surety for each project.

### **Regenerative Energy: Making Solar Do More**

Michael Baute stated Silicon Ranch owns and operates over 135 solar facilities in 15 states. Silicon Ranch views land and vegetation as a valuable natural resource that can be harnessed to sequester carbon and restore biodiversity. Reducing carbon emissions by producing clean solar energy and keeping land in agricultural production will help meet the global food demands of the future.

The solar industry should design multi-functional properties on the vast amounts of land that operate solar farms. The co-location of agriculture and energy creates a unique symbiosis where the solar modules create protection for livestock.

Silicon Ranch has developed a customized methodology to assess and capture the full value of environmental, economic, and social impacts. The method yields a report that forecasts the expected outcomes of a project.

In response to Senator Thomas, Ms. Harkrader stated the process through Kentucky's Electric Generation and Transmission Siting Board is very detailed and gives the local community and the Public Service Commission input regarding the projects. There are no state incentives for solar energy projects, but there are corporate incentives in Kentucky. Ms. VanAmburg stated there is a good market for solar energy in Kentucky.

In response to Senator Webb, Mr. Baute stated Shell Oil owns 43 percent of Silicon Ranch. Silicon Ranch typically purchases the land, but not all of the land is developed for solar. The solar arrays are individually fenced which leaves wildlife corridors or movement. Silicon Ranch is currently undergoing wetland and stream mitigation in Colorado and exploring wetland restoration in Georgia. There is fencing that does prevent wildlife movement, but the land is ranched in a specific way to accommodate wildlife. The solar projects coupled with agriculture, aim to mimic the way the natural environment would impact the ecosystems and to improve the habitats on ancillary lands.

Senator Webb stated part of the criteria for siting should be public access for hunting and fishing.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 27, 2020

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

The fifth meeting of the Interim Joint Committee on State Government was held on Tuesday, October 27, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Representative Josie Raymond; Gerina Whethers and Reina Diaz-Dempsey, Personnel Cabinet; Mark Carter, Cabinet for Health and Family Services; T. J. Gilpin, Kentucky Transportation Employees' Association; Tony McGaha, Kentucky Association of Transportation Engineers; and Angela Hardison-Breckinridge.

LRC Staff: Alisha Miller, Michael Callan, Roberta Kiser, and Peggy Sciantarelli

#### **21 RS BR 344 (J. Nemes) AN ACT Relating to Paid Parental Leave**

Representative Nemes discussed 21 RS BR 344, which he prefiled for the 2021 Regular Session. Representative Josie Raymond accompanied him and testified in support of the bill. Ms. Angela Hardison-Breckinridge also spoke in support of the bill. The summary of BR 344 states that it would create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and establish requirements for the paid leave of absence. Representative Miller noted that the meeting materials include a document in support of BR 344 from A Better Balance, a nonprofit advocacy organization.

Representative Nemes said that a lot of states have already passed similar legislation, and in late 2019, Democrats and Republicans in Congress came

together and passed the legislation for federal workers. He and Representative Raymond are bringing this bill, because it is “pro-Kentucky family,” “pro-Kentucky jobs,” and, most importantly, “pro-Kentucky baby.” It is a simple bill which provides that any state employee who has been employed for more than 52 weeks can have 12 weeks of paid parental leave if they have a child by birth or adoption. It would apply to both parents, as is the case in most other states. The employee would have no diminution in seniority or benefits that they might have earned by continuing to work every day.

Representative Raymond said that paid leave gives a family peace of mind in order to focus on the baby during this important but short period in life. Without paid parental leave, mothers may go back to work before they have physically recovered. Nationwide, about 25 percent of mothers go back to work within two weeks of giving birth. Most day cares will not take an infant until it is at least six weeks old. When parents can stay home and focus on the baby, breast feeding rates increase, parental stress is much lower, and, most critically, there is a reduction in infant deaths and hospitalizations. She said she gave birth three times while working for three different employers. She received paid leave one time, and it helped her to feel calmer and more secure. Because paid parental leave leads to reduced infant mortality, she felt that this is something that the legislature needs to address as soon as possible. Paid parental leave creates stronger bonds within the family, and dads who are more involved in caring for the child months and years later. Paid parental leave is also a temporary benefit which ensures that people stay attached to the workforce. Women who take paid parental leave are more likely to be working a year later. Companies that can afford to provide paid parental leave are already doing so, because they see the value for families and for their business.

When asked by Representative Blanton, Representative Nemes explained that the 12 weeks of leave must be used within the first 24 weeks but do not have to be consecutive.

When Senator Nemes questioned the need for the father to also be on paid leave, Representative Nemes said that studies show that it is helpful to the baby and to the father’s relationship with the child. Science indicates that it is better to have both paternal and maternal leave. Representative Raymond said that it is important for bonding but also creates a more equitable distribution of child care.

Representative Flood spoke of the importance of shared responsibility, as when she and her husband shared the early weeks when their son was an infant. She said it is also important to recognize that parent gender identity is a less critical factor. When she asked, Representative Nemes clarified that the right to parental leave would apply to individual government employees, with separate rights for the father and the mother.

Ms. Hardison-Breckinridge said she is a doula, a

lactation educator, and a birth worker. She is in favor of expanding access to paid family leave. As a birth worker, she has attended over 100 births and provided post-partem support to many families in Kentucky and other parts of the United States. To birth or adopt a child is a profound experience but can also be one of the most traumatizing. Even healthy successful births can be stressful for the body and mind. The U.S. has one of the highest rates of maternal mortality in the developed world, and black mothers are four times more likely to die than white mothers. There is an overwhelming body of evidence to suggest that paid leave is directly tied to reducing rates of infant mortality. She recently supported a black pregnant woman in Kentucky who had a minimum wage job and practically no support system. After a somewhat traumatic birth, she realized she could not go back to work with no one to care for her child. Before long, she ended up losing her home and was living in a shelter with her newborn. Ms. Hardison-Breckinridge said she has endless stories of birth and families and how society has fallen short in supporting them.

Representative DuPlessis said that BR 344 is not just a “feel good” bill. (His further comments were not audible due to technical problems with the sound system.) Representative Nemes said that a parent must certify that they are taking the leave and the reason why. If someone abuses the benefit, they should be fired by the employer. He thinks that BR 344 can be considered a “feel good” bill; it makes him feel a lot better when fewer children die, when Kentucky women are able to breastfeed their children, and when children can read more effectively and on grade level because their parents were able to provide necessary support in the early stage of their lives.

Representative Bratcher said he has a constituent who is possibly being subjected to discrimination, because she used a doula and is breastfeeding. He would like to talk to Ms. Breckinridge later about how the use of alternative methods might lead to discrimination. Representative Miller said that someone will provide contact information to Ms. Hardison-Breckinridge and that he would appreciate her following up with Representative Bratcher. She responded affirmatively. There were no further questions, and Representative Miller thanked the speakers.

#### **2021 Kentucky Employees’ Health Plan (KEHP) and LivingWell Promise**

Guest speakers from the Personnel Cabinet were Gerina Whethers, Secretary of the cabinet, and Reina Diaz-Dempsey, Commissioner of the Department of Employee Insurance. They discussed the Kentucky Employees’ Health Plan for 2021. Their testimony included a PowerPoint presentation, which also included information about KEHP’s expansion of coverage in response to COVID-19.

Ms. Whethers stated that, as of September 30, KEHP covers 292,703 members; 180,165 are active employees and pre-65 retirees. School boards comprise 52 percent of the membership, early retirees

24 percent, state agencies 19 percent, and quasi groups five percent.

Ms. Diaz-Dempsey reviewed the health plan for 2021. She said that KEHP annual plan spend is approximately \$1.9 billion and that 95 percent of KEHP expenses are for claims payments. Plan expenses include 63 percent for medical claims; 27 percent for prescription claims; five percent for health reimbursement account (HRA) claims; four percent for medical administration; 0.5 percent for prescription administration expenses; and 0.5 percent for operating expenses. Department of Employment Insurance salaries represent less than one-quarter of a penny for every dollar spent.

For 2021, the employer premium will increase three percent. Employee premiums will also increase three percent, with an average increase of \$6.02/month. The highest increase for employees will be \$20.46/month. There will be no changes in deductibles and out-of-pocket maximums. In LivingWell PPO, the most expensive plan, the copay for specialty visits and the prescription copay will each increase by \$5. These are the first changes to LivingWell PPO since 2014. A two-tier prescription Value Formulary will be in effect for all plans.

StayWell will continue as the wellness vendor in 2021. In April and July 2020, StayWell experienced data breaches and had to temporarily take its website down in order to implement additional security measures. The new wellness platform, beginning in January 2021, is WebMD One. It will provide improved security measures, with knowledge-based authentication.

The 2021 LivingWell Promise must be completed by July 1 in order to earn a premium discount of up to \$40/month for the next plan year. The 2020 deadline for completing the Promise was extended to September 14 in order to qualify for discounts for the 2021 plan year. In 2020, the LivingWell Promise completion rate was 89 percent.

KEHP’s response to COVID-19 in 2020 included no member cost share for screening and testing; 100 percent coverage for inpatient and outpatient treatment for COVID-19; approval of early refills on 30-day prescriptions for maintenance medications; extension of pharmacy prior authorizations by 90 days for those set to expire before June 30; increased flexible spending account (FSA) carryovers; extended runout period to April 2020 for FSAs and HRAs; allowance of mid-year FSA changes without a qualifying event; and waiver of member cost share for certain telehealth services through September 30. Ms. Whethers’s and Ms. Diaz-Dempsey’s slide presentation also included a description of KEHP’s free and low-cost member benefits: Rethink; SmartShopper; LiveHealth Online; Diabetes Prevention Program; and the Diabetes, COPD, and Asthma value benefits.

Representative Graham asked whether the 2020 extended runout period for carryover of FSA/HRA balances would be in effect also for 2021. Ms. Diaz-Dempsey responded affirmatively.

Senator Alvarado commended KEHP for being able to use 95 percent of expenses for claims payments, with only five percent going toward operating expenses. Ms. Diaz-Dempsey noted that one contributing factor is that the KEHP vendors provide good value for the plan. Senator Alvarado said he appreciates the cabinet's handling of the data breaches in 2020 and asked how quickly the cabinet was able to react. Ms. Whethers said she could not give an exact date but that the response was quick, and it complied with the 72-hour deadline provided in state law. The cabinet researched the cause of the incidents and promptly notified plan members and state agencies. Discussion concluded, and Representative Miller thanked Ms. Whethers and Ms. Diaz-Dempsey for their presentation.

#### **Update on Contact Tracing**

Guest speaker was Mark Carter, Executive Advisor in the Department of Public Health (KDPH), Cabinet for Health and Family Services. His testimony included a PowerPoint presentation.

Mr. Carter said that 60 of 61 local health departments (LHDs) now use the Kentucky Contact Tracing and Tracking (KYCTT) System. By mid-November, all 61 will be using the system. Five LHDs currently require additional assistance to use the system. Since the KYCTT System went live in May 2020, the KDPH and LHDs have used the system to investigate and identify COVID-19 patients to assess risk, monitor symptoms, and track potential contacts; to contact potential contacts to notify of possible exposure and assess risk; and to follow up with patients and contacts to help track symptoms and provide support to safely quarantine or isolate. There are 34,115+ initial case investigations either in progress or completed; 59,940+ case follow-ups in progress or completed; 50,471+ patient contact settings that have been created; and 27,328+ active patient contacts that have been created.

The CTI Call Solution functionality allows disease investigators and contact tracers to use their laptops to make telephone calls. It establishes a single KYCTT phone number to be used by Kentuckians and helps the LHDs manage call volume, surges, scam calls, and data tracking. Its use is optional and is being used by a few LHDs. If adopted further, it will ultimately provide a lot of good data, including the number of calls that are made and how long it takes to get an answer. Because most of the LHDs are using their own systems, consolidated call data is not available.

LHDs have participated in live interactive virtual trainings to acclimate and effectively navigate the KYCTT System, utilizing the latest technology updates each week. There is ongoing virtual site support which provides small, open group discussions in which LHDs can ask direct questions about the system. Active office hours are available for LHDs to provide more direct support about KYCTT reporting and CTI call functionality.

Educational materials are available for

download in multiple languages on "kycovid19.ky.gov." The KYCTT system has engaged with many groups, including county judge/executives, chambers of commerce, Rotary organizations, area development districts, and school systems. The KYCTT Change Agent Network provides an open line of communication with local health departments. A weekly Local Health Department Newsletter is distributed to communicate important updates, release notes, and materials that are available for distribution. Efforts continue to focus on informing, promoting, and streamlining COVID-19 and contact tracing communications.

Mr. Carter said that 1,337 persons are deployed in the state to engage in the disease investigation and contact tracing effort. When the pandemic first arrived, there were about 431 staff located within the LHDs; 906 new staff have been added since then. Approximately 200 staff are located in Jefferson County. There are 452 disease investigators, which typically are registered nurses or clinicians. There are 794 contact tracers, 68 state and regional team members, and 23 social support connectors.

Mr. Carter said that the number of cases have begun to tax staffing, but, generally, they are keeping up with efforts to control the disease. There is currently capacity for additional staffing, but if the number of cases continues to increase, it will become more of a challenge. It is important for people to understand and embrace the fact that control of the disease requires an integrated effort. Testing, social distancing, and masking must work together with contact tracing to help stop spread of the disease.

When asked by Representative Miller, Mr. Carter confirmed that data on "hotspots" is being gathered in the LHDs, and it goes to the Department of Health in Frankfort. LHD resources are coordinating the search, and the data is generally available to public health officials.

Representative Jenkins asked whether the initial contract for the contact tracing program is ongoing and whether there are plans to bring it entirely in-house as a state government function. Mr. Carter said that Kentucky is still operating through the staffing contract, with federal funding through the CARES Act. There is a December 30 deadline that would need to be extended by the federal government. He believes the plan at this time is to continue the same staffing arrangements, with perhaps some adjustments.

Representative Marzian asked whether Kentucky will have money to extend the contract if CARES Act money is depleted. Mr. Carter said that there is sufficient funding to take Kentucky well into next year. A deadline of December 30 was placed on using that funding. All that is needed from the federal government is an extension of the date into next year, and he thinks it probably will be extended. The Department of Health is in the process of looking at all funding to determine where there may be some flexibility. In the event that CARES funding is either curtailed or stopped, the department would do its

best to maintain as many resources as possible, going into 2021. He said they have not used mobile apps or electronic contact tracing applications, primarily due to concern about efficacy and privacy. The department will need to look at those as an alternative, should there be a loss of staffing. He is optimistic that will not happen, but there is planning to address that contingency.

Representative Nemes asked where the increase in cases is originating and why the public is not given access to data that is made available to health department experts. Access to that data might help promote more compliance with CDC recommendations and requirements. Mr. Carter said it is his observation that the cases are coming from "all over the place." The infection spread seems to be broad-based. In terms of the sharing of data, one of the challenges has been to get valid data and to get a better system in place that allows for the real time sharing of that data. It has just been within the last month that all LHDs have come fully on board with the system. He thinks that in the next two weeks there will be much better data that will be actionable and that can be shared more broadly. He believes that the department and the LHDs have done a good job getting the data.

Senator Alvarado asked how much the contact tracing program is costing Kentucky on a monthly basis. Mr. Carter said that it is about \$8.5 million monthly. The department has about \$78 million of CARES money and spent about \$13 million through August 13. He believes \$8.5 million will be the average monthly spend.

Senator Alvarado asked whether there are plans to continue contact tracing of COVID-19 after it comes under control. Mr. Carter said that as the vaccine is rolled out and the infection is being controlled, there will not be a need for 1300 contact tracers. The variable would be the timing--when a vaccine will be available, when there is a reduction in the spread. Part of the department's contingency plan is to evaluate and anticipate that. The number of tracers could then be reduced to a level that matches the requirements for contact tracing across the state.

Representative Miller said if there is any information that Dr. Stack would like to provide the committee, it will be shared with all of the members. He doubts there will be an opportunity in the November interim joint committee meeting—which is scheduled to be the final meeting—to have him testify, but the committee would appreciate any written statements he would like to make regarding contact tracing, its effectiveness, and what is being done with the information. Discussion concluded, and Representative Miller thanked Mr. Carter for his presentation.

#### **21 RS BR 70 (Tipton, D. Lewis), Relating to State Employee Compensation**

Representative Tipton and his co-sponsor, Representative Derek Lewis, discussed BR 70, which they have prefiled for the 2021 regular session.

Testifying with them in support of the legislation were T. J. Gilpin, President, Kentucky Transportation Employees' Association, and Tony McGaha, President, Kentucky Association of Transportation Engineers. The summary of the bill states that it would amend KRS 18A.355 to provide for an annual cost-of-living adjustment for state employees, with the cost-of-living adjustment being the average of the consumer price index (CPI) for the two calendar years prior to the biennium and not less than zero; and amend KRS 18A.110 and 48.130 to conform; effective July 1, 2022.

Representative Tipton said that HB 143, relating to state employee compensation, was heard by the House State Government Committee during the 2020 regular session but was recommitted to the Appropriations and Revenue Committee. Representative Graviss has prefiled similar legislation, BR 180. Under current state law, all state employees are supposed to receive a five percent salary increase every year. The last time this occurred was July 1, 2001. The economy is different today, and the idea of the legislation is to provide a more attainable goal regarding compensation. BR 70 would replace the previous five percent with a CPI factor. The fiscal note on HB 143 was based on a 2.25 percent CPI and compared the 2.25 percent not with five percent but with zero percent. KRS 157.420 provides that certified teachers will receive a raise any time that state employees receive an increase. Historically, when that has happened, classified employees in the school system, as well as legislative and judicial employees, have also been given that same raise. When the 2020 budget bill, HB 352, left the House, it included a provision for a one percent cost-of-living increase in salary for all state employees, including legislative and judicial employees, and certified teachers and classified school employees. Kentucky State Police already has a CPI formula in place. BR 70 differs from HB 143 in that it includes a delayed effective date of July 1, 2022. There is a lot of uncertainty about future revenue, and it was felt to be more prudent to put a delayed effective date in statute.

Mr. McGaha said that from 2014-2019 the Transportation Cabinet lost 118 of 450 engineers and that 28 of the 118 left Kentucky. In the past year, the Cabinet has also lost five directors. Directors—the highest merit positions in the cabinet—are leaving in spite of the uncertain 2020 job market. Mr. McGaha said he is a branch manager in Lexington district 7, covering construction and maintenance for Fayette, Jessamine, Scott, and Woodford Counties. The cabinet is also losing—and having a hard time hiring—maintenance employees. Starting pay for an entry level maintenance employee is \$13.27/hour. His district has a goal of 48 maintenance employees but is currently short 12 positions, with Woodford County having only seven. It is also difficult to retain employees, because there is no cost-of-living increase and because better jobs are available elsewhere.

Mr. Gilpin said the Kentucky Transportation

Employees' Association membership has about 1,500 employees in the Transportation Cabinet. The association supports BR 70. It is understood, given the challenges to the state budget—even before COVID-19—that five percent is an unrealistic goal and that using the CPI is a more realistic number.

Representative Graviss thanked Representative Tipton and said he much appreciates their working relationship. Their constituents also appreciate the way legislators from different parties can work together in a bipartisan manner. He said that BR 70 is desperately needed, and he believes the Governor will be willing to sign the legislation if it is passed by both chambers.

Senator Nemes asked whether the legislation would allow for adjusting the amount of the raise. Representative Tipton said that if BR 70 is enacted and money is not available to meet the CPI, he thinks it is realistic that the provision might continue to be not withstood in a budget bill. BR 70 has a more realistic goal. He believes it also brings to light the difficulty in attracting and keeping quality employees, not only in the Transportation Cabinet, but across state government.

Representative Lewis briefly stated support for BR 70. He said that he and several members of the committee were among the co-sponsors of HB 143 in 2020. His constituents have been reaching out to him in favor of BR 70. It is a good bill that addresses a bipartisan issue, and he hopes that it will be enacted in 2021.

There were no additional questions. The meeting was adjourned at 12:02 p.m.

## **TASK FORCE ON ELECTRONIC RECORDING OF OFFICIAL DOCUMENTS BY COUNTY CLERKS**

### **Minutes of the 2nd Meeting of the 2020 Interim**

October 22, 2020

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

The 2nd meeting of the Task Force on Electronic Recording of Official Documents by County Clerks was held on Thursday, October 22, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joseph M. Fischer, Co-Chair; Senator Morgan McGarvey, Representative Brandon Reed, Don Blevins, Debbie Donnelly, Brent Eisele, Russell Ford, Mark Ladd, and Barry Tuemler.

Guests: Mark Ladd and Geno Yoscovits.

LRC Staff: Randall Roof and Yvonne Beghtol.

#### **Approval of Minutes**

Due to not having a quorum, approval of the August 20, 2020 minutes will be moved to the next meeting.

## **Implementation of eRecording Systems**

Geno Yoscovits, Director of State Government Affairs with Rock Central, stated that the passage of remote online notarization (RON) in Kentucky helped to prepare the industry for the COVID pandemic. Mr. Yoscovits presented a map detailing the status of RON in the United States before the COVID pandemic. The onset of COVID required industries to look for solutions to allow electronic notarization and recording of documents. Many states issued executive orders to allow some form of RON. COVID conveyed the impact and need for digital recordings and digital constituent options. Mr. Yoscovits stated that not only mortgage lenders, but many other industries will be looking into utilizing RON. Better eRecording options and efficiencies will be a benefit for constituents and industries.

In response to Chairman Fischer, Mr. Yoscovits stated that the focus should be on eRecording to help Kentucky move forward. Offering RON but not eRecording is less efficient. Moving forward as a partnership, and not a mandate, will help foster the ability to do eRecording and will help counties to move into this digital space.

Mark Ladd, VP of Regulatory and Industry Affairs with Simplifile, stated that access to a database of already recorded documents is essential. Mr. Ladd referred to a chart showing which states have adopted the Uniform Real Property Electronic Recording Act (URPERA) and then proceeded with eRecording. The chart indicates that nine states have adopted some form of eRecording in 100 percent of their counties. Mr. Ladd pointed out that while some states have been working toward adoption for many years others have moved to 100 percent statewide in just a couple of years. Colorado did not implement URPERA, but under the Uniform Electronic Transactions Act (UETA) has adopted eRecording statewide. Wisconsin increased the recording fee to provide technology funding. This gave recorders the opportunity to save money to upgrade their systems for eRecording. Funding can be a factor in how quickly a state adopts eRecording and the percentage of counties that can offer electronic recording. In comparison to other states, Kentucky appears to be taking a normal progression towards adopting eRecording systems. The other issue is the ability to search documents. This requires tangible records to be converted to digital copies. The length of time needed to make this conversion will depend on the mix of microfilm and books, how many years of records need to be converted, and the size of the county. Most projects run six months to one year. Larger counties may take one to two years to convert records to be available online and searchable to the community. The cost estimate varies widely and is subject to the vendor. The COVID pandemic, as well as other natural disasters, proves that having documents available to search online is of great value.

In response to Chairman Fischer, Mr. Ladd stated that not all counties in Wisconsin have digital copies of existing title records available. Mr. Ladd

also mentioned that Wisconsin uses a Land Records Modernization Fund to help cover a broad spectrum of technologies required to convert tangible records into digital copies. The Land Records Modernization Fund establishes a charge that is added to the recording fee which is set aside into a county fund that the county recorder has control over. A smaller portion goes into a common fund that is used to help smaller counties.

Don Blevins, Fayette County Clerk, commented that, as of January 1, 2020, SB 114 added a \$10 Document Storage Fee to the eRecording filing charge to go toward funding the conversion of every permanent document. Fayette County requires approximately \$300,000 for software to convert to electronic document recording. Some counties are setup and ready to start eRecording, but need to scan older documents to bring them up-to-date. One dollar per Document Storage Fee goes to the Kentucky Department of Library and Archives (KDLA) to administer a grant program to fund tasks such as replacing book binders, shelving, and other needs. It can also be used for technology upgrades. Mr. Blevins advised that counties below 70,000 in population must return any excess fees to the Fiscal Courts, making it difficult to accumulate a capital reserve. Fiscal Courts sometimes demand county clerks to participate in fee pooling. Legislation stating that the Document Storage Fee is reserved and does not have to be pooled would be beneficial. Mr. Blevins also stated that he believes there would have been more turnover this year had we not had the COVID pandemic.

Chairman Fischer proposed that members submit suggested changes to current statutes or new legislation for Session 2021 to be discussed at next committee meeting.

There being no further business, the meeting adjourned at 3:35 PM.

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

### **Minutes of the 5th Meeting of the 2020 Interim**

October 29, 2020

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

The 5th meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, October 29, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Phillip Pratt, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Phillip Pratt, Co-Chair; Senators Karen Berg, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Wil Schroder, Reginald Thomas, and Max Wise; Representatives Lynn Bechler, Tina Bojanowski, Terri Branham Clark, George Brown Jr, Jeffery Donohue, Deanna Frazier, Chris Freeland, Jim

Gooch Jr., Richard Heath, Cluster Howard, Kim King, Adam Koenig, Bobby McCool, Michael Meredith, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Rachel Roberts, Steve Sheldon, Maria Sorolis, Cheryl Lynn Stevenson, Ashley Tackett Laferty, Nancy Tate, Richard White, and Rob Wiederstein.

Guests: Ruth Day, Chief Information Officer, Commonwealth Office of Technology; David Carter, Chief Information Security Officer, Commonwealth Office of Technology; Stacy Roof, President, Kentucky Restaurant Association; Shannon Stiglitz, Senior Vice President of Government Affairs, Kentucky Retail Federation; Kristina Joyce, State Director, Kentucky Small Business Association.

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

#### **Approval of Minutes**

A motion to approve the minutes of the September 24, 2020 meeting was made by Representative Jim Gooch, seconded by Co-Chair Danny Carroll, and approved by voice vote.

#### **Status of the Restaurant Industry in Kentucky**

The Kentucky Restaurant Association was incorporated in 1964 and is governed by a board of directors. The goal of the association is to celebrate, educate, and advocate for the restaurant industry across the state. Prior to the Covid-19 pandemic, the restaurant and food service industry was the nation's second largest private sector employer. The Commonwealth had over 205,000 restaurant and food service jobs which was the equivalent to 10 percent of employment in the state. In March 2020, there were more than 7,700 eating and drinking places in the state. Eating and drinking establishments across the state had over \$9.2 billion in sales in 2019. There was about \$550 million in restaurant sales lost in April 2020 due to Covid-19 and about 114,000 employees have been laid off or furloughed since the start of the pandemic. About 71 percent of restaurant operators say it is unlikely that their restaurant will be profitable within the next six months, 68 percent of operators say their total operational costs are higher than they were prior to the Covid-19 outbreak, and 37 percent say it is unlikely their restaurant will still be in business in six months without additional relief from the federal government. Restaurants were ordered to close in March 2020 but were still able to order through curbside, carryout, and delivery. April 2020 was a difficult time for the industry but the passage of legislation that allowed to-go alcohol sales offered some relief. The percentage of patrons allowed in restaurants fluctuated during the months of June, July, and August 2020 but is currently at 50 percent. A curfew was also imposed in September 2020 which included no bar service or seating.

According to Stacy Roof, the President of the Kentucky Restaurant Association, businesses do not receive a data dashboard like ones compiled for schools that show where cases are originating from. Restaurants have been a focus since the start of the pandemic, but data has never been shown to support

the limited capacity restrictions. Ms. Roof pointed out that that health departments in Michigan have been tracking the number of ongoing and new outbreak investigations by setting type and region. The number of restaurant employee associated cases and restaurant patron associated cases were fairly low. Other categories included social gatherings, office settings, and school. Ms. Roof stated the Kentucky Restaurant Association has requested for CARES Act funds to be prioritized for restaurants; suggested that cities give restaurants specific winter grants; recommended that to-go alcohol sales be permanent; proposed that permits for outdoor dining be reduced or eliminated; and advocated for campaigns encouraging carryout, delivery, curbside, and dine in eating at restaurants across the state.

Representative Cluster Howard made comments in support of making to-go alcohol permanent and stressed the importance of social interactions.

Responding to Senator Reginald Thomas, Shannon Stiglitz, the Senior Vice President of Government Affairs at the Kentucky Retail Federation, explained that the long term implications have to be considered when it comes to limiting dine in eating and how it can impact an industry that employs so many Kentuckians. Restaurants must consider what necessary steps must be taken to survive the current state of the industry and will need federal government relief.

Answering a question from Representative Maria Sorolis, Ms. Roof states that the Kentucky Restaurant Association has requested that restaurants not be grouped with bars when it comes to case data collection because the operations and business models are so different. Ms. Stiglitz elaborated by saying although contact tracing is improving, the data cannot be analyzed in depth at this point to separate restaurants from bars.

Replying to Senator Max Wise, Ms. Roof stated that food trucks are permitted to join the Kentucky Restaurant Association because they are permitted and licensed restaurants on wheels.

Addressing questions from Senator Karen Berg, Ms. Roof said there is not an abundant amount of case data pertaining to restaurants, and it would be hard to distinguish if a person was infected by ordering food through curbside or drive through as opposed to dine in. Data is continuously being collected. Replying to a follow up question, Ms. Roof explained that even though the Kentucky Restaurant Association is constantly dispersing information to its members about adjusting to alternative ways of servicing customers, it can be challenging for some rural restaurants to make adjustments to their businesses models to accommodate these alternatives.

In response to a question from Representative Michael Meredith, Ms. Roof stated that of the estimated 7,000 restaurants across the state, only 25 percent are members of the Kentucky Restaurant Association. She stressed that for the time being, despite official membership, all Kentucky restaurants will be

advocated for by the Association. Representative Meredith voiced his opinions regarding liability protections at the state and federal levels when it comes to contact tracing data.

Answering a question from Representative Rachel Roberts, Ms. Roof said she has not gotten a lot of feedback from members about price gouging but has been informed of sourcing issues. Some members have put delivery fees back in place and have utilized third party delivery services. Other restaurants have resourced employees who were previously servers to curbside or delivery workers.

Replying to Co-Chair Philip Pratt, Ms. Roof explained that regulations regarding the operation of bars and restaurants come from the Governor's executive orders. The Restaurant Association was not consulted before any executive orders were put into place.

#### **Commonwealth Office of Technology Update**

The mission of the Commonwealth Office of Technology (COT) is to support partners in the fulfillment of their core mission by providing technology leadership, services, and solutions in a secure, transparent, and fiscally responsible manner. COT consists of the Office of Client Support Services, the Office of Infrastructure, the Office of Architecture and Governance, and the Office of Chief Information Security Officer. The Office of Client Support Services is the largest office and is tasked with managing desktop computing devices from acquisition to disposal. The Office of Infrastructure ensures the physical hardware and software networks that run applications across state government are working optimally. The Office of Architecture and Governance develops policies and strategies to support and promote the effective applications of information technology within state government. The Office of Chief Information Security Officer has the smallest staff and is responsible for information technology security functions. In March 2020, COT made changes to transition to a remote workforce due to the Covid-19 pandemic for COT and all executive branch cabinets, and in April 2020 began assisting with videoconferencing applications and other tools to support remote work.

The COT began implementing the necessary changes to operate under its current fiscal year budget in June 2020. This included an 11 percent cut in spending and eliminating about 40 positions. Existing COT projects are reviewed once a month by COT staff and reviewed and submitted quarterly to the LRC. There are currently 29 projects across nine executive branch cabinets with a total budget of \$818 million. Internal agency initiatives include modernizing the ticket system, expanding the use of Microsoft Office tools, expanding digitalization, automating internal processes, and creating legacy system inventory.

Replying to a question from Co-Chair Philip Pratt, Ruth Day, the Chief Information Officer at COT, stated the largest existing project for the agency is the Next Generation Kentucky Information Highway that was funded at \$454 million. The next largest project is

the integrated tax system at the Department of Revenue that was funded at \$92 million. The third largest project is the Kentucky State Police's emergency radio system replacement that was funded at \$88 million. She reiterated that projects are submitted to the LRC quarterly. Answering a follow up, Ms. Day indicated the COT is reviewing their infrastructure to determine where savings can be made to adjust to its 11 percent budget cut.

Addressing a question from Representative Lynn Bechler, Ms. Day confirmed that broadband service is being purchased by the COT from the Kentucky Communications Network Authority (KCNA) and AT&T but service is not yet equally split.

#### **Status of Small Business in Kentucky and Steps Being Taken to Assist Those Businesses**

The Kentucky Small Business Development Center (KSBDC) is funded in part through a cooperative agreement with the U.S. Small Business Administration, and its host is the University of Kentucky's College of Agriculture, Food, and Environment. The state's investment to the College of Agriculture, Food, and Environment as the host for the small business development center state mandated program is vital for small business success throughout the state. In the past two years, the KSBDC has secured multiple partnerships to expand the capacity of the organization and leverage all federal and state funds to assist small businesses. Partnerships include those with Southeast Kentucky Community and Technical Center, Morehead State University, Northern Kentucky University, Kentucky State University, the City of Covington, the Somerset-Pulaski Economic Development Authority, the Greater Owensboro Economic Development Corporation, and many more. Services provided by the KSBDC include business coaching, assistance for small business owners seeking capital, conducting market research, and providing connections to other small business resources.

The KSBDC was awarded a funding grant that was made available to small business development centers from the U.S. Small Business Administration through the CARES Act. Those funds made it possible to increase the number of the KSBDC's business coaches from 12 in 2019 to the current number of 33. This will allow for more coaching, educating, and dispersing of survival information for small businesses across the Commonwealth. In March 2020, in response to the Covid-19 pandemic, the KSBDC started a universal toll free telephone number, formed one centralized email, and created a specific Covid-19 webpage. KSBDC also produced and distributed small business guides that included topics such as managing in times of financial difficulty, reopening a business after a disaster, and availability of U.S. Small Business Administration loans. In addition, specialized webinars were created that were attended by 6,313 attendees from March 2020 to October 1, 2020. According to data collected, from 2018 to 2020 the KSBDC has served over 4,500

clients, hosted 8,704 training attendees, realized 472 new business starts, and supported 9,286 total jobs. KSBDC's clients generated \$166.8 million in loans and equity investments.

There being no further business, the meeting adjourned at 2:47 p.m.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

### **Minutes of the 1st Meeting of the 2020 Interim**

June 2, 2020

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

The 1st meeting of the Interim Joint Committee on Transportation was held on Tuesday, June 2, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Ken Upchurch, Chair, called the meeting to order, and the secretary called the roll. Due to Covid-19, members of the committee were given the option to attend the meeting remotely via videoconference through the Blue Jeans application.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, C.B. Embry Jr., Paul Hornback, Stephen Meredith, Gerald A. Neal (remotely), Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Terri Branham Clark, Randy Bridges, Chris Fugate, Al Gentry, David Hale, Chris Harris, Samara Heavrin, Kathy Hinkle, Regina Huff, Thomas Huff, Derek Lewis (remotely), Savannah Maddox, Bobby McCool, Russ A. Meyer (remotely), Rick Rand (remotely), Sal Santoro, Maria Sorolis, Cherlynn Stevenson (remotely), Jim Stewart III, Ashley Tackett Laferty, and Walker Thomas.

Guests: (All presenters appeared remotely via videoconference.) Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Mike Hancock, Deputy Secretary, KYTC, and Sarah Jackson, REAL ID Project Manager, KYTC; Matt Cole, Acting Commissioner, Department of Vehicle Regulation, KYTC; Robin Brewer, Budget Director, KYTC; Rodney Brewer, Commissioner, Kentucky State Police (KSP); and Jamie Heller, Major, KSP.

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

#### **REAL ID and Operator's License Issuance Update**

Sarah Jackson, REAL ID Project Manager, KYTC, updated the committee on the effect of Covid-19 on the rollout of REAL ID and operator's license issuance, and how REAL ID has progressed throughout the Covid-19 pandemic. At the time of the closing of in-person services in mid-March, there were REAL ID offices up and running in various stages in Bowling Green, Somerset, Paducah, Madisonville, Morehead, Frankfort, Owensboro, and Louisville. Efforts were made to open other offices in Catlettsburg, Elizabethtown, Northern Kentucky, and Lexington. There were just under 30,000 REAL IDs that had already been issued. During the first month of

the pandemic, the Department of Homeland Security pushed the enforcement deadline for REAL ID back one year from October 1, 2020 to October 1, 2021.

Ms. Jackson stated that the Cabinet has continued to secure and finalize leases on future sites with the help of the Finance Cabinet. Computer networks and equipment continue to be installed, as well as furniture in some locations. Some initial offices have also been moved into their final regional office. Staffing issues have not been able to be addressed as quickly due to the close nature of training and social distancing concerns, but that has now started to materialize as restrictions are being lifted. On May 18, 2020, the Frankfort Real ID office in the Transportation Cabinet building was one of the first in-person state government service offices to reopen on a limited basis, following the new “Healthy at Work” guidelines. With the Circuit Clerk’s offices not being open at that time for drivers’ licenses and credentials, the initial focus was on providing services such as driver’s license renewals, issuing IDs needed for employment, and handling renewals for lost and stolen IDs and drivers licenses. Because of the new sanitation protocols, social distance guidelines, and the operation of services at half-staff, this reopening was a challenge. Because of the new challenges, the Cabinet chose to reopen the Frankfort office first to use as a model to ensure that as REAL ID offices were opened throughout the state, that the guidelines for both the public and the staff could be followed.

In anticipation of the reopening of services, on May 18<sup>th</sup>, Kentucky Interactive aided the Cabinet in helping with a new online appointment schedule which was launched in the Frankfort office. That appointment schedule can be accessed and utilized by the public at Drive.ky.gov. Ms. Jackson added that a few stations will be left open for walk-ins, and as regional offices open, assessments will be made on walk-ins versus appointments needed. Ms. Jackson stated the Cabinet expects to reopen the rest of the previously opened REAL ID offices within the next few weeks.

In the Frankfort office, line management as well as cleaning times between visitors are being monitored. The comparison of processing times between walk-in applications and appointment-based applications is also being monitored. A virtual lobby is available as an option so that “Healthy at Work” guidelines are followed.

Ms. Jackson stated that KYTC has worked closely with the Circuit Clerks within the last months to form a reopening workgroup with representatives from the Administrative Office of the Courts, the Circuit Clerks, and the Kentucky State Police (KSP) with regard to the driver testing. The group has been meeting weekly to share and support each other in these reopening processes.

In response to a question asked by Senator Higdon, Ms. Jackson stated that by the time KYTC takes over the issuance of drivers licenses in 2022, the goal is to have all the regional offices up and running

and issuing REAL IDs.

In response to a concern voiced by Representative Harris regarding travel times for residents of Pike County in order to obtain a REAL ID, Ms. Jackson stated as regional offices are developed, nothing is off the table, and a location in Pike County has not been ruled out. In moving forward, the Cabinet is giving every area of the state consideration as expansion of these offices continue. There is a balancing act of large populations and even coverage that must occur. The Cabinet is trying to keep a reasonable driving distance in mind. It is important to remember that Kentucky is moving from a county-by-county approach to a regional approach.

#### **Effect of Covid-19 State of Emergency: Vehicle Registration Renewal System and Vehicle Transfer process**

Matt Cole, Acting Commissioner, Department of Vehicle Regulation, KYTC briefed the Committee on the effect of Covid -19 and the vehicle registration renewal system. The Division of Motor Vehicle Licensing has performed all their functions to include vehicle renewals and vehicle transfers during the Covid-19 pandemic and are pleased to report that there has been constant and consistent output of services. The Division’s program assistance section is responsible for answering all County Clerk’s phone calls, and the employees of the section are able to perform 100% of their functions from home using the Cabinet’s web-based technology. In the verification section, a two to three day turn around has been able to be maintained on vehicle title applications upon receipt from the County Clerks.

Commissioner Cole stated during the uneasy time of the Covid-19 pandemic, employees were allowed to take home their work stations, management continued to monitor employees performance electronically, a program was developed where sheriffs were authorized to inspect vehicles using a skype or similar remote video device, electronic signatures on title applications were accepted in compliance with the division standards, and all printed speed titles were and are mailed directly from the vendor to the applicant. A 90 day extension for renewals for vehicle registrations and handicap placards was put in place to also help. The license plate shipment process to the County Clerk’s office remains the same. All rebuilt title applications are accepted from the applicants by mail or may be emailed from the County Clerks. A drop box option has been added to the lobby of the Transportation Cabinet in Frankfort, and this has actually enabled improved turnaround times on rebuilt title applications during the pandemic. Most applications are approved within 24 hours and that all approved applications with their accompanied authorization letters can be mailed to the applicants or County Clerks.

Commissioner Cole stated that all division services remain in effect, and the commitment to continue to improve motor vehicle licensing functions remains a top priority. The Division has revised

many business forms for the new processes and have continued to hold virtual meetings with the County Clerks to ensure consistency and transparency. In closing, Commissioner Cole stated the Cabinet stands ready to provide all the services the citizens of the Commonwealth need and are grateful for the assistance that partners have provided throughout these trying times.

In response to a question asked by Chairman Upchurch concerning County Clerk’s offices being closed throughout the pandemic and therefore making it difficult for dealers to transfer titles, Commissioner Cole stated there have been quite a few offices that closed out of caution during the beginning of the pandemic, however, several of them implemented the drop-box option so people could continue to drop off forms and processes could continue to function without face-to-face interaction.

#### **Effect of Covid-19 State of Emergency: Road Fund and Highway Construction**

Jim Gray, Secretary, KYTC gave a brief presentation on the Road Fund and highway construction projects. One characteristic of a leading company is that when they have difficult times, they acknowledge the brutal facts of their current reality, to which he acknowledged Kentucky’s current reality. Secretary Gray highlighted three areas; the current condition, the actions that have been taken by KYTC, and future conditions and what they may look like.

Secretary Gray stated that Governor Beshear recognized in the budget that transportation is essential to the economy and life in the Commonwealth. Secretary Gray stated as a result of the pandemic, many collaborative partners including KYTC employees, the members of the legislature, and industry partners, have come together to accomplish essential and common goals. The Covid-19 pandemic and with all the closures that have come along with it, have had a severe impact on the Road Fund. Road Fund receipts for April dropped by just over 30% from April 2019 to April 2020, which represents being down about \$43 million. Motor vehicle traffic was in a steep decline. The Road Fund is based on user fees, mainly the taxes on the sales of motor fuels and motor vehicles and fees on vehicle licensing and registration. Because of the pandemic, motor fuels sales dropped significantly and very few cars and trucks were being sold.

Secretary Gray stated that even before the pandemic hit, it was known that there were going to be some cash management challenges. Looking forward to the heavy construction months, the goal was to ensure that there were enough funds available to continue current projects. Since the Covid – 19 pandemic hit, the Cabinet has suspended nearly 100 asphalt and pavement contracts totaling approximately \$58 million. Industry partners and trade associations have been instrumental in helping plan the Cabinet on how to get through this while managing cash flow. Some contractors have allowed for payment of services to be made outside of the high season months, allowing for payments to be delayed until

the fall. Secretary Gray acknowledged and thanked the contractors for allowing the Cabinet to do so. The Cabinet has reduced some of the scope of right-of-ways mowing in an effort to reducing costs across the board.

Secretary Gray stated that the expectation is for pavement contracts to resume once revenues stabilize, and that major projects already underway, will continue. It is his hope to see encouraging signs with May and June numbers in motor fuels and in motor vehicle sales and that will allow a possible July letting. Secretary Gray encouraged people to write to their congressional delegation to inform them of the real need for funding transportation. These are unprecedented times, and the cabinet will continue to work with the State Budget Director and the Governor. The cabinet will continue to make responsible adjustments in order to meet the Consensus Forecasting Group (CFG) forecasting revenues.

Robin Brewer, Budget Director, KYTC presented the committee with updated numbers on the Road Fund revenue. The Covid-19 pandemic has not only impacted lives, and the economy, but the Road Fund as well. The pandemic impacted all aspects of Road Fund revenues from declining motor fuels tax revenues due to businesses closing temporarily and consumers practicing healthy at home directives, to declining motor vehicle usage tax revenues from auto dealerships closing to in-person business, exclusively doing business through online car sales. It has also caused declining collection of various fees and licenses due to Circuit Clerk's offices being closed as well as Circuit Clerk's offices and KYTC offices closed to in-person traffic, which were all necessary actions in an attempt to flatten the curve.

Director Brewer stated that April was the first month's revenues where the financial impacts of COVID-19 to the Road Fund were seen. Overall, Road Fund receipts fell 30.1% year over year in April with total collections of \$101.7 million, which was \$43.9 million less than what was collected in April of FY 2019. Year-to-date collections stood at -1.4% of FY 2019 numbers among the accounts, motor fuels tax revenues fell 11.8% in April. Motor fuels tax revenues lag a month behind, so April motor fuels tax revenues reflect March activity. As a result, the full economic impact on motor fuels tax revenues will be reflected in May's receipts. Motor vehicle usage tax receipts fell 60.1% in April as auto dealerships were limited to online sales. License and privilege receipts decreased 20.2%. She added that May's revenues have not been finalized but should be known and released publicly by the Office of the State Budget Director in the coming days, which will help in determining the evolving budgetary impact for Fiscal Year 2020.

Director Brewer stated that with upcoming anticipated budget shortfalls for the General Fund and the Road Fund, the CFG met on May 22<sup>nd</sup> to discuss

the economic impacts of COVID-19 to the state revenues for Fiscal Year 2020. From that meeting, the CFG adopted the pessimistic scenario for the Road Fund which resulted in a revision of the Enacted Road Fund revenue estimate for Fiscal Year 2020 of \$1.39 billion, which is an estimated shortfall of \$161.8 million, (-10.4%) from the \$1.551 billion originally estimated for FY 2020. The revised official revenue estimate is forecasting \$77 million less in motor fuels tax revenue, which is a 10% reduction. Since the motor fuels tax is used to statutorily formulate the amount of County Road Aid and Municipal Road Aid through the Revenue Sharing programs, a similar reduction would be anticipated in aid to the cities and counties for the year. In addition, the revised estimate calls for \$60.5 million less in motor vehicle usage tax revenue, which is an 11.7% reduction compared to the Enacted Road Fund revenue estimate in House Bill 353 from the 2020 Regular Session of the General Assembly. The revised official revenue estimate would be about 11.2% less in revenue compared to FY 2019 actual Road Fund revenue collections.

Director Brewer stated with very few weeks remaining in the fiscal year to address this budget shortfall, the Cabinet is working with the State Budget Director's office and the Governor's office on the best approach for a plan. Like COVID-19, the financial situation is evolving and will continue to evolve as the impact from the re-opening of the economy unfolds. The budgetary impact for this fiscal year as well as next fiscal year will be better known with time.

In response to a question asked by Senator Hornback concerning the letting of projects funded by federal dollars, Secretary Gray stated he is hopeful that those projects will be able to be kept on track and let on time, however it is a fluid situation. He also reminded the Committee that those federal dollars must be matched. Mike Hancock, Deputy Secretary, KYTC, reiterated that the reason lettings for projects were slowed was because of the requirement of matching funds, and until there was a better picture of what the impact of Covid-19 would be, the Cabinet thought it was prudent not to begin any additional projects. Secretary Gray stated that the priority is to make sure the projects that were already gaged, contracted, and committed to, are going to be executed.

Senator Higdon stated he has sent letters to Senator Paul and Senator McConnell to address the transportation funding issue, and he encourages other members to do so as well.

#### **Effect of Covid-19 State of Emergency: Permit and Road Testing**

Rodney Brewer, Commissioner, Kentucky State Police (KSP); and Jamie Heller, Major, KSP briefed the Committee on the impact that Covid-19 has had on permit and road testing. In mid-March, the entire driver testing process was forcibly closed to due to the Covid-19 pandemic. The process is divided into two pieces, the Class D license that regular drivers' license holders receive, as well as the commercial drivers' license (CDL).

The traditional driver testing function is very dependent on interaction with Circuit Clerk's offices across the state, therefore when they closed, driver testing was forced to close as well. There are approximately 50 civilian driver instructors that found their workload lightened because of the pandemic, therefore, they aided in logging old paper fingerprint cards, of which approximately \$1.3 million cards needed to be entered into the fingerprint system. Those instructors began to scan and enter those cards. To date, they have entered over 400,000 of those cards, saving a significant amount of money. Those instructors have now begun to return to work, as approximately three-fourths of the counties are open for the testing process.

Commissioner Brewer stated when things began to shut down in mid-March there were approximately 3,200 applicants that were scheduled to take their drivers test that had to be cancelled. However, 3,200 applicants are not the total number of tests that had to be cancelled as this is more of a bifurcated system. Some of the Circuit Clerk's offices schedule the testing themselves, therefore there is not an exact number on how many people were displaced when testing was shut down.

Commissioner Brewer stated that KSP is going to do their best to ensure that the individuals who had road tests scheduled and canceled are moved up to the top of the schedule as testing returns. He added that as services resume, the initial phase is to concentrate on the written permit test to complete as many as possible. Commissioner Brewer stated that the target date to start the actual skills test in vehicles is July 1, 2020.

Commissioner Brewer stated that he does not think the revised process will reduce the number of tests any one examiner can administer in a day, but that it will vary from site to site. He does not anticipate that being a huge hindrance, however, there will be time needed to clean the kiosks that are used to take the tests, and that each person coming in to take those tests will be asked to wear a mask as well as the driver testing examiner. There is an additional site that will be opened in Franklin Co. for the written test at the Transportation Cabinet.

Commissioner Brewer stated drivers testing will unlikely extend their hours because that is contingent upon the hours of the Circuit Clerk's offices, which would result in a person having to return to the Clerk's office another day to turn in the written portion of the test. KSP would be working in tandem with the Circuit Clerk's offices in order to ensure that paperwork is received and processed in a timely manner.

Commissioner Brewer stated supplemental resources such as Trooper Rs will most likely not be utilized. A certified driver instructor must go through a 2-week course, and that the use of troopers for this task has been phased out and is now civilian based.

Commissioner Brewer stated the use of remote driver testing via go-pro has been considered, but ultimately will not be the path KSP chooses to take

due to several small observations needed to pass the test, such as hand placement, mirror adjustments, etc. He added that applicants will not necessarily be limited to testing in their county of residence, but that would be left up to the Circuit Clerk's offices.

In response to a question asked by Senator Alvarado, Commissioner Brewer stated a waiver permitting teenagers to log their driving hours prior to taking their permit testing will not be permitted. He added currently the Circuit Clerk's offices that are open are scheduling permit testing. Major Heller reiterated the point, stating that a person must have a permit before the logging of hours can begin.

Concerning CDLs, Commissioner Brewer stated normally there are nine different sites throughout the state administering tests to obtain a CDL. Those sites were also shut down around mid-March. Special site opening and testing was performed for critical drivers for road deliveries. Currently, five of the nine testing sites are open which include; Paintsville, Elizabethtown, Georgetown, Mount Sterling and Prestonsburg. The written skills tests are performed by the Commercial Vehicle Enforcement Officers. There are some contract employees, such as retired officers, that also administer the test. KSP has not opened the Louisville testing site yet mainly due to the heavy outbreak of Covid-19 in that area. He anticipates opening London, Louisville, and Owensboro locations by the end of June. Extra precautions will be taken for the testers as they will be in full personal protection equipment gear and suits. It is also requested that the drivers that are taking the test, are being asked to wear facemasks as well. That test will also involve going into a city or urban environment to perform functions and meet the guidelines in order to pass that test.

Chairman Upchurch informed the Committee that all meetings of the 2020 interim will provide the option to video or teleconference into the meeting via the Blue Jeans application. He encouraged members to inform staff of their intent on how they would like to participate in meetings going forward. With no other business to come before the Committee Chairman Upchurch adjourned the Committee at 1:59 P.M.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 20, 2020

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

The 5th meeting of the Interim Joint Committee on Transportation was held on Tuesday, October 20, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Ken Upchurch, Chair, called the meeting to order, and the secretary called the roll. The minutes for the Committee's September 15, 2020 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, Karen Berg, C.B. Embry Jr., Stephen

Meredith, Johnny Ray Turner, and Mike Wilson; Representatives Terri Branham Clark, Randy Bridges, Al Gentry, Robert Goforth, David Hale, Chris Harris, Samara Heavrin, Kathy Hinkle, Thomas Huff, Derek Lewis, Savannah Maddox, Sal Santoro, Maria Sorolis, Cherylynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, and Walker Thomas.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); M. Chad LaRue, Executive Director, Kentucky Association of Highway Contractors, Inc. (KAHC); Lee Lingo, Executive Director, Kentucky Association of Manufacturers (KAM); J.D. Chaney, Executive Director, Kentucky League of Cities (KLC); Shellie Hampton, Legislative Director, Kentucky Association of Counties (KACo); Rick Taylor, President, Kentucky Trucking Association; Jason Siwula, Assistant State Highway Engineer, KYTC

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

#### **Introductory Remarks**

Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC) made opening remarks and thanked members of the Committee for allowing the Cabinet to appear before the Committee. On behalf of the KYTC, Secretary Gray pledged continued cooperation with the General Assembly.

#### **Kentucky Highway Contractors report – including response to Covid -19 issues**

M. Chad LaRue, Executive Director, Kentucky Association of Highway Contractors, Inc. (KAHC) spoke on both the impact of Covid - 19 and persistent underfunding has on KAHC members. Mr. LaRue stated there is a transportation funding crisis in Kentucky. There was \$74.6 million less state road funding in Fiscal Year (FY) 2020 than in FY 2019. Of that \$74.6 million, \$32 million is from the drop in motor fuels tax revenue.

Through the first quarter of FY 2021, state road funding is up approximately \$7.8 million compared to the first quarter of FY 2020, but motor fuels tax revenue is down nearly \$10.8 million. The reduction in revenue hinders KYTC's ability to deliver the program. The highway construction account is the balancing account for KYTC which means that all revenue losses directly impacts their ability to make improvements and repairs to Kentucky's transportation system. This has a direct impact on KAHC members. The Kentucky Association of Highway Contractors is KYTC's biggest partner in delivering needed repairs and improvements to the transportation system. Mr. LaRue stated the drop in the motor fuels tax directly impacts county and city governments' ability to maintain their transportation systems due to 26% of the motor fuels tax revenues going directly to them for that purpose.

Mr. LaRue stated the pandemic triggered an incredible slowdown in KYTC's ability to fund transportation work. A chart was provided that showcased letting numbers from 2004 to 2021. This chart showing projected letting totals for calendar

year 2020 of \$450 million, was later corrected in the meeting to an estimate between \$600 million and \$700 million.

While the Covid - 19 pandemic has caused a noticeable impact to the industry, it has only exacerbated an already existing transportation funding crisis, which became an issue when the motor fuels tax rate dropped in 2015. After that drop, it took until 2019 to approach previous funding levels last seen in 2014; this does not account for inflation. Despite overall revenues returning to previous highs, motor fuels tax revenues are still \$144.5 million less than in 2014, leaving a \$37.6 million impact to county and city governments.

Mr. LaRue stated because of Covid - 19, FY 2020 ended with overall state road fund revenues returning to FY 2016 levels, and the motor fuels tax portion returning to FY 2011 levels. A chart was also provided to show Kentucky annual state road fund and motor fuels tax levels from FY 2004 to FY 2020.

In closing, Mr. LaRue stated KYTC does not have sufficient funding to maintain and improve the current transportation system. KAHC members will see fewer business opportunities with state, county, and city governments, which puts at risk highway construction companies that employ thousands of Kentuckians in well-paying jobs across the Commonwealth.

Mr. LaRue stated the highway contracting industry strongly encourages the administration and legislature to work together to find a solution that will provide the increased funding needed for KYTC and county and city governments to provide a safer, more efficient transportation system for Kentucky's citizens and businesses. These investments will save lives on roadways and will make Kentucky more attractive to current and future businesses. The byproduct of these investments for the highway construction industry is an adequately funded, stable construction program that affords them the opportunity to continue to employ thousands of Kentuckians as they maintain and rebuild our transportation system.

Chairman Upchurch reiterated the seriousness of the transportation funding issue and stated in working towards a solution, he believes the Governor should take the lead on this issue as Executive Branch leadership is needed.

Representative Heavrin recognized Mr. LaRue as being a District 18 native and thanked him for his service in helping move Kentucky forward.

In response to a question asked by Senator Alvarado, Mr. LaRue stated his perspective is that there is a combination of reasons for the decrease in lettings. He stated that it is not uncommon to see volatility year after year, and it is also not uncommon to see a little bit of a ramp-up in the end of an administration, and a drop down at the beginning of a new administration. He elaborated that it seems after an administration has some years of experience behind them, they gain a comfort level of pushing to get the funds out the door with a tighter budget. A new administration, however, is trying to get their bearings

and figure out what a big budget is, what a big cabinet is, and also trying to figure out how much money is available. There is a certain amount of conservatism in a new administration. Mr. LaRue stated that the current Governor Beshear administration had a “double-whammy” of sorts in that the administration was dealing with those normal issues as well as the onset of the Covid - 19 pandemic. The pandemic caused a lot of uncertainty about the incoming funding levels.

In response to a question asked by Senator Alvarado, Mr. LaRue stated that the asphalt metric is different for each state depending on their program and what products and materials they use. He added that from an overall transportation revenue standpoint, there is a similar drop in revenues in surrounding states. He stated that the benefits surrounding states have had going into the pandemic is that within the past three years they have addressed raising transportation investment. Because of this, surrounding states are in a better financial position as it relates to transportation funding.

Co-Chair Higdon commended Secretary Gray, and Deputy Secretary Mike Hancock on being reliable and available when called upon.

Lee Lingo, Executive Director, Kentucky Association of Manufacturers (KAM), addressed the Committee. Mr. Lingo stated that the manufacturing industry requires safe and well-maintained roads in order to deliver products to their destination. As the pandemic hit, there was a scramble to obtain masks, toilet paper, and groceries. The manufacturing industry helped refill those empty shelves.

Mr. Lingo stated that every product begins at a city or county level. Many products go to other cities or counties for the continuation of build or processing; therefore local roads are frequently utilized. The manufacturing industry employs roughly 250,000 Kentuckians. Because of the Covid - 19 pandemic, the industry took a hit and now stands at approximately 230,000 employees. There are approximately 4,500 manufacturing related entities in Kentucky. Mr. Lingo stated for every job in manufacturing, there are three jobs created to support that job. That figure does not include people that make the roads or drive the trucks.

Mr. Lingo stated that ensuring safe roads is critical. He added that for every minute that a truck is idle or unable to pass quickly and efficiently on a road costs a significant amount of money. That cost is passed on to the consumers. Not only is proper funding for well-built roads needed, but maintenance funds for older roads must also be kept up to par. It is important to note that not only does the state need to have proper transportation funding, but the cities and counties do as well. In conclusion, Mr. Lingo stated that even though you might not be using those roads, those roads are being used for you.

J.D. Chaney, Executive Director, Kentucky League of Cities (KLC), spoke to the Committee on the Covid - 19 impact on KLC. Mr. Chaney stated populations continue to grow in Kentucky cities, but

transportation funding has remained stagnant. The shift of more Kentuckians moving into cities began in the 1970s, and currently more than 58% of the state's population live in a city.

Mr. Chaney stated cities maintain 10,000 miles of public roads. State and federal funds only provide approximately one-third of the cost of maintaining those thoroughfares. City spending on streets and roads climbed 36% from FY 2010 to FY 2019, while state and federal support dropped nearly 24%. Mr. Chaney stated city streets are more expensive to build and maintain due to requirements such as curbs and gutters, Americans with Disabilities Act (ADA)-required sidewalks, storm water drains, underground utilities, bike lanes, traffic sensors, and even more extensive milling requirements.

Mr. Chaney stated cities were already dealing with a decline in road fund dollars before the pandemic, which has only exacerbated the problem. Earlier this month the Office of the State Budget Director announced that motor fuels receipts fell 9.6% in September and have declined 5.3% for the year. The motor fuels tax is the only portion of the road fund shared with local governments. Municipalities received between \$4.5 million and \$7.5 million less in road aid than budgeted in FY 20. Current allocations amount to only 20% of the costs that cities spend each year, yet many cities are operating on unsustainably long replacement cycles to make their budgets balance.

Mr. Chaney referenced potential road funding formula modernization. The current Formula of Fifths was established in 1948 and is used for the County Road Aid and Rural Secondary Aid programs. The legislature later created the Municipal Road Aid Program in 1972. In FY 2020, the current formulas allocated 40.5% of gas tax revenues to counties and rural roads and 7.7% to municipalities and about one-third of all counties for “urban” roads that are outside city limits.

Looking towards the future in highway financing legislation proposed during the last three sessions of the General Assembly, KACo and KLC agreed to language dividing motor fuels tax revenue subject to revenue sharing that exceeds the historical high in revenues (\$825 million in FY 2014) at 13% equally to the County Road Aid and Municipal Road Aid programs. The agreement does not impact the Rural Secondary Aid program, which would still receive 22% of motor fuels collected.

Currently, 61% of yearly vehicle miles traveled in Kentucky are on rural roads, yet counties and rural areas receive 85% of road aid revenue. Urban roads account for 39% of vehicle miles traveled, but cities only receive

15% of the state's road aid allocations. City leaders face a growing crisis as road funding continues to decline. Mr. Chaney stated that modernizing the state's road funding formula is the top legislative priority for cities in the 2021 session. The agreed upon proposal holds counties harmless, produces more revenue, and ensures safer, better maintained roads throughout the Commonwealth.

Shellie Hampton, Legislative Director, Kentucky Association of Counties (KACo), spoke to the Committee on the impact Covid - 19 has had on KACo. Ms. Hampton stated KACo's membership consists of all fifteen-hundred elected county officials in the state. Transportation investment is the number one issue that KACo members intend to pursue for the upcoming 2021 Legislative Session of the General Assembly.

Ms. Hampton stated the Kentucky Infrastructure Coalition was formed four years ago to unite manufacturers, farmers, engineers, and local leaders who see the promise an investment made today in transportation infrastructure can have for collective futures. Ms. Hampton stated KACo is proud to be a founding member and is honored to present to the Transportation Committee.

Earlier this year, KACo conducted their second annual listening tour of the Commonwealth, where every county-elected official is invited to share what is foremost on their minds, what are they dealing with, and KACo is able to ask what they can do to help respond to constituents needs. The vital need for increased transportation funding was a consistent topic at each of this year's eleven stops.

Ms. Hampton stated that counties own half of all the roads and a third of all the bridges in Kentucky. She added that transportation funding is critical to ensure safe, efficient access within and between counties. With each passing year Kentucky does not make this investment, it becomes all the more essential as catch-up is played for economic development, safety, and quality of life issues.

Many fiscal courts have had to extend the time between road and bridge maintenance due to increased costs, decreased County Road Aid, and revenue shortfalls that have been exacerbated by Covid - 19. Ms. Hampton stated every committee meeting she has watched during the 2020 Interim has included testimony on the impact the pandemic has had on every issue brought to the table. The onset of Covid - 19 has created more issues for the General Assembly to address during the 2021 Session, just as it has for county officials in every county. Tentative talk of cuts are circulating and that fortunately, the tax paid on gasoline is one that people living outside of Kentucky help pay, and it is not reliant on state

general funds to replenish. As a state that has not raised revenues through legislation, Kentucky is in fact an outlier, specifically when stacked against states such as Indiana, Tennessee, Virginia, and North Carolina.

According to the American Association of State Highway Transportation Officers, since 2013, 36 states have raised transportation revenues. In 2015 the bleeding was stopped on how low the rate could actually drop, which stopped an imminent \$292 million loss in revenue that year, but \$200 million a year has been lost since.

Ms. Hampton stated that Representative Sal Santoro has filed legislation in the last three Sessions that would begin to address critically needed funding for state and county transportation projects and maintenance, as well as county roads and bridges. The data supports a gas tax increase, as 88% of the members polled support an increase, and 40% support an increase greater than the number proposed in prior bills.

Ms. Hampton stated that KACo members will continue to have conversations concerning the need for funding the priority projects in their county. When the public calls about a road or ditch that needs repair, members inform them that user fees paid at the pump help provide the means to cover the ever-increasing costs of asphalt, ditches, culverts and repairs, and that funding is not what it once was. Ms. Hampton reiterated that investments must be made in order for Kentucky state and county governments to provide a safer, more efficient transportation system.

In response to a question asked by Representative Thomas, committee staff explained the adjustable gas tax was put in place in the early 1980's. It set the minimum average wholesale price of gas at approximately \$1.11 a gallon. The actual price did not exceed that minimum amount until 2004. From 2004 to 2013, almost without exception, the state saw the maximum 10% increase annually. This is how the gas tax went from 16.4 cents per gallon to its high of over 33 cents per gallon. When the price of gas fell precipitously, the legislature set the minimum average wholesale price at \$2.17, effectively freezing the tax rate at 24.6 cents per gallon.

#### **Kentucky Trucking Association report – including response to Covid - 19 issues**

Rick Taylor, President, Kentucky Trucking Association (KTA) spoke to the Committee on how Covid - 19 has impacted the Kentucky trucking industry. In 2018 there were almost 110,000 trucking industry jobs in Kentucky. In 2019, over 13,000 trucking companies were located in the Commonwealth, and they paid \$670 million in state and federal highway taxes and fees.

Mr. Taylor stated at the onset of the pandemic, around April or May, approximately 83% of normal commercial transportation activity was still taking place. Eventually, there was a sharp decline in those numbers. Parts of the trucking industry are doing well even though capacity is tight due to some carriers

shutting down or running less trucks. Ecommerce expectations are at an all-time high, and retailers are restocking.

Mr. Taylor stated truck tonnage fell 8.9% in August compared to 2019 levels. This year is the fifth consecutive year that levels have fallen. Heavier industrial loads are factored into tonnage as not all freight is created equal. Fleets hauling for retailers are doing well while those hauling industrial products are seeing lower freight volumes. The movement of essential consumer goods and medical supplies on a local and regional level increased approximately 13%. An increase in final mile services was also seen.

Mr. Taylor stated 50% of companies experienced lower to much lower freight levels, 28% of companies experienced about the same freight levels, and 22% of companies experienced higher freight levels. Companies supplying manufacturing facilities experienced a negative impact due to shutdowns. Companies hauling petroleum saw a decrease in business due to stay at home orders. According to Bob Costello, Chief Economist, American Trucking Association, freight volumes are still expected to grow by 36% between 2020 and 2031.

Mr. Taylor stated trucking volumes are expected to rebound in 2021, rising 4.9% next year, and then growing 3.2% per year on average through 2026. He stated spot market rates were down 25% in April from the previous year. They are now up 17%. He added that spot market rates are determined by the ratio of the number of loads in the market compared to the number of trucks available to move the freight.

Mr. Taylor informed the Committee of the Covid - 19 impact on professional truck drivers. Personal protection equipment and sanitization products were needed by drivers. Some states also closed rest areas and/or truck stops, resulting in major challenges for some drivers. Some facilities that were open, only allowed for a limited capacity of visitors. Another challenge faced by professional drivers was that several restaurants were closed. Semi-trucks exceed the height requirements of drive thrus, and no walk-up customers are permissible in drive thrus, therefore they could not be utilized. On a positive note, Mr. Taylor stated traffic congestion was down due to the lack of commuter traffic.

In response to a question asked by Co-Chair Higdon, Mr. Taylor gave a brief breakdown on some of the taxes and fees that truck drivers are required to pay. He stated trucker drivers pay weight distance tax, motor fuels tax, diesel fuel tax, registration fees, federal excise tax on new equipment and tires, and a few other smaller fees such as the unified carrier registration fee. As requested, Mr. Taylor promised to provide the Committee members with a breakdown of payment of those taxes and fees and how Kentucky compares to other states.

Mr. Taylor highlighted some issues that KTA would like the General Assembly to consider in the 2021 Session. There is an unnecessary trip that has to be made to clerk's offices to pay the extra \$30

registration certificate fee for vehicles 44,001 lbs. or greater, three \$1.00 bucket fees, and the \$1.00 childcare assistance account fee. Registration is completed on-line, decals and/or plates are mailed, and temporary tags are printed. The preferred solution to this issue is to eliminate the \$30 fee as proposed in the previous two infrastructure bills House Bill 517 (2019) and House Bill 580 (2020). He offered an alternative solution, which was to keep the fee, but payment at the clerk's office would be optional, or the fee could be paid online.

Another proposed legislation would be to prevent measures taken by motor carriers to improve safety from being considered in evaluating a worker's status as an independent contractor or employee. The problem is that requiring independent contractors (ICs) to use certain safety technologies or monitoring their driving behavior, and coaching them based on it can be viewed as exercising employer like control. This serves as an unnecessary impediment to carriers utilizing some safety measures with their ICs. This type of legislation has passed in Tennessee, Arkansas, Indiana, and Georgia. The legislation is supported by UPS and FedEx. AAA found that video based onboard safety monitoring could prevent 63,000 crashes, 17,700 injuries, and 293 deaths each year. This would encourage deployment of safety technologies and make our highways safer. It would not change the state's test for classifying a worker, or mandate that a motor carrier or IC use this technology.

Mr. Taylor stated KTA would like to see legislation to help prevent failure to equip claims. He stated possible language could state "An owner operator, lessor, or lessee of a commercial motor vehicle as defined in 49 CFR 390.5 shall not be liable in a bodily injury or wrongful death action for not equipping the commercial motor vehicle with safety technology not required by federal or state laws or regulation." He stated that collision avoidance technology such as side cameras or lane departure notification, auto braking, etc. are not required by law, but plaintiff attorneys argue that they should have had it on the vehicle and therefore they failed to equip the vehicle.

#### **Safety Measures in Highway Work Zones**

Jason Siwula, Assistant State Highway Engineer, KYTC updated the Committee on safety measures in highway work zones. In 2019 there were eight work zone deaths in Kentucky, which were five more than in 2018. The number of work zone documented crashes also rose approximately 20% in 2019 from 2018. KYTC has recently engaged stakeholders from the Cabinet and federal agencies and formed a committee to look at challenges and opportunities to better plan, design, administer and perform work within work zones in Kentucky. The Work Zone Committee is evaluating ideas to improve safety (both worker and highway), traffic flow, as well as driver understanding and compliance of work zone traffic control.

An item that KYTC is working on is experimental striping in several work zones. In an effort to improve

work zone safety, KYTC secured approval from the Federal Highway Administration for the use of orange pavement markings on two I-75 widening projects north of Corbin and London. The primary benefits of the orange pavement markings are expected to be lower speeds due to a continuous warning that motorists are still within the limits of a work zone and less driver confusion due to improved demarcation of the intended travel path in transition areas.

Mr. Siwula stated that KYTC was recently awarded a small innovation grant from the Federal Highway Administration focused on implementing an initiative called “Smarter Work Zones” which addresses technology needs and the opportunity to implement them through work zones. Some of those work activities are being evaluated now that KYTC plans to implement during the next construction season.

With no further business to come before the Committee, Chairman Upchurch adjourned the meeting at 2:28 P.M.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

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

November 12, 2020

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

The 6th meeting of the Interim Joint Committee on Transportation was held on Thursday, November 12, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee’s October 20, 2020 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, Karen Berg, C.B. Embry Jr., Stephen Meredith, Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Terri Branham Clark, Randy Bridges, Chris Fugate, Al Gentry, Robert Goforth, David Hale, Chris Harris, Samara Heavrin, Kathy Hinkle, Regina Huff, Thomas Huff, Derek Lewis, Bobby McCool, Sal Santoro, Maria Sorolis, Cherlynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, and Walker Thomas.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Kenny Bishop, Legislative Director, KYTC; Dan Mann, Executive Director, Louisville Regional Airport Authority; Candace McGraw, Chief Executive Officer, Cincinnati/Northern Kentucky International Airport (CVG); Eric Frankl, Executive Director, Blue Grass Airport; Mark McCoy, Administrator, Outdoor Advertising Program, KYTC; and Will Fogle, Director of Legal Service, KYTC.

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

#### **Introductory Remarks and Update on the November 11, 2020, Truck Collision and Fire on**

#### **the Brent Spence Bridge**

Jim Gray, Secretary, KYTC gave brief introductory remarks and thanked the Transportation Committee, as well as the Budget Review Subcommittee on Transportation, for their collaborative efforts in helping the KYTC achieve its many goals.

Secretary Gray updated the committee on the investigation, analysis, and path forward on the November 11, 2020, truck collision and fire that occurred on the Brent Spence Bridge. Secretary Gray attended the meeting remotely, as he was on-site in Northern Kentucky for inspection of the damage. He, along with State Highway Engineer James Ballinger, Ken Sperry, and Bob Yager, Chief District Engineer, had just observed the site. Secretary Gray stated they were able to examine the deck conditions, the structural conditions, and were able to talk to some of the inspectors. He added that the investigation and analysis of the bridge itself is ongoing.

The incident occurred at approximately 3:00 A.M. Wednesday morning, November 11, 2020. A commercial vehicle jack-knifed on the lower deck of the Brent Spence Bridge. The jack-knifed truck was then struck by a second truck carrying potassium hydroxide. A fire ignited causing visible damage on the bridge and its concrete deck. With the help of first responders, quick action was taken to close the bridge to the public, and to allow firefighting efforts to begin. The Ohio River was closed by the U.S. Coast Guard and a boom was placed in the river to contain materials that may fall in.

The Kentucky Energy and Environment Cabinet was also on-site to lend their expertise as some potassium hydroxide leaked into the river. Secretary Gray stated the amount that has leaked is not of environmental concern, and the local water companies will communicate to address the presence of fire-suppressant foam in the water. Secretary Gray was grateful to testify that there were no injuries reported.

Although the fire was contained fairly quickly, the temperature of the bridge was still at an intense level. That intense temperature, coupled with significant debris, created a barrier for engineers to get a close-up look at the bridge. Drones were utilized to get that close-up look at the damage. Pressure washing was also used to remove soot from the structure to allow engineers a better view of bridge damage. He added the height limit of the bridge restricted the use of cranes to move the damaged vehicles and materials. Secretary Gray stated it is too soon to know the specifics and extent of the damage, but it is significant.

In addition to damage analysis, redesigning options are being considered as well. At best, the bridge would be closed for several days to allow for thorough inspection, but travelers should be prepared for a much longer closure for repairs. The Ohio River itself will remain closed until the U.S. Coast Guard determines when it can safely be reopened. Alternate routes are being provided to keep both goods and

citizens moving across Ohio and Kentucky.

Secretary Gray stated a regional state of emergency has been declared, and the Federal Highway Administration has been notified of the intent to request emergency funding for required repairs.

Chairman Higdon thanked the Secretary and Cabinet and all the efforts that are being made to safely repair the bridge.

Representative Santoro reiterated that the Brent Spence Bridge will not be demolished. The money that will be put into repair of the bridge is imperative. He added that he has several constituents that work in Cincinnati and the bridge is important.

In response to a question asked by Senator Alvarado, Secretary Gray stated all funding avenues are being explored for bridge repair, including liability insurance of the trucking companies.

#### **Kentucky’s Commercial Passenger Airports**

Dan Mann, Executive Director, Louisville Regional Airport Authority, discussed the economic impacts of the Kentucky’s largest airports, the Cincinnati/Northern Kentucky International Airport (CVG), Blue Grass Airport (LEX), and Louisville International Airport (SDF). He stated those three airports are self-sustaining tax generators and job creators that are the front door for Kentucky to more than 14 million residents, visitors, and businesses per year. Collectively, all three airports support more than 134,000 jobs with a combined economic impact of \$18.27 billion per year. Mr. Mann stated the CARES Act relief has been a lifeline, but the airports are multi-million-dollar businesses with persistent, growing operational and capital demands. He stated CVG and SDF produce more than \$480 million in tax revenues per year.

Total passengers served annually between the three airports pre-Covid-19 was 14,807,667, of which CVG served 9,103,554; LEX served 1,465,049; and SDF served 4,239,064. Also pre-covid-19, there were a total of 47,876 direct and indirect jobs supported by CVG; 3,478 jobs supported by LEX; and 82,723 jobs supported by SDF, making a total of direct or indirect jobs supported by all three airports 134,077 jobs. The total annual economic impact of all three airports is \$18,270,323,277. Of that more than \$18 billion, CVG has an annual economic impact of \$7,048,405,659; LEX has an annual economic impact of \$442,003,080, and SDF has an annual economic impact of \$10,779,914,538.

Mr. Mann utilized a chart that showcased the monthly passenger trend at SDF. He stated 2019 was their best year ever in terms of passenger and cargo traffic. He stated 2020 started out to be an even better year than 2019 until the Covid-19 pandemic hit and in February 2020, a state of emergency was declared for SDF. Passenger trends showed a steep decline from February to April, with April showing 7, 035 passengers traveling with SDF. In May there was a slight increase up to 20,563 passengers, and passenger travel continued to increase in July with 62,284

passengers. In September passenger travel peaked at SDF to 62,720 passengers.

Mr. Mann gave an overview of the sanitary and health measures that are being taken at SDF. He stated over 90 plexiglass barriers have been installed at all customer service counters for airlines, restaurants, retail shops, and Transportation Security Administration (TSA) areas. He added there has been more frequent Center for Disease Control (CDC) compliant cleaning, including a focus on high-touch areas and utilization of four autonomous robot floor cleaners. Mr. Mann stated SDF has quadrupled the number of automated hand sanitizer stations and installed automated touchless hand towel and soap dispensers. There have been “Healthy Travel Tips” signs placed in key points of the terminal. The information booth at SDF is now being staffed by virtual airport ambassadors. The direct expenses of these steps taken equal approximately \$137,000.

Mr. Mann stated the expected revenue loss at SDF is \$20 million in 2020 and \$17 million in 2021. He stated SDF is in survival mode and has reduced their 2020 budget by \$19 million. There has been a reduction in the workforce through modified layoffs and a significant reduction in marketing. There has also been an increase in cost-per-enplanement from \$5.86 to \$8.74. There has been a minimal decrease in nonstop flights at SDF. However, daily departures have been cut in half, and New York service has been suspended.

Mr. Mann stated that although the CARES Act allocation of \$21 million was a significant help and was very much needed, it has been 100 percent committed to debt service. There have been \$108 million in infrastructure projects under contract pre-Covid-19 that have and will continue through the fiscal year. These projects include a jet bridge replacement, electrical upgrades, a new operations center, new rental car facilities, new moving walkways, new escalators, and elevators, and a new parking guidance system. There have been 566 contractor employees with 46 companies, and nine projects that have been ongoing to improve SDF infrastructure throughout the pandemic.

Mr. Mann stated this level of continued investment is not sustainable without some version of a second CARES Act. He stated he believes the economic impact will be felt for at least two to three years in the future even if a vaccine is forthcoming. He added that August 2021 is a pivotal month for local jobs and investment once under-contract jobs are completed.

Mr. Mann stated as the home of UPS Worldport, SDF also serves as the base to UPS Airlines, the fourth largest cargo airline in the world. He added that SDF set an all-time record in worldwide cargo rankings in 2019, ranking fourth worldwide (previously seventh). Also, in 2019, SDF ranked second in North America (previously ranked third). Mr. Mann stated that UPS and SDF are benefiting from a surge in e-commerce. In 2019, UPS Next Day Air package shipments grew

by more than 22 percent, resulting in more flights arriving and departing from SDF. In closing, Mr. Mann stated, SDF is experiencing peak-level package volumes.

Eric Frankl, Executive Director, Blue Grass Airport spoke about LEX. He stated LEX is having the same issues with passenger traffic as SDF and CVG. Mr. Frankl focused on infrastructure and the Taxiway Safety Enhancement Program at LEX. The program has been a consistent investment project in the facility that has been federally funded, and those funds have been matched with local funds. There have been several projects initiated under the Taxiway Safety Enhancement Program starting from snow removal and equipment maintenance in 2014, site work for taxiways, and a new aircraft rescue and firefighting facility in 2015, Taxiway A North realignment to meet current taxiway design standards in 2016, the construction of the aircraft rescue and firefighting facility in 2018, and finally Taxiway construction to improve airfield safety and efficiency in 2019. The total investment for these projects is \$67,273,910.

Additional upcoming investments for LEX include the rehabilitation of the primary commercial service runway in 2021, costing approximately \$15 million; the installation of an engineered material arresting system at the south end in 2022, costing approximately \$12 million; and the installation of an engineered material arresting system at the north end in 2023, costing approximately \$7 million. The total for additional upcoming investments will be approximately \$34 million.

Mr. Frankl provided a chart that showcased the monthly enplaned passenger trend from September 2018 to September 2020. The chart illustrated the high point of 70,774 passengers in June 2019, to the low point of 2,079 passengers in April 2020. As of September 2020, there were 21,547 enplaned passengers at LEX.

In conclusion, Mr. Frankl stated there are over 1,071,144 potential travelers that reside within the airport’s catchment service area. The catchment area includes 31 counties in central and eastern Kentucky.

Candace McGraw, Chief Executive Officer, Cincinnati/Northern Kentucky International Airport gave an overview of the operational impacts of Covid-19 at CVG. Ms. McGraw stated during the pandemic, CVG is open and operational since the airport is classified as essential infrastructure. She stated at the worst of quarantine in April, passenger processing volumes were reduced by 90-95 percent. Routes were suspended and are now returning based on travel demand. There have been temporary cancellations of routes such as Delta CDG/Paris, flight frequencies, and certain carrier operations such as Air Canada and Vacation Express.

Ms. McGraw stated there are modified hours or closures for all concessionaires. There is also closure of parking products such as ValuPark and Economy Lot. She added there is a new \$10 daily rate for consolidated parking in the terminal garage. She

stated there have been employment impacts to several airport partners as airlines are reducing staff (both temporarily and permanently) even post-CARES Act support.

Ms. McGraw also provided a chart that illustrated the CVG monthly enplaned passenger trend from September 2019 to September 2020. The peak of enplaned passengers occurred in October 2019, with a total number of passengers at 404,380. The lowest point was in April 2020 where there were only 19,784 enplaned passengers. As of September 2020, there were 128,125 enplaned passengers at CVG.

Ms. McGraw stated aeronautical and non-aeronautical developments provide varied streams of revenue for CVG, but the Covid-19 pandemic has caused a shift toward cargo operations, as most revenue sources are tied to passenger levels. In 2019 the average percentage of operations consisted of 41 percent passenger operations and 59 percent cargo operations. As of September 2020, those figures have dramatically shifted with 24 percent of operations being passenger operations and 76 percent being cargo operations.

Ms. McGraw stated CVG is home to one of three DHL global super hubs (largest in the world only after Leipzig, Germany). More than 80 percent of DHL’s Americas volume passes through CVG every day.

Ms. McGraw stated Atlas Air Worldwide flies for many companies, including DHL and Amazon. Atlas is building a new \$34 million operations center in Erlanger. Located near CVG to support its sizable presence at the airport. She added work on Amazon’s \$1.5 billion North American Air Hub is on track for a late 2021 opening.

Despite the pandemic, CVG continues its focus on future planning, doubling down on strategies for additional air cargo growth opportunities on and around the 7,700-acre campus. This will continue to grow the Commonwealth’s employment base and diversify the airport’s business.

In conclusion, Ms. McGraw gave an overview of the financial situation at Kentucky’s airports. She stated that while federal CARES Act funds have been critical, Kentucky’s largest airports are still running out of cash. The funds they have primarily cover operational expenses and debt service payments. She stated that SDF and LEX are almost out of CARES Act funds.

The 2020 enacted budget for SDF was \$66.8 million. The SDF budget was reduced by \$19 million, and they received \$21 million in CARES Act funds. As stated earlier, their anticipated revenue losses for 2020 and 2021 are \$20 million and \$17 million, respectively. The cost saving measures that SDF has taken includes layoffs, a reduction in force, and contract freezes.

The 2020 enacted budget for CVG was \$120 million. The CVG budget was reduced by \$20 million, and they received \$43 million in CARES Act funds. The anticipated loss for CVG for 2020 is \$45 million, and for 2021 is \$40 million. The cost saving measures

that CVG has taken includes a hiring freeze, and a pause of non-essential capital projects.

The 2020 enacted budget for LEX was \$20 million. The LEX budget was reduced by \$7 million, and they received \$9.5 million in CARES Act funds. The anticipated loss for LEX for both 2020 and 2021 is \$10 million each year. The cost saving measures that LEX has taken includes layoffs, a hiring freeze, and a pause of non-essential capital projects.

#### **KYTC's Legislative Agenda for the 2021 Regular Session**

Kenny Bishop, Legislative Director, KYTC spoke on KYTC's legislative agenda for the 2021 Regular Session. Mr. Bishop could not comment on a specific legislative agenda for the Cabinet, as any agenda will depend on what the KYTC's budget is going to develop into. He did stress that three main areas the legislative agenda will focus on are modernizing government, creating a better Kentucky, and safety in work-zones and on the road.

#### **Recent Ruling on Kentucky's Billboard Statutes and Regulations**

Mark McCoy, Administrator, Outdoor Advertising Program, KYTC gave a brief presentation on how the KYTC assumed the role of administering regulative oversight on outdoor advertising. In 1958, Congress passed the first advertising control legislation, known as the Bonus Act, which among other things, provided incentives for states to control outdoor advertising within 660 feet along interstates. Those states that elected to participate would receive an additional bonus of one-half of one percent of federal highway construction costs of all interstates where advertising was being controlled. The Bonus Act was a voluntary program and Kentucky was one of 25 states who enacted laws to implement its provisions. Twenty-two states, including Kentucky, currently remain in or are subject to the Bonus Act.

In 1965 the Bonus Act was repealed and replaced by the Highway Beautification Act. Unlike the Bonus Act, the Highway Beautification Act was not voluntary, but mandated that all states must enforce effective control of outdoor advertising of protected areas along controlled routes within its borders. He stated not all roads and routes are subject to these regulatory requirements. He added those that do fall within this category in Kentucky include interstates, parkways, national highway system routes, and limited access federal aid primary highways. Kentucky scenic routes are additionally protected, and advertising devices are prohibited by virtue of KRS 177.576.

Mr. McCoy stated in December of 1971 a federal state agreement was amended and entered into between the director of the Federal Highway Administration (FHWA) and the secretary of transportation. This agreement further defined the terms and provisions of agreed oversight that is applicable today. As such, Kentucky's statutory provisions were developed to fulfill these regulatory obligations and were structured to somewhat mirror the regulatory language provided in Title XXIII of the federal regulations.

On December 31, 2018, an action was filed with the U.S. District Court for the western district of Kentucky. This action was L.D. Management Company vs. Greg Thomas in his capacity as Secretary of KYTC. The plaintiff for that action reported a violation of his first and fourteenth amendment rights based on a violation notice issued to him by KYTC for unpermitted outdoor advertising activities. This action was heard by the court on January 16, 2020, and a subsequent ruling was issued on April 24, 2020. The ruling found both Kentucky statutes and regulations to be unconstitutional. This decision has been appealed and that litigation is ongoing.

Mr. McCoy stated the primary issue found by the court was the manner in which current statutory provisions require a distinction between on and off premise advertising devices to be made, and the manner in which that distinction is derived. He stated Kentucky is not facing this issue alone, with similar first amendment challenges being raised in Oregon, Texas, and Tennessee. All of these challenges have resulted in statutory revisions being enacted. Mr. McCoy stated he currently sits on two national American Association of State Highway Transportation Officials (AASHTO) Committees which provide technical review and regulatory guidance in this area. Because of this, he reported that a significant number of current states and their regulatory schemes across the nation utilize some form of the on/off premise model which is at issue. Mr. McCoy stated several states are currently either proactively developing or initiating strategies to address what is perceived to be an issue that will inevitably require some form of corrective action.

Mr. McCoy stated in Kentucky, the impact of the ruling has resulted in much uncertainty, opening the door for some in the advertising industry who have chosen to take a gamble and erect advertising devices without state consent and a disregard for the fact that a final ruling on the case has not yet been received from the appeals court. He stated he would like to advise any property owners who are considering allowing a device to be erected on their land to ensure they have all the facts. He stated himself, or anyone within the permit department of KYTC will be more than happy to assist with any questions.

Mr. McCoy added the devices that are currently going up across the state are being done so primarily by a very small percentage of companies within the industry. The vast majority of advertisers have stayed the course and are waiting directions on how to proceed. He added in light of the current court ruling, KYTC has initiated an interim moratorium on the issuance of any new permits for outdoor advertising devices. Applications for permits are continuing to be received and are being held in a que at such time there is a resolution for the issue. He stated KYTC personnel are continuing to monitor and log all advertising device activity occurring within this time frame. He stated in order to ensure continued compliance, the adoption of this interim strategy was first provided to the Federal Highway Administration for approval.

Mr. McCoy pointed out that the Highway Beautification Act additionally established a penalty of potentially withholding up to 10 percent of a state's annual highway federal fund should they be found non-compliant. In Kentucky's case this would equal approximately \$70 million in federal funds should Kentucky be found non-compliant.

In response to a question asked by Chairman Higdon concerning if the trial court was asked to delay the effect of the district court decision, Mr. McCoy stated he is unable to discuss any specifics that might impact the ongoing litigation.

In response to a question asked by Chairman Higdon, Mr. McCoy stated that if Kentucky wins the appeal, the devices that were put up without going through the proper KYTC avenues, would result in violation actions pursuant to current law. If the decision is otherwise, Mr. McCoy stated they are currently exploring options to address the devices through potential proposed regulatory provisions.

In response to a question asked by Representative Tackett-Laferty, Mr. McCoy stated any constituents could be directed to the KYTC website which describes everything occurring during the interim time-period.

#### **Recognition of Members and Adjournment**

Chairman Higdon recognized members of the Committee that would not be returning. With no further business to come before the Committee, Chairman Higdon adjourned the meeting at 2:07 P.M.

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

### **Minutes of the 5th Meeting of the 2020 Interim**

October 28, 2020

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

The 5th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Wednesday, October 28, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Walker Thomas, Co-Chair; Senator C.B. Embry Jr., Co-Chair Designate; Senators Denise Harper Angel, Jimmy Higdon, Dennis Parrett, Wil Schroder, Brandon Smith, Whitney Westerfield, and Mike Wilson; Representatives John Blanton, Myron Dossett, Jim DuPlessis, Chris Fugate, Al Gentry, Mark Hart, Samara Heavrin, Kathy Hinkle, Matthew Koch, Scott Lewis, C. Ed Massey, Patti Minter, Dean Schamore, Attica Scott, Buddy Wheatley, and Lisa Willner.

Guests: Colonel Bobby H. Freeman, Distinguished Veteran; Dr. Cherie Dawson-Edwards, Ph.D., Associate Dean, A&S Diversity, Equity & Inclusion, Associate Professor, Criminal Justice, Director of Social Change, Department of Criminal

Justice, University of Louisville; Policy Strategist Keturah Herron, American Civil Liberties Union of Kentucky; Police Social Worker Kelly Pompilio, Alexandria Police Department; Chief Joseph Monroe, President, University of Kentucky Police Department, and Pat Crowley, Legislative Affairs, Kentucky Association of Chiefs of Police.

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

### **Approval of September Minutes**

Senator Embry moved to approve the September meeting minutes. Representative Hart seconded the motion. The minutes were approved.

### **Distinguished Veteran**

Colonel Bobby H. Freeman testified that he was commissioned by the ROTC Program at Murray State University while the army draft was active. He went to aviation school after two years and stated he is 85 and still flying. He served four tours, then worked in the American Embassy in Nepal. His last assignment was in Fort Campbell. His wife, Clarissa, commonly known as “TC” did many things to support the military community and the main gate at Fort Campbell is named after her.

Responding to a question from Chair Thomas, Colonel Freeman stated that his wife was aware that Fort Campbell was going to dedicate their main gate after her, but she passed before it was built.

Representative Dossett thanked Colonel Freeman for his service to our nation and expressed his condolences that TC was no longer with us for them to thank her as well.

### **Public Safety**

Cherie Dawson-Edwards, Ph.D., Associate Dean of A&S Diversity, Equity, and Inclusion, Associate Professor of Criminal Justice, Director of Social Change asserts that she came to this meeting as an educator and administrator who works with both students who believe in social change as well as students who want to be or are currently in law enforcement. This diversified student body provides her insight into the defunding of the police movement. She stated that she does not see her testimony as “for” or “against” anything but is here to educate and share the topics discussed in her criminal justice classes.

Dr. Dawson-Edwards said the language used in these concepts is critical to communication. The Minneapolis City Council pledged to abolish the police department and Dr. Dawson-Edwards reiterated that this language is not new or caused by the protests of this year; she has been teaching about criminal justice and prison abolition since 2003. She stated that they want to end policing as we know it: “we’re not abolishing help, we’re abolishing police.” Many communities feel as though policing harms rather than helps or protects and communities believe that empathy needs to be more important.

Dr. Dawson-Edwards implored the committee to ponder if police need to handle every situation that they currently do such as domestic violence, homelessness, prostitution, school security, drug

dealers, drug possession, gang violence, theft, and every unexpected crisis. She stated that we expect our police officers to do too many things, which makes their main job of keeping the peace more difficult for them.

According to the editor from *Police Magazine*, there are many Americans who believe the institution of law enforcement itself is racist. Those who use this argument say that the first organized law enforcement in the American colonies were slave patrols who acted more like bounty hunters. Most historians, however, believe the first real professional law enforcement agency in the United States was the Boston Police Department. Sixty-two percent of proposals, to state and federal legislators, providing alternatives to policing are centered on funding and reinvestment.

People frequently relate police reform for systemic change to divesting and investing within the communities. Those who argue for police reform, question if the proposed reforms: allocate more money to the police; advocate for more police and policing; focus on technology; focus on dialogues with individual officers; or are funded with tax dollars.

Responding to a question from Representative Scott, Dr. Dawson-Edwards states that communities that have already started building community safety alternatives began with mental health, because it is an area that police often feel ill-equipped to deal with. She went on to say that there are many mental health experts that know how to handle mental health crises and do not have guns and weaponry that police officers possess. The CAHOOTS (Crisis Assistance Helping Out On The Streets) Program in Oregon is an example of a community safety alternative that utilizes mental health professionals and crisis workers to intervene in non-violent situations. She argued that there are many grassroots groups that may not have the resources to scale their work to the size of their communities and wants the committee to rethink allocating resources to these public safety alternatives.

Responding to a question from Representative Blanton, Dr. Dawson-Edwards asserts that she has no experience as a police officer, but has experience with probation and victim services. She also stated that she does not know how Kentucky’s budget is allocated for law enforcement. Representative Blanton stated that Kentucky sits in the bottom five in the country in regards to law enforcement spending and that Kentucky should spend more to support our law enforcement rather than defunding the police.

Representative Wheatley commented that while he does not agree with divesting funds from law enforcement, he would be open to any additional funding going towards social work and mental health programs. He added that while many people are averse to innovation and change, people are adaptable. Naming the movement “Defunding the Police” was not a good start for open communication.

Responding to a question from Representative Wheatley, Dr. Dawson-Edwards stated that she has been responsible for curriculum at the University

of Louisville and the Southern Police Institute. She added that she is not anti-police and fully supports education and training.

Representative Hart commented that we need to defend the Kentucky National Guard, as their attention to duty, professionalism, and dedication should be applauded.

Representative Dossett stated that law enforcement needs to be respected for sacrifices made. He supports funding all law enforcement agencies further than they currently are, and thanks them for helping in the worst situations.

Keturah Herron, Policy Strategist for the American Civil Liberties Union (ACLU) of Kentucky stated that this topic is incredibly important and timely and she would be remiss if she did not bring up how the incident involving Breonna Taylor has been the driving force behind the work that she has done this year. She stated that the incident in Philadelphia with Walter Wallace Jr. was the very reason she was testifying. She stated that Mr. Wallace was experiencing severe mental distress when the police responded to the scene, he had a knife and he was met with deadly force. Mental illnesses have to be treated differently in order to better our society and lessen the civil unrest in our country.

Public safety is a state or local government issue which often has a broad portfolio of responsibilities, which may include police and fire departments, ambulances and medical services, the Office of Emergency Management, and even the protection of property and businesses. The five pillars of public safety are education and community, housing and physical environment, physical and mental health, stability and personal safety, and economic and food security. Together, if met, these pillars lead to decreased crime, violence, substance abuse, homelessness, and high school dropout rates. Continuously not meeting the requirements for all five of these pillars can be detrimental to how a community thrives and as a result we have created communities where people are forced to compete against each other for scarce essential resources.

The first thing that needs to be done is to increase community-led initiatives. There needs to be police free schools that are full of trained counselors and restorative justice programs. There should also be access to trauma-informed responders for domestic violence and mental health calls for when someone clearly needs help, but not from police. An increase in minimum wage, substance abuse resources in communities, and an end to qualified immunity for police officers. These changes will increase trust and stability in troubled communities. There should be a non-carceral response to behaviors caused by poverty, mental health, or substance use and support initiatives that provide training and transitional job opportunities for those impacted by policy change.

Responding to a question from Representative Scott, Ms. Herron states that when looking at Kentucky as a whole, we need to be responsible and

address these issues in all communities.

Responding to a question from Representative Fugate, Ms. Herron stated that she has no experience as a police officer, but previously aspired to be in law enforcement. Regarding the incident with Mr. Wallace, she stated the responding officers knew before arriving that the person they were responding to had a knife and was diagnosed with multiple mental illnesses. She stated the officers should have put more focus on utilizing the family present at the scene to help deescalate the situation and they should have chosen a less lethal option rather than a gun. Representative Fugate asserted that police are ranked 75<sup>th</sup> in Kentucky in pay and if any changes happen to the police budget it needs to be increased and reflect that Kentucky appreciates that these officers risk their lives for our safety.

Responding to Representative Koch, Ms. Herron asserted that she is aware that policing is hard and dangerous work. She asked the committee to go into their communities and ask police officers what types of calls they feel as though they should not be responding to. Ms. Herron says that it is up to legislators to find alternative solutions for these calls.

President Joseph Monroe, Chief of the University of Kentucky Police Department, stated there are four things law enforcement must have to be successful: trust, transparency, accountability, and legitimacy. He stated that law enforcement across Kentucky can do better but they need help. Financial help from the state legislature and intentional allocation of funds are critical. The hiring process needs to be strengthened so that only the best candidates are hired.

Police departments would also request additional funding dedicated towards increasing and enhancing training in Kentucky would help renew the trust from citizens. This training would be verbal de-escalation, crisis intervention training (CIT), technology to provide simulated training situations, and online training. Funding needs to be allocated to supporting police officers' mental health and explore the use of social workers in order to reduce the frequency force is used; not to take away from the officers but to assist.

Kentucky is reaching a tipping point as there are many police officers nearing retirement. Covid-19 has also decreased the number of officers that are able to be in the Department of Criminal Justice training academy. Body-worn cameras are an effective tool for ensuring law enforcement transparency and accountability and helps build trust with communities.

Responding to a question from Representative Blanton, President Monroe states that the significant reduction of applications for law enforcement can be rectified if focus is put on this being a profession which is supported by the public and the legislature.

Kelly Pompilio, Police Social Worker (PSW) of the Alexandria Police Department defined the roles and responsibilities of a PSW as highly specialized in the field of social work and they act as liaisons between the public service departments and the citizens of their city. PSW work directly with victims

and families to assist with crisis intervention and creating individualized safety plans. Ms. Pompilio is the first PSW in Kentucky, beginning this position in 2016 after being with the Cabinet for Health and Family Services for 12 years where she worked very closely with law enforcement.

PSW work with the indigent population, those who experience traumatic events, deaths, physical mental and developmental issues, substance abuse, domestic cases, and victims of crimes. PSW reduce recidivism and recurring calls as they have more time than police officers typically do to holistically help individuals. PSW enhance victim cooperation, especially in rape and domestic violence instances, as they use a multi-disciplined approach and support the victim through the entire process.

Fire and ambulance services typically provide assistance to senior citizens who frequently fall or need lift assistance but PSW help them find a safe place to live and increase their independence. PSW assist the code enforcement division by identifying the people that have been cited violations but do not have the resources to fix them. PSW assist with recurring yard conditions, noise complaints, and neighbor disputes.

PSW work as advocates for their clients by assessing their needs and provide intervention and referrals. They are liaisons to the community and increase satisfaction among community members which leads to a sharp reduction in repeat service calls. They are often the lead in events like "Coffee with a Cop" and are available to be someone that the community can talk to. They use every opportunity to educate through social media and provide presentations to seniors in regards to scams and what to be aware of.

Ms. Pompilio stated that most of her clients are referred to her by police officers and EMS workers but people are beginning to come ask for a PSW instead of a police officer if they are not reporting a crime. Typically PSW act as a follow-up after a police officer has been involved, as people are more inclined to talk with a PSW than a police officer or with social services.

There are many challenges the PSW are currently facing but the most pressing is the lack of communication between the PSW and police officer software systems. The Health Insurance Portability and Accountability Act (HIPPA) is a large barrier with this communication as well. There is not much awareness of the PSW program and many within the community still struggle to understand of the role of PSW. The Alexandria PSW program is not grant funded, but are employed by the city. PSW's are not first responders, instead they often follow-up with citizens when needed and are in no way are they meant to replace the police.

Representative Willner commented that she really appreciated this presentation, as it shed light onto how law enforcement can work with social workers to best address the needs of their communities.

With no further business, the meeting adjourned

at 12:02 PM.

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

### **Minutes**

October 21, 2020

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

The Capital Projects and Bond Oversight Committee meeting was held on Wednesday, October 21, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senators Julian M. Carroll and Robby Mills; Representatives Steven Rudy and Maria Sorolis.

Guests: Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority; Katie Smith, Commissioner, Department for Financial Services, Cabinet for Economic Development; and Ryan Barrow, Executive Director, Office of Financial Management.

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

#### **Approval of Minutes**

Representative Rudy moved to approve the September 16, 2020 meeting minutes. Senator Carroll seconded the motion, and the committee approved without objection.

#### **Information Items**

Ms. Halloran referenced seven information items. Pursuant to KRS 26A.168(1), KRS 45.793, and KRS 45.818, the Administrative Office of the Courts; the Finance and Administration Cabinet, with the Commonwealth Office of Technology reporting independently; and postsecondary institutions managing their own capital construction under KRS 164A.580, transmitted quarterly capital project status reports.

Pursuant to KRS 45.760(5), the Office of State Budget Director reported the Finance and Administration Cabinet's approval of the Department of Public Health's Division of Laboratory Services two federally funded equipment purchases to enhance Covid-19 testing. The source of federal monies was the Epidemiology and Laboratory Capacity for Testing grant from Paycheck Protection Program and Health Care Enhancement Act funds.

Pursuant to KRS 45.760(9), the Judicial Branch and KRS 164A.580 postsecondary institutions transmitted annual capital projects reports with project account details.

Pursuant to KRS 45.810(6) and KRS 56.863(11), the Office of Financial Management transmitted the annual report of outstanding debt on behalf of state

entities, including postsecondary institutions, as well as the Kentucky Asset/Liability Commission's semi-annual report.

Pursuant to KRS 45.812(1), the Fayette County and Warren County school districts, neither of which needed an additional tax levy to pay debt service, reported upcoming debt issues to finance new projects. Three school districts, Bardstown Independent (Nelson County), Leslie County (2 debt issues), and Nelson County reported upcoming refunding debt issues.

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

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

Ms. Tomes submitted an authorization revision to \$1.999 million in federal funds for the Department of Military Affairs, Wendell H. Ford Regional Training Center Fire Station Addition project in Greenville. The committee initially approved \$1.650 million in June for the 6,000 square foot multiuse facility; needed for storage, billeting, and office space due to fleet modernization and increase in WHFRTC firefighters and apparatus. The revision was due to the adjusted construction award with additional available fiscal year end federal funds.

Representative Rudy moved to approve the authorization revision, seconded by Senator Carroll and approved by unanimous roll call vote.

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

Senator Carroll moved to roll the seven lease renewals into one roll call vote, seconded by Representative Rudy, and approved without objection.

Mr. Aubrey submitted seven lease renewals under the same terms and conditions: the Cabinet for Health and Family Services [Department for Community Based Services] in Franklin County: 15,465 square feet at \$7.55 per square foot for a \$116,760.76 annual cost through June 30, 2023; the Unified Prosecutorial System in Fayette County: [12,072 and 600 square feet of office and storage space] at \$9.24 and \$2.50 per square foot for a \$113,045.28 annual cost through June 30, 2023; the Office of the Attorney General in Franklin County: 46,620 square feet at \$9.60 per square foot for a \$447,552.00 annual cost through June 30, 2026; the Department of Juvenile Justice in Franklin County: 17,782 square feet at \$9.41 per square foot for a \$167,328.64 annual cost through June 30, 2026; the Cabinet for Health and Family Services [Department for Community Based Services] in Letcher County: 19,285 square feet at \$9.26 per square foot for a \$178,579.12 annual cost through June 30, 2022; the Department of Public Advocacy in Franklin County: [33,847 and 9,960 square feet of office and storage space] at \$12.90 and \$5.00 per square for a \$486,426.32 annual cost through June 30, 2026; and the Cabinet for Health and Family Services [Department for Community Based Services] in Knox

County: 15,726 square feet at \$10.95 per square foot for a \$172,199.72 annual cost through June 30, 2029.

Representative Rudy moved to approve the seven lease renewals, seconded by Senator Carroll, and approved by unanimous roll call vote.

Mr. Aubrey submitted a \$6,569.93 Tenant Improvement Fund disbursement request on behalf of all Mayo-Underwood Building, Franklin County, state agency building occupants; adding memory to the Hirsch system [which controls building access and security] to allow staff access through varying door groups.

Senator Carroll moved to approve the Tenant Improvement Fund disbursement request, seconded by Representative Rudy, and approved by unanimous roll call vote.

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

##### **Kentucky Infrastructure Authority**

The City of Bardstown, Nelson County, requested a \$1,071,088 Clean Water State Revolving Fund (Fund A) Program loan increase [due to higher than expected bids] to its previously approved \$5.4 million Fund A loan; resulting in a \$6,471,088 Fund A loan amount for the \$8,490,647 Rowan Creek Sewer Upgrade project. The project includes the Pottershop Pump Station upgrade and 17,000 linear feet of sewer replacement with 12-inch to 36-inch sewer lines. An Economic Development Administration grant and local funds will cover the remaining project costs. For 4,000 gallons, effective since September 2011, the monthly inside city sewer rate is \$25.93. The loan term is 20 years at a two percent interest rate.

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

The Western Pulaski County Water District, Pulaski County, requested a \$1.146 million Infrastructure Revolving Fund (Fund B) Program loan for its \$1.865 million [Kentucky Highway 80 and Fishing Creek Bridge Waterline Replacement] project; 1,250 linear feet each of waterline replacement along Highway 80 and attached to Fishing Creek Bridge with 12-inch ductile iron pipe. A Rural Development grant will cover the remaining project costs. For 4,000 gallons, approved July 2018, the monthly water rate is \$30.20. The loan term is 20 years at a 1.50 percent interest rate.

Senator Carroll moved to approve the loan contingent upon Public Service Commission approvals (Certificate of Public Convenience and Necessity and debt authorization), seconded by Representative Rudy, and approved by unanimous roll call vote.

The City of Lewisport, Hancock County, requested a \$49,350 Governmental Agencies (Fund C) Program loan increase, due to higher than expected bids and a scope increase, to its previously approved \$100,000 Fund C loan; resulting in a total \$149,350 Fund C loan amount for its \$179,850 [Ultraviolet and Headworks Upgrade and Yellow Creek Waterline

Replacement] projects. The projects include the ultra-violet disinfection system upgrade, headworks replacement at the wastewater treatment plant, 300 linear feet of 8-inch waterline to create redundancy and improve service to 400 water customers in the Yellow Creek area. Local funds will cover the remaining project costs. For 4,000 gallons, effective June 2017 and 2019, the monthly sewer and inside city water rates are \$27.03 and \$23.40. The loan term is 20 years at a 2.75 percent interest rate.

Senator Carroll move to approve the loan increase, seconded by Representative Sorolis, and approved by unanimous roll call vote.

#### **Cabinet for Economic Development**

Ms. Smith submitted a \$500,000 Economic Development Fund grant for the final of eight projects recommended by an independent site consultant to receive Kentucky Product Development Initiative program funds for industrial site upgrades, administered in conjunction with the Kentucky Association for Economic Development. Disbursements of grant funds occur on a reimbursement basis to local governments after the Cabinet for Economic Development reviews the required supporting documentation. This EDF grant was to the Lexington-Fayette Urban County Government on behalf of the University of Kentucky Coldstream Research Campus for the 10,000 square foot laboratory fit-up at the Construct Research/Incubator Facility (Coldstream High-Tech Building). The 46,000 square foot office and laboratory building is to be constructed through a public-private partnership developer at an estimated \$14.5 million total cost.

Senator Carroll moved to approve the EDF grant, seconded by Representative Rudy, and approved by unanimous roll call vote.

#### **Office of Financial Management**

##### **New Debt Issue**

Mr. Barrow submitted the Kentucky Asset/Liability Commission Project Notes, 2020 Federal Highway Trust Fund First Refunding Series A (GARVEEs) to refinance Grant Anticipation Revenue Vehicles issued in 2010. GARVEEs are financing instruments for which federal-aid highway funds, generated from the federal fuel tax, are used to reimburse states for debt service payments. The refunding will provide an estimated \$3 million, or five percent, net present value savings in federal funds, which can be reprogrammed for other transportation projects, over two maturities. With the September 1, 2022 maturity date, the estimated all-in-true interest cost is just under one percent.

In response to Senator Carroll, Mr. Barrow said GARVEEs for new projects have not been issued in the last five years and that as of June 30 [before the September 1 maturities] there were about \$450 million in outstanding GARVEEs.

Representative Rudy moved to approve the debt issue, seconded by Senator Carroll, and approved by unanimous roll call vote.

**Previous Kentucky Housing Corporation  
Conduit Debt Issues**

Mr. Barrow reported two previous KHC conduit debt issues. 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. The first was the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Donerail Run), Series 2020; 312 units located on Taylorsville Road, Louisville. The issuance date was September 25, 2020, net proceeds of \$48 million, and a \$63.6 million total project cost.

The second was the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Dudley Court) (Abel Court), Series 2020A and Series 2020B for the Dudley Court Apartments, 96 units in Paducah, and Abel Court Apartments, 48 units in Bowling Green. The issuance date was September 16, net proceeds of \$15 million, and just under \$27 million total project cost.

Senator Carroll commented that KHC was one of the greatest success stories in Kentucky state government in fifty years and Representative Thomas agreed, stating that KHC presented an organizational report to the committee based upon Senator Carroll’s recommendation.

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

Senator Carroll moved to roll the four debt issues with SFCC participation into one roll call vote, seconded by Representative Sorolis, and approved without objection.

Mr. Barrow submitted four debt issues with SFCC participation; one new project and three to refinance debt. The Campbell County school district, which did not need an additional tax levy for debt service, proposed \$900,000 debt issue for district wide improvements will have around forty percent SFCC and sixty percent district debt service.

The refunding issues were for the following three school districts: Nicholas County, Raceland-Worthington Independent (Greenup County), and Southgate Independent (Campbell County), totaling approximately \$4.1 million, with sixteen percent SFCC and eighty-four percent district debt service. Two of the refunding issues were taxable advance refundings.

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

Representative Thomas announced the November 19, 2020, and December 16, 2020 remaining calendar year 2020 meeting dates.

With there being no further business the meeting adjourned at 3:39 p.m.

**GOVERNMENT CONTRACT  
REVIEW COMMITTEE**

**Committee Minutes**

November 9, 2020

**Call to Order and Roll Call**

The Government Contract Review Committee met on Monday, November 9, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julian M. Carroll and Phillip Wheeler; Representatives Charles Booker and Chris Fugate.

Guests: Lisa Cox, Tim Wiard, and Brian Clark.

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

A motion was made by Senator Carroll to approve minutes of the October meeting of the committee. Senator Meredith seconded the motion, which passed without objection.

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

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

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

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

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

**COUNCIL ON POSTSECONDARY  
EDUCATION**

Texas Instruments, Inc., 2100000871.

**DEPARTMENT FOR ENVIRONMENTAL  
PROTECTION**

Terry A. Gray, 2000004033.

**DEPARTMENT FOR INCOME SUPPORT**

Donna J. Farmer, 2000001026-1.

**DEPARTMENT FOR PUBLIC ADVOCACY**  
Alt Productions, Inc., 2100000810.

**DEPARTMENT FOR WORKFORCE  
INVESTMENT**

NCS Pearson, Inc., 2100000767.

**DEPARTMENT OF CORRECTIONS**

Brain Neagle, 2100000729; Maddox & Associates CPAS, Inc., 2100000868.

**DEPARTMENT OF EDUCATION**

Central Kentucky Interpreter Referral, Inc., 2100000419; Joan Anderson, 2100000913; Roger Kerns, 2100000914; Christopher D. Rippy, 2100000915; Kathryn N. Hunt, 2100000935.

**DEPARTMENT OF HIGHWAYS**

Parsons Transportation Group, Inc., 2100000994.

**DEPARTMENT OF HOUSING, BUILDINGS  
AND CONSTRUCTION**

Code Administrative Association of Kentucky, 2100000867.

**DEPARTMENT OF VETERANS AFFAIRS**

AssistedDiningSolutions, LLC, 2100000865.

**FACILITIES & SUPPORT SERVICES**

EOP Architects PSC, 2100000950.

**KENTUCKY RETIREMENT SYSTEMS**

The Segal Company (Midwest, Inc.), 2100000888.

**KENTUCKY STATE POLICE**

James D. Heller, 2100000897.

**KENTUCKY STATE UNIVERSITY**

Dr. Nav Ghimire, 21-07; Dr. Kesav Bhattarai, 21-08; Dr. Nav Ghimire, 21-09.

**KY APPLIED BEHAVIOR ANALYSIS  
LICENSING BOARD**

Mary E. Martins the Word Private Investigations, 2100000864.

**KY HOUSING CORPORATION**

Cavanaugh Macdonald Consulting, LLC, 2021-43.

**KY PUBLIC SERVICE COMMISSION**

Leah Faulkner, 2100000832.

**NORTHERN KENTUCKY UNIVERSITY**

Facility Commissioning Group, 2021-129; Intelli ERP Software, LLC, 2021-130; ELEVEN24, Inc., 2021-131.

**UNIVERSITY OF KENTUCKY**

Stengel-Hill Architecture, A211100; HGA Architects & Engineers, LLC, A211110; Powers Pyle Sutter & Verville, PC, K21-187; Ware Immigration,

K21-188; Stites & Harbison, K21-189; Baker Donelson Bearman Caldwell & Berkowitz PC, K21-190; Gray Miller Persh, LLP, K21-191; Apax Software Development, LLC, K21-192.

WESTERN KENTUCKY UNIVERSITY  
Multi, 202142.

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

BOARD OF MEDICAL LICENSURE  
Multi, 2000001945.

DEPARTMENT FOR INCOME SUPPORT  
DYF Consulting, Inc., 2000001026.

DEPARTMENT FOR PUBLIC HEALTH  
Multi, 2000003220.

DEPARTMENT OF EDUCATION  
Hands On Therapy, PSC, 2000003176.

DEPARTMENT OF HIGHWAYS  
Stantec Consulting Services, Inc., 1200001743; GRW Engineers, Inc., 1400000506; QK4, 1400001951; Stantec Consulting Services, Inc., 1700000307; QK4, Inc., 1700002590; DLZ Kentucky, Inc., 1800000180; DLZ Kentucky, Inc., 1800000312; Stantec Consulting Services, Inc., 1800002069; HMB Engineers, Inc., 2000000520.

DEPARTMENT OF JUVENILE JUSTICE  
Shannon L. Smith-Stephens DNP APRN-BC, PLLC, 2000002857.

DEPARTMENT OF VETERANS AFFAIRS  
Multi, 2000002328.

EASTERN KENTUCKY UNIVERSITY  
Tetra Tech, Inc., 22-024.

FACILITIES & SUPPORT SERVICES  
Stantec Consulting Services, Inc., 1600001022; Greg Best Consulting, Inc., 1700001729; Staggs and Fisher Consulting Engineers, Inc., 1700002742; GRW Engineers, Inc., 1800000445; Stantec Consulting Services, Inc., 1800001103; KZF Design, Inc., 2000000692; Hafer PSC, 2000001794.

HUMAN RIGHTS COMMISSION  
Dean Dorton Allen Ford, PLLC, 2000003609.

KENTUCKY EMPLOYERS MUTUAL INSURANCE  
TowerHunter, Inc., 21-THI-001.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM  
nTier Training, LLC, 829.

MURRAY STATE UNIVERSITY  
Ruffalo Noel Levitz, LLC, 016-21.

NORTHERN KENTUCKY UNIVERSITY  
Commonwealth Economic Partners, 2021-108; The Segal Company, Inc., 2021-109.

UNIVERSITY OF KENTUCKY  
Champlin Architecture, A191070; CMTA, Inc., A191190; Smith Management Group, K21-147.

UNIVERSITY OF LOUISVILLE  
Multi, 21-012.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES  
NAMI Kentucky, Inc., 2100000192; University of Kentucky Research Foundation, 2100000884; Center for Women Families, 2100000904; Louisville Jefferson County Metro Government, 2100000907.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Louisville Water, 2000001976; Oldham County Fiscal Court, 2100000552.

DEPARTMENT FOR LIBRARIES & ARCHIVES  
Council On Postsecondary Education, 2100000774; Rowan County Public Library, 2100000883; Oldham County Public Library, 2100000885; Morgan County Fiscal Court, 2100000887.

DEPARTMENT FOR LOCAL GOVERNMENT  
Harlan County Industrial Development Authority, Inc., 2100000226; Union County Fiscal Court, 2100000480; Union County Fiscal Court, 2100000481; Fulton County Industrial Development Authority, 2100000556; Madison County Fiscal Court, 2100000590; City of Williamsburg, 2100000652; Marshall County Fiscal Court, 2100000672; Kenton County Fiscal Court, 2100000674; Powell County Fiscal Court, 2100000681; City of Mount Vernon, 2100000699; Magoffin County, 2100000712; City of Anchorage, 2100000725; City of Guthrie, 2100000743; Warren County, 2100000748; Pine Mountain Industrial Development Authority, Inc., 2100000762; City of Covington, 2100000770; Pike County Fiscal Court, 2100000772; City of Paducah, 2100000782; City of Brandenburg, 2100000793;

City of Independence, 2100000794; Fulton County Fiscal Court, 2100000801; City of Augusta, 2100000827; City of Richmond, 2100000833; City of Calvert City, 2100000836; City of Douglass Hills, 2100000858; City of Louisa, 2100000860; Muhlenberg County Fiscal Court, 2100000862; City of Worthington, 2100000866; City of Vine Grove, 2100000872; Campbell County Fiscal Court, 2100000874; City of Cloverport, 2100000875; City of Columbia, 2100000876; City of Danville, 2100000879; City of London, 2100000881; City of Providence, 2100000886; Letcher County Fiscal Court, 2100000891; City of Earlington, 2100000893; Washington County Fiscal Court, 2100000894; City of Paintsville, 2100000896; City of Russell, 2100000905; Laurel County Treasurer, 2100000908; City of Morgantown, 2100000911; City of Saint Matthews, 2100000923; City of LaCenter, 2100000925; City of Booneville, 2100000926; City of Heritage Creek, 2100000929; City of Auburn, 2100000930; Gateway Juvenile Diversion Project, Inc., 2100000934; City of Bromley, 2100000946; City of Burkesville, 2100000954; City of Ferguson, 2100000962; City of Wurtland, 2100000966; Daviess County Fiscal Court, 2100000970; City of West Point, 2100000984.

DEPARTMENT FOR NATURAL RESOURCES  
Multi, 2000003402; Multi, 2000003539.

DEPARTMENT FOR PUBLIC HEALTH  
University of Louisville Research Foundation, 2100000906.

DEPARTMENT FOR WORKFORCE INVESTMENT  
Save the Children Federation, Inc., 2100000798; KET Foundation, 2100000912.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING  
University of Louisville, 2100000733.

DEPARTMENT OF EDUCATION  
Boone County Board of Education, 2000003272; Breathitt County Board of Education, 2000003285; Bullitt County Board of Education, 2000003309; Franklin County Board of Education, 2000003885; Monroe County Board of Education, 2000003913; Harlan County Board of Education, 2000004065; Knott County Board of Education, 2000004074; Newport Independent School District, 2000004415; Owensboro Independent School District, 2000004422; Washington County Board of Education, 2000004434; Wayne County Board of Education, 2000004435; University of Kentucky Research Foundation, 2100000719; Kentucky Educational Development Corporation, 2100000754.

DEPARTMENT OF MILITARY AFFAIRS  
University of Kentucky Research Foundation,  
2100000540; Multi, 2100000931.

DEPARTMENT OF TRAVEL  
Multi, 2100000649; Multi, 2100000695; Multi,  
2100000696; Multi, 2100000710; Multi, 2100000714;  
Multi, 2100000808.

OFFICE OF HEALTH DATA AND  
ANALYTICS  
Kentucky Personnel Cabinet, 2100000854.

TOURISM - OFFICE OF THE SECRETARY  
Kentucky Department of Parks, 2100000852.

TRANSPORTATION - OFFICE OF THE  
SECRETARY  
University of Kentucky Research Foundation,  
2100000682; University of Kentucky Research  
Foundation, 2100000684.

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

ADMINISTRATIVE OFFICE OF THE  
COURTS  
Green River Regional MHMR Board, Inc.,  
1900004711; Mountain Comprehensive Care Center,  
1900004724.

BEHAVIORAL HEALTH, DEVELOPMENTAL  
& INTELLECTUAL DISABILITIES  
University of Kentucky Research Foundation,  
2000002568.

CHFS - DEPARTMENT FOR AGING AND  
INDEPENDENT LIVING  
Multi, 2000002714; Multi, 2000002717.

DEPARTMENT FOR COMMUNITY BASED  
SERVICES  
Greater Louisville Workforce Development  
Board, Inc., 2000001593; Audubon Area Community  
Services, 2000001597; Community Action Kentucky,  
Inc., 2000001658.

DEPARTMENT FOR LOCAL GOVERNMENT  
Fulton County Industrial Development  
Authority, 2100000556.

DEPARTMENT FOR PUBLIC HEALTH  
University of Kentucky Research Foundation,  
2000001602; St. Elizabeth Medical Center,  
2000001958; Community Health Clinic, Inc.,  
2000001977; Lewis County Primary Care Center,  
Inc., 2000002121; University of Kentucky Research  
Foundation, 2000002513; Multi, 2000002610;  
University of Kentucky Research Foundation,  
2000002682; University of Kentucky Research  
Foundation, 2000002769; Multi, 2000002953;

University of Louisville Hospital, 2100000278;  
University of Kentucky, 2100000282.

DEPARTMENT OF CORRECTIONS  
Fulton County, 2000001544.

DEPARTMENT OF EDUCATION  
Burgin Board of Education, 2000000099;  
Newport Independent School District, 2000000148;  
Madison County Board of Education, 2000003037.

JUSTICE - OFFICE OF THE SECRETARY  
Unlawful Narcotics Investigations Treatment  
and Education, 2000003445.

KENTUCKY STATE POLICE  
Bluegrass Community and Technical College,  
2000004403.

OFFICE OF INSPECTOR GENERAL  
U of L Research Foundation, 1800000928.

TRANSPORTATION - OFFICE OF THE  
SECRETARY  
University of Louisville Research Foundation,  
2000002666; University of Louisville Research  
Foundation, 2000002667; University of Louisville  
Research Foundation, 2000003754.

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

KENTUCKY FISH AND WILDLIFE  
RESOURCES  
Wood Environment & Infrastructure Solutions,  
Inc., 2000003411. Brian Clark, Tim Wiard, and Lisa  
Cox discussed the contract with the committee. A  
motion was made by Senator Carroll to consider the  
contract as reviewed. Representative Booker seconded  
the motion, which failed, but moves forward with  
Senator Meredith and Representative Lee voting no.

**EXEMPTION REQUESTS:**

ENERGY AND ENVIRONMENT CABINET  
The Energy and Environment Cabinet requests  
an exemption from Committee Policy Statement  
#99-4 which prohibits contracts and agreements  
from extending beyond the biennium for the Canopy  
Conservation Grant. A motion was made by Senator  
Meredith to grant the request to June 30, 2023. Senator  
Carroll seconded the motion, which passed.

KENTUCKY DEPARTMENT OF  
AGRICULTURE

The Kentucky Department of Agriculture  
requests an exemption from Committee Policy  
Statement #99-4 which prohibits contracts and  
agreements from extending beyond the biennium  
for seven (7) grant recipients for the purpose of  
researching and promoting specialty crop farming  
techniques in Kentucky. A motion was made by  
Senator Carroll to grant the request to September 30,  
2023. Senator Meredith seconded the motion, which  
passed without objection.

There being no further business, the meeting  
adjourned at 9:19AM.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE**

**Minutes of the Meeting  
of the 2020 Interim  
October 28, 2020**

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

The meeting of the Medicaid Oversight and  
Advisory Committee was held on Wednesday, October  
28, 2020, at 3:00 PM, in Room 171 of the Capitol  
Annex. Senator Stephen Meredith, Chair, called the  
meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair;  
Senators Ralph Alvarado, Danny Carroll, Jimmy  
Higdon, and Morgan McGarvey; Representatives Jim  
Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon,  
and Lisa Willner.

Guests: Lisa Lee, Commissioner, Department  
for Medicaid Services, Leslie Hoffman, Chief  
Behavioral Health Officer, Department for Medicaid  
Services, Alisha Clark, Assistant Director, Division  
for Community Alternatives, Department for  
Medicaid Services, Cabinet for Health and Family  
Services; John Inman, Chief Policy Officer, Teresa  
Cooper, Director of Government Affairs, Kentucky  
Primary Care Association.

LRC Staff: Chris Joffrion and Hillary Abbott.

### **Approval of Minutes**

There was a motion to approve minutes made  
by Senator Carroll and seconded by Representative  
Gibbons Prunty and was approved by a voice vote.

### **Medicaid Waiver Redesign**

Lisa Lee, Commissioner, Department for  
Medicaid Services (DMS), Cabinet for Health and  
Family Services stated that 1915(c) Home and  
Community Based Services waivers (HCBS) are  
designed to give individuals with disabilities an  
alternative to institutionalized care. HCBS waivers  
are intended to complement available state Medicaid  
program services, public programs, and family and  
community supports to meet each individual's needs.  
HCBS waivers should allow an individual to live safely  
in the community. If an individual's needs exceed  
what can be safely provided in the community, waiver

services may not be appropriate for the individual. To receive Centers for Medicare and Medicaid Services (CMS) approval for a 1915(c) HCBS waiver, states must provide the same level of care in the community that an individual would receive in an institution, demonstrate that the cost of care in the community is equal or less than an institution or is budget-neutral, and should conduct monitoring to ensure waivers meet quality standards.

Commissioner Lee stated that there are six waiver programs: the acquired brain injury (ABI) waiver; the acquired brain injury long term care waiver for individuals age 18 or older; the HCBS waiver for individuals age 65 or older and individuals of any age with a physical disability; the Model II waiver (MIIW) for individuals dependent on a ventilator 12 or more hours a day or on an active, physical monitored weaning program; the Michelle P Waiver (MPW); and the supports for community living (SCL) waiver for individuals with intellectual or developmental disabilities. In state fiscal year 2019, the HCB waiver served 10,658 participants, accounting for 17 percent of the total paid claims; the MPW waiver served 10,212, accounting for 36 percent of total claims paid; the SCL waiver served 4,921 participants, accounting for 41 percent of total paid claims; the ABI Acute waiver served 296 participants, accounting for 3 percent of total paid claims; the ABI LTC waiver served 263 participants, accounting for 3 percent of total paid claims; and the MWII waiver served 33 participants, accounting for less than 1 percent of total paid claims.

Commissioner Lee stated that in February 2017, DMS issues a request for proposal (RFP) to assess 1915(c) HCBS waiver programs, and in August of 2017, DMS contracted with Navigant to conduct the assessment. The goals of redesign are to enhance the quality of care to participants, implement consistent definitions across waivers, create a universal assessment tool, create individualized billing structures, address cost containment, provide consistent provider funding, and optimize case management to support person-centered planning and abide by federal conflict-free case management regulation. In August of 2018, Navigant delivered its assessment report with recommendations. The redesign activities include implementing ongoing stakeholder engagement processes, streamlining the incident reporting process and moving to an electronic reporting system, switching service authorizations from third-party to case managers, providing updated patient liability calculations, and completing a comprehensive rate study with recommendations for new rate methodology. In January 2020, redesign activities were paused. No date for resuming the project has been set.

Commissioner Lee stated that increasing evidence suggests the cabinet cannot operate as it has historically if it wants to drive value and outcomes for the vulnerable populations served by 1915 (c) HCBS waivers. The need for HCBS reforms could be seen

in federal compliance risks, over and underutilization, waitlists, high spending with limited reportable outcomes, and inconsistent policy and oversight history. There is a waiting list for slots in the MPW and SCL waivers. A total of 7,352 individuals are currently on the waitlist for the MPW with an average time elapsed since application processing of 2.9 years. The earliest application processing date for an individual on the MPW waitlist dates back to 2015. A total of 124 individuals are currently on the SCL- urgent request waitlist with an additional 2,729 individuals on the SCL-future planning waitlist. The average time elapsed since application processing is 3.64 years for urgent requests and 7.16 years for future planning. The earliest application processing date for an individual on the SCL-urgent request waitlist is 2000, and for an individual on the SCL-future planning waitlist it is 1995. The MPW waiver is based on a first-come, first-served methodology, and with lengthy waits for waiver slots, it is essential that both MPW and SCL waitlists are managed using a method that considers an applicant's risk of institutionalization. More robust waitlist management could also provide needed data to report on waitlisted individuals and the extent of their need.

Kentucky spent over \$1.5 billion on 1915 (c) waivers in 2016, and Kentucky outpaces the national per capita average spend for 1915(c) waivers. However, the cabinet struggles to demonstrative return on investment or report outcomes. Per CMS reports, Kentucky spent over \$1.5 billion on 1915(c) waivers in 2016. Kentucky spends approximately 40 percent more per capita on people with developmental disabilities and approximately 43 percent less per capita on older people or people with physical disabilities compared to the national averages. The cabinet lacks funds to meet current HCBS demand or address future growth in demand.

The Cabinet had identified focus areas for improving program components that pose current federal compliance risks. DMS is initiating waiver renewals with updated waivers and administrative regulations that implement updated rates based on sound rate-setting methodology, improving case management performance, retraining on the assessment tool, and updating independent assessor contractors to promote valid, high-quality needs assessment. Focus is being placed on optimizing critical incident management to observe CMS best practices and advance timely monitoring, investigation, remediation of critical incidents, evaluation options for risk-based waitlist management, and implemented a strengthened inter-agency memorandum of agreement between DMS and operating agencies.

Commissioner Lee stated that steps DMS has taken to improve the HCBS waivers since January 2020 include reviewing rate study findings and recommendations to understand better stakeholder perspectives and the pros/cons of rate recommendations, monitoring the deployment of the secondary authorization process for certain high-cost,

high-skilled services, conducting additional analysis of what data is available to understand compliance exposures and inform how to proceed. DMS is continuously engaging stakeholders, reviewing feedback, and expanding access to Medicaid waiver applications to increase care coordination among providers and better track incident reports. DMS began the renewal process for HCB and Model II waivers in the spring of 2020.

Commissioner Lee stated that the projected fiscal impact based of the redesign recommendations ranged from a 26 percent increase to a 14 percent decreased spend across each waiver. The most substantial barrier to the waiver redesign is the service market's dependence on the fee structure. When the waivers were adopted, Kentucky did not yet have its child insurance program (KCHIP) established. The waiver programs could save a great deal of money if the children who are on a waiver, billed for services that are also covered by KCHIP through KCHIP. Issues with a lack of funding from decades of not altering the waiver program to the current fiscal and community realities had left the program not fiscally efficient. The budgetary impact per capita expenditures for all the waiver programs showed 24,166 individuals served, with a total cost funding per person of \$360,292 and a proposed rate funding per person of \$358,670. The waiver program would need an additional \$137 million to improve the application process and case management across all programs and implement the Navigant recommendations to keep the program in compliance with CMS. Commissioner Lee would like to work with the general assembly to figure out avenues for a fiscally sound waiver redesign. Until a solution to the budgetary issues can be solved, the waiver redesign project is paused.

In response to questions and comments from Senator Carroll, Commissioner Lee stated that the discrepancies in billing through the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit, is a primary reason why the waiver redesign is paused. Commissioner Lee stated that there is profound pushback from providers in already scantily covered areas to remove the ability to bill through EPSDT instead of through KCHIP since many providers have built their business around those fees. DMS would not move forward until most stakeholders agree and the participants are served the care they deserve. Commissioner Lee stated that Senator Carroll's concerns for the EPSDT billing change are one of the main reasons why DMS would like to request the help of the Medicaid Oversight and Advisory Committee and the General Assembly to figure out the best way forward to make up the \$137 million needed to improve and keep the program in compliance with CMS.

In response to questions and comments from Representative Sheldon, Commissioner Lee stated that the waiver redesign should not affect pharmacy benefits.

In response to questions and comments from

Senator Alvarado, Commissioner Lee stated there is no timeline for the redesign discussion to start back up again, and looks forward to a task force or legislation to help answer the problems identified in the assessment of the program.

In response to questions and comments, Senator Meredith, Commissioner Lee stated she and DMS would welcome a task force to address the barriers to a waiver redesign.

In response to questions from Representative Prunty, Commissioner Lee stated that the rate difference in EPSDT and KCHIP billing came from the waiver being designed before KCHIP covered those same services for all children and that DMS never reconciled the rates once KCHIP was in place. Commissioner Lee stated she does not know why under previous administrations, DMS did not reconcile the rates. Commissioner Lee stated that the call for a universal, standard assessment would help assessors customize the assessment to the person being assessed to ensure that the assessment limits do not become the reason someone who needs care does not qualify for care. Commissioner Lee stated that currently, the assessment tool is not customizable, and service needs get missed.

In response to questions from Senator Carroll, Commissioner Lee stated that EPSDT rates are negotiated with managed care organizations (MCO) based on CMS rates. Commissioner Lee stated that the significant profit margins for EPSDT service providers and the reality that many waiver program providers find that one waiver service carries the financial burden of other not-so-profitable programs needs to be addressed, and solutions that benefit both provider and participant must be found.

#### **Medicaid Reimbursement to Rural Health Clinics and Federally Qualified Health Centers**

John Inman, Chief Policy Officer, Kentucky Primary Care Association (KPCA), stated that since 1989 federal law has required Medicaid to pay federally qualified health centers (FQHC) one hundred percent of its reasonable costs related to treating Medicaid beneficiaries to prevent Public Health Service Act section 330, grant money, from being diverted from caring for individuals with no insurance and no means of paying for services. Medicaid payment for services was typically around seventy percent of costs incurred by the centers for treating Medicaid patients, and centers would cost settle at the end of each year for payment. Mr. Inman stated that in 2000, the passage of Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement Protection Act (BIPA) created the current Prospective Payment System (PPS), which was designed to reimburse FQHCs and rural health clinics (RHC), on a per-visit basis, the cost of treating Medicaid beneficiaries.

Teresa Cooper, Director of Government Affairs, Kentucky Primary Care Association, stated that in a managed care environment, the Medicaid agency still bears the responsibility of paying clinics and health centers the full PPS rate, and the MCO is required

to pay the clinic and health centers no less than they would any other provider for the same services on the fee schedule. The state is required to make a wrap-around or supplemental payment to the clinic if the fee schedule payment from the MCO is less than the clinic's PPS rate. The law also requires this full payment to be made by Medicaid to the clinics and health centers no less than every four months.

Mr. Inman stated that the current payment process begins with the FQHC/RHC billing a visit to the MCO, the MCO pays the claim per the Medicaid fee schedule, the MCO submits the encounter to DMS, the encounter must cross the threshold editing DMS has in place, and if it fails any of these edits, it is rejected and sent back to the MCO. Mr. Inman stated if the claim fails, the clinics are not notified by the MCOs or DMS that it has failed the DMS editing process, and it was returned. DMS only maintains reports of these returned encounters for a short time, and they are not monitored by DMS for resubmission by the MCO. Only encounters paid by the MCO that make it across the threshold are paid the supplemental payment by DMS and that this has caused substantial losses to our clinics dating back to 2014 because only one set of data exists to compare the claims. Ms. Cooper stated that most states have two sets of data to compare the claims submitted and claims paid to ensure compliance with the federal law full payment requirement. Mr. Inman stated that KPCA has done extensive research and retained outside legal counsel to provide DMS with reconciliation methodologies from different states for their review and consideration. KPCA is asking to work with DMS to develop a system that would reconcile the claims submitted by clinics to MCOs and DMS's supplemental payment to the clinics, including utilizing a centralized data system being built by KPCA.

In response to questions and comments from Senator Meredith, Mr. Inman stated that the Texas model in rebuttal to PPS is regardless of the billed amount, reimbursement shall be the maximum allowable reimbursement (MAR) amount, and therefore the providers are not left in at a deficit while DMS and the MCOs figure out who pays first. Mr. Inman stated that there is a claim black hole due to the PPS plan's dysfunction and that FQHCs in Kentucky have \$6 million in unreimbursed claims.

In response to questions from Representative Prunty, Mr. Inman stated that federal law states that if an MCO pays the PPS rate as an alternative payment methodology, DMS must make up the difference, yet currently, both DMS and MCOs are claiming that one cannot pay because the other has not paid yet or the reimbursement rate they are using is based on the wrong initial billing rate. Mr. Inman stated that he believes both the MCOs and DMS are in violation of federal law, and KPCA has retained counsel.

In response to comments from Senator Meredith, Commissioner Lee stated that DMS is in full compliance with CMS and federal law.

#### **Adjournment**

There being no further business, the meeting was adjourned at 4:50 pm.

## **PUBLIC WATER AND WASTEWATER SYSTEM INFRASTRUCTURE TASK FORCE**

### **Minutes of the 3rd Meeting of the 2020 Interim**

October 14, 2020

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

The 3rd meeting of the Public Water and Wastewater System Infrastructure Task Force was held on Wednesday, October 14, 2020, at 11:00 AM, in Room 171 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Phillip Wheeler, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Brandon Smith and Robin L. Webb; Representatives Derek Lewis and Dean Schamore; Linda Bridwell, and Paul Miller.

Guests: Gary Larimore, Executive Director, Kentucky Rural Water Association (KRW); Mike Gardner, Deputy General Manager, Water/Sewer Systems Manager, Bowling Green Municipal Utilities (BGMU); and Greg Heitzman, President, Bluewater Kentucky.

LRC Staff: Stefan Kasacavage, Janine Coy, Tanya Monsanto, and Susan Spoonamore, Committee Assistant.

The August 10, 2020, minutes were approved, by voice vote without objection, upon motion made by Senator Wheeler and seconded by Representative Lewis.

#### **Discussion of Legislative Recommendations Relating to Public Water and Wastewater Systems**

Gary Larimore, Executive Director, KRW, stated that KRW was founded in 1979 to help utilities help themselves by providing training, technical assistance, and advocacy. The association has 350 utility members and 200 associate members. Mr. Larimore outlined the following recommendations for the committee to consider: extend the work of the task force or create a stakeholder group to provide recommendations to the General Assembly; evaluate and hold all water and wastewater utilities to the same standards; allow and encourage rate indexing for utilities regulated by the Public Service Commission (PSC); establish standards for non-revenue water cost as a percentage of total operating cost; require annual reports, including financial audits for all utilities; and establish a uniform evaluation process to identify public water and wastewater utilities that lack technical, managerial, or financial capacity. Other recommendations included identifying needs of marginal utilities; providing resources for implementation of action plans; establishing a loan

fund; enhancing and continuing to support the Water Resource Information System (WRIS); encouraging training for all board members, commissioners, decision-makers, including county and city appointing officials; and allowing the PSC to provide for reasonable extensions of time to complete training requirements for water district commissioners.

In response to Senator Wheeler, Mr. Larimore stated that there are customers who are served outside of the city limits of municipal utilities and for some, their water bills have increased.

In response to Representative Gooch, Mr. Larimore stated that fire departments are supposed to work with water utilities to track the amount of water flushed through fire hydrants.

In response to Senator Wheeler, Mr. Larimore stated that he thought the Martin County Water District was headed in the right direction by hiring a management company. There is a small stakeholders group that has been focusing on Martin County on a monthly basis. Senator Wheeler noted that Martin County has some of the highest water bills in the state. Mr. Larimore said that future water prices would not get cheaper. He said that KRWA performed a rate study for Martin County Water District and the results showed that it needed to increase rates by 50 percent just to stabilize the expenses.

Representative Gooch stated that consumers needed to be educated on how to use less water and therefore decrease their bills.

In response to Representative Lewis, Mr. Larimore said the top three issues that most stakeholders would agree on is the continuation of the stakeholder group, formulating a plan to focus on marginalized water systems, and providing more funding resources to help with short-term loans, grants, or operational support.

Mike Gardner, Deputy General Manager, Water/Sewer Systems Manager, BGMU, stated that the Kentucky Municipal Utilities Association (KMUA) is composed of 40 city utilities who provide water, wastewater, electric power, gas, and telecommunications to 130,000 customers. KMUA has 72 associate members who represent consulting engineers, technical services, and equipment suppliers to bring expertise and cutting-edge solutions to the customers. Mr. Gardner said that KMUA recommends the following: utilities be required to keep revenues within the utility by prohibiting the transfer, comingling, or use of rate revenues for functions other than the operation, maintenance, debt service or planning for the utility; best management practices be implemented that include asset management/capital budget plans and non-revenue water programs based on financially cost effective measures per the American Water Works Association; best financial management practices be implemented, including requiring rates to be cost-based and to be adjusted annually; utilities be required to be financial self-sufficient and to establish reserve accounts for replacement of infrastructure. Mr. Gardner stated

that establishing financial accountability is a priority. Annual independent financial audits are important but sometimes costly, therefore, there is a need to develop simplified affordable audits to allow the Auditor of Public Accounts and/or KIA to identify utilities who are operating in a financial deficit, and to refer those utilities to the Kentucky Division of Water and/or the Public Service Commission for training assistance to the commissioners or board members of a distressed utility.

In response to Representative Gooch, Mr. Gardner stated that he was not suggesting any certain agency to identify financially deficient utilities, but there is a need for someone to identify and refer distressed utilities for assistance.

Mr. Gardner stated that KMUA's top recommendations would be to require financial accountability, require annual audits of utilities, require the establishment of a non-revenue water program, and to authorize the Division of Water to declare a utility distressed and offer assistance.

In response to Representative Gooch, Mr. Gardner stated that there is conflicting information regarding testing standards from the United States Environmental Protection Agency and the standards from the Environmental Working Group.

Mr. Greg Heitzman, President, Bluewater Kentucky, stated that overall, the performance assessment of Kentucky's water systems showed that Kentucky was using good practices in regional planning and consolidation of public water services. He mentioned several issues that were challenges for Kentucky Water systems, such as: compliance with regulations; aging infrastructure and infrastructure funding; the decrease in water consumption and different rate approval methods; water loss; workforce limitations; planning and best practices; and the COVID-19 impact on Kentucky's water systems. Mr. Heitzman stated that Bluewater Kentucky's recommendations included the following: continued water system planning and collaboration; establishing a Kentucky Water Infrastructure Fund; developing uniform performance criteria and a rating system for water utilities; creating financial incentives with possible principal forgiveness for achieving performance levels in areas of technical performance, adopting full cost pricing of water using industry standards; adopting industry standards for water audits and loss control programs; utilizing university "Centers for Excellence in Water" through partnerships with utilities, water industry associations, and academic institutions; conducting state-wide performance studies on water loss, lead service, system interconnections for reliability and drought relief, and affordability of water and wastewater for low or fixed-income households; requiring water systems to prepare capital improvement plans for asset management and infrastructure renewal; and revising administrative regulations.

In response to Representative Gooch, Mr. Heitzman explained that the recommendation

regarding the establishment of the Kentucky Water Infrastructure Fund would require an annual appropriation of \$25 million to a fund administered by the Kentucky Infrastructure Authority (KIA), and those moneys could be used for matching federal dollars that would not otherwise be available.

In response to Representative Lewis, Mr. Heitzman said that universities rely on multiple sources for grants and funding. He said that some of the proposed \$25 million funding to KIA could be used to fund the universities' Centers for Excellence in Water.

Meeting adjourned.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 15, 2020

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

The 5th meeting of the Program Review and Investigations Committee was held on Thursday, October 15, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Karen Berg, Tom Buford, Michael J. Nemes, Reginald Thomas, Stephen West, Whitney Westerfield, and Phillip Wheeler; Representatives Chris Fugate, Al Gentry, Kim King, Adam Koenig, Ruth Ann Palumbo, Steve Riley, and Walker Thomas.

Guests: Hilary Dailey, Deputy Commissioner, Department of Corrections; Janet Conover, Director of Operations, Department of Corrections; Cathie Engle, President, Combined Public Communications; Jim Engle, Chief Executive Officer, Combined Public Communications; and Brett Ruschman, Chief Technology Officer, Combined Public Communications

LRC Staff: Gerald Hoppmann, Committee Staff Administrator; Jeremy Skinner; William Spears; Shane Stevens; and Elizabeth Hardy, Committee Assistant.

Representative King requested permission to present her analysis of previously requested information from the Cabinet for Health and Family Services about the top causes of death in Kentucky. She identified two open questions: whether the causes of death are classified correctly and whether other health concerns are being ignored. Senator Carroll stated that the committee is collecting and will continue to collect and compile additional data to better evaluate what is happening and draw conclusions.

#### **Minutes for September 10, 2020**

Upon motion by Senator Westerfield and second by Representative Bechler, the minutes for the September 10, 2020, meeting were approved without objection.

Senator Carroll noted that one agenda item for the October meeting had been removed because it was not ready for presentation.

#### **Inmate Telephone Calls from State Prisons**

Senator Westerfield said that the Jail and Corrections Reform Task Force that he co-chairs is considering the cost of inmate phone calls and the impact on inmates' families. Combined Public Communications (CPC), one of the vendors, agreed to testify at today's meeting after some previous miscommunication about appearing during a previous task force meeting.

Officials from the Department of Corrections presented information and answered questions. Director Conover described the history of the contracts with prison inmate phone providers. All contracting followed the Model Procurement Code and went through the Finance and Administration Cabinet (FAC). Securus won the contract (master agreement) in 2006. A new procurement was conducted in 2011 with an award to another company. Securus protested, and FAC upheld the protest, so the department exercised a renewal of the previous contract and continued to renew the contract until another procurement was conducted in 2017 and awarded to another company. Securus protested again, and FAC upheld the protest, so the department extended the Securus contract as provided by FAC. The most recent procurement, in 2019, was awarded to Securus in 2020, but a competitor protested, and FAC is reviewing that protest. Securus continues to provide services on an emergency extension.

Ms. Conover reported that Securus provides phone installation and maintenance at all 14 state prisons. There are no tablets or video visitation services, but the new contract that is under protest would have provided an upgrade to include those services. The contract currently generates \$3.24 million of revenue per year for the department that offsets some of the need for general funds and helps pay for operational costs. Rates for different types of calls were listed on a slide. Ms. Conover stated that the rates are in line with Federal Communications Commission (FCC) regulations. The department has to review any change in the rates.

Ms. Conover cited KRS 45A.050(3) as the statute that permits localities to participate in all state agency master agreements such as the one with Securus. She said that the department did not know whether any local jails were aware of this statute.

In response to a question from Senator Berg, Commissioner Dailey said that she did not know the profitability of the contract to Securus but would research the question and provide that information.

In response to a question from Senator Westerfield, Ms. Conover confirmed that Securus serves all state prisons. Senator Westerfield asked if the last protest was filed outside of the permitted time frame. Ms. Dailey said that she was not sure; there might have been an extension to the protest window, but the department would defer to FAC.

In response to a question from Senator Carroll about the procedure to resolve a protest, Ms. Dailey deferred to FAC. She affirmed that protests are resolved within FAC.

In response to Representative Koenig's question about the rules determining inmates' use of phones, Ms. Conover said each prison sets its own rules. Most allow for inmates to make 15-minute phone calls. Inmates who have honor status might have longer phone privileges. Representative Koenig discussed one of his constituents who would like their children to have more contact with an incarcerated parent but has trouble finding enough money. He asked whether there was a program for reduced rates. Ms. Conover responded that the rates are set through the FCC, and the department ensures the rates do not exceed FCC regulations. She stated that the department cannot afford to pay for inmate phone calls because the rates are based on Securus's costs for equipment and services, including monitoring a percentage of phone calls for possible investigation. Securus has agreed to allow each inmate one free phone call weekly because in-person visits are restricted during the pandemic; this free service is reevaluated monthly.

In response to a question from Senator Carroll, Ms. Conover confirmed that Securus pays for the maintenance costs per the contract and that the system is server based.

In response to questions from Representative Bechler, Ms. Conover indicated the number of phones depends on the prison layout and the population. Representative Bechler requested a list of the number of phones in each prison. Ms. Conover said the department will provide a list. Ms. Conover also verified that the prison phones are not pay phones; inmates are assigned a billing PIN that they have to enter when making a phone call. The phone system makes inmates aware their calls are being monitored and when the call is about to be cut off. There is no limit to the number of calls an inmate can make unless there is a line. She stated that the department has nothing to do with the phone systems in county jails even though some of them house state inmates.

In response to a question from Representative Thomas, Ms. Conover said the new contract included video visitation and tablets for every inmate. While waiting for the protest to be resolved, they are operating on an extension of the old contract.

In response to questions from Senator Carroll, Ms. Conover explained that designated prison staff can listen to live or past phone calls up to six months old. Securus can provide access to older phone calls. Securus's staff listen to approximately 10 percent of the phone calls randomly and will refer any suspicious activity to the department. She stated that the department does not need a warrant to receive this information, but an outside agency would have to get a warrant.

In response to a question from Senator Westerfield, Ms. Conover confirmed that there is a minimum 15-minute charge for phone calls. Senator

Westerfield commented that this guarantees their profit and commission. He shared a link of the Securus presentation from the Jail and Corrections Reform Task Force meeting.

Senator Berg asked whether it was correct that the minimum cost of a 5-minute phone call is \$3.15, so to make such a call every day would cost \$94.50 per month. Ms. Conover said she did not know but the rates are in line with FCC regulations.

#### **Inmate Telephone Calls from Local Jails**

Representatives from Combined Public Communications made their presentation. Mr. Ruschman provided a history of CPC, the types of calling services for inmates, who CPC's customers are, software investment and infrastructure, costs per minute, FCC regulatory information, telecom taxes, benefits of CPC services, information about attorney calls, website information, and contract costs. He explained that in addition to outside phone service, CPC also provides a texting device, tablets for entertainment and education, and video visitation within the jail and off-site. Mr. Ruschman stated that efforts are made to identify calls to attorneys so they are not recorded, and all recorded calls inform the called party that they are being recorded. He stated that the amount of the commission paid to the county jails is dictated by competition and increased operating costs. He said that jails can have needs that the state Department of Corrections' contract cannot meet, so they work with other inmate phone providers to get what they need.

In response to questions from Senator Carroll, Mr. Engle said restrictions on whom an inmate may call can come from the family, court, or jail. The most common restrictions are due to harassment and domestic violence. CPC can block numbers via a password process. Tablets do not have communication ability. Video calls, whether pre-scheduled or not, are made at a station limited to video calling and a few other services so that there is no conflict with other uses. CPC offers a texting device that inmates may own, but texts are reviewable by law enforcement. Mr. Engle said that CPC operates in 52 county jails, and 30 are using video visitation. CPC has not bid on the statewide contract, however. He explained that CPC has an artificial intelligence system that identifies voices of inmates to verify who is making the call to prevent sharing of PINs or three-way calling to restricted numbers. The text message system looks for key words specified by law enforcement and has also been used for suicide prevention.

In response to a question from Senator Westerfield, Mr. Engle stated that CPC's contracted expenses vary depending on issues like bandwidth. Rural counties have limited bandwidth. CPC stores more than 100 million recordings indefinitely for law enforcement. All calls are encrypted since there are constant hacking attempts. CPC charges per minute with no minimum for a call. Taxes charged depend on whether the call is within or outside the state. Families outside Kentucky can work around out-of-state rates

by getting a Kentucky phone number through Google, for example.

In response to questions from Senator Westerfield, Mr. Engle said the slide showing a 2-cent profit was for illustration; actual profit depends on the contract, as does the amount of the commission. He stated that jail management software has often been part of contracts. Mr. Ruschman clarified that the income tax shown in the presentation was the tax the LLC pays, not what individual employees pay. For the phone call tax, he clarified that the rate was per minute. The system keeps a running total of charges during each call to be sure the inmate's account has enough money to pay for it. The average call length is 7½ minutes. The maximum call time is set by the jail and is usually 15 minutes. Mr. Engle explained that law enforcement wants shorter calls because if they are conducting an investigation, it takes less time to listen to the calls. He said longer calls also result in complaints because inmates are more likely to run out of funds during calls.

In response to a question from Senator Westerfield about the number of connected calls on an annual basis, Mr. Ruschman estimated that CPC handles 15 million minutes of calls per month in various states combined. He said he would provide the connected call numbers to the committee for Kentucky.

In response to a question from Senator Westerfield, Mr. Ruschman said if a call with an attorney is recorded, the attorney can contact CPC's call center and send a statement on letterhead to request that their calls be deleted and future calls not be recorded. The records that the calls were made are kept.

In response to questions from Senator Westerfield, Mr. Engle stated that the commission rate varies by county. He said that the first thing on the CPC website is an offer for families to purchase minutes because that's often what they want to do.

Senator Westerfield expressed concern that the cost to families includes the 50 percent commission to jails and local governments. Mr. Engle explained that many counties are short on money and use the commissions to help with important purchases. CPC charges the FCC regulated rate but is willing to talk about lower rates. The average call costs for an inmate per month are \$26 compared to a monthly cell phone bill of \$89. CPC has to compete with commissary companies on unregulated video calling and texting. Jails also receive commissions from commissary companies that charge inmates to transfer funds into their phone call accounts and for other purchases.

Senator Carroll informed the committee that CPC would testify at the Interim Joint Committee on Judiciary on October 22 and at the Jail and Corrections Reform Task Force on November 6.

#### **Discussion of Topic Selection for the November Meeting**

Senator Carroll said the committee will vote on annual study topics for staff at the November meeting.

The co-chairs decided to allow each leadership caucus to select a topic. Senator Carroll asked staff to contact the leadership of each caucus to ensure they are prepared for the committee to vote on topics.

#### **Remarks by Representative King About Cause of Death Data**

Representative King provided additional remarks on the leading causes of death in Kentucky residents from 2018 to 2020 in March to August. This information was provided by the Office of Vital Statistics in the Cabinet for Health and Family Services. She noted several causes of death (such as lower respiratory, diabetes, intestinal infections, cancer, accidents, assaults, homicides, etc.) that changed significantly and expressed concern about whether deaths were misclassified.

Senator Berg said that the number of people dying at home from unknown causes has increased possibly because the pandemic has made people reluctant to go to hospitals to seek services. It is not yet known what portion are due to COVID-19.

Senator Carroll stated that the death rate might be the most important statistic to compare with past years. He noted there are many questions about what the numbers actually mean and how they are used. He said the committee will continue to study the numbers to address those and other questions.

Senator Carroll announced the next committee meeting will be held November 13, 2020, at 1:00 p.m.

The meeting adjourned at 2:44 p.m.

### **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

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

November 13, 2020

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

The 6th meeting of the Program Review and Investigations Committee was held on Friday, November 13, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Karen Berg, Tom Buford, Michael J. Nemes, Reginald Thomas, Stephen West, Whitney Westerfield, and Phillip Wheeler; Representatives Chris Fugate, Al Gentry, Kim King, Adam Koenig, Ruth Ann Palumbo, Steve Riley, and Walker Thomas.

Guests: Melissa Currie MD, Norton Children's Hospital Pediatric Protection Specialists; and Dawn Blair, Assistant Hardin County Attorney

LRC Staff: Gerald Hoppmann, Committee Staff Administrator; Greg Daly; Chris Hall; and Joel Thomas; and Elizabeth Hardy, Committee Assistant

#### **Minutes for October 15, 2020**

Upon motion by Senator Carroll and second by Senator Wheeler, the minutes for the October 15,

2020, meeting were approved without objection.

#### **Selection of Study Topics**

Representative Bechler announced that the selection of study topics would be moved from its place on the agenda and considered next.

Representative Koenig moved, seconded by Senator Nemes, that the committee study the process by which judicial contracts are awarded. The motion carried.

Representative Bechler asked for a motion from a House minority member, but there was none.

Senator Carroll moved, seconded by Senator Nemes, that the committee study the executive branch's handling of the COVID-19 pandemic, with specific areas of focus to be determined. The motion carried.

Senator Berg moved, seconded by Senator Thomas, that the committee study broadband infrastructure in the state—where we are and what we need to do to move forward. The motion carried.

#### **Child Fatality and Near Fatality External Review Panel**

Members of the Child Fatality and Near Fatality External Review Panel presented information about the panel's work and recommendations. Dr. Currie explained that the multidisciplinary expert panel reviews child fatalities and near fatalities that are suspected to have resulted from child maltreatment. It is an independent body attached to the Justice and Public Safety Cabinet for administrative purposes and has a memorandum of understanding with the cabinet. She described the process of appointment to the panel and the panel's meeting history.

Dr. Currie explained that the panel reviews cases that are referred by the Department for Community Based Services (DCBS) or the Department for Public Health, regardless of whether child maltreatment was substantiated. She described the process of reviewing cases in SharePoint, as well as the use of a full-time analyst and contract nurse analysts to review case information. The panel's data collection tool also resides in SharePoint, which consists of 22 data fields. For example, the panel determines risk factors, presence of child abuse or neglect, whether the incident was accidental or possibly preventable, and whether malfeasance was not ruled out. In FY 2018, there were 136 cases, including 54 fatalities. The panel projects that there will be 182 cases reviewed from FY 2019.

Dr. Currie said the panel looks at accountability without blaming individuals and focuses on systems issues that might be addressed. She noted that frontline staff are often dealing with incomplete information at the time and have limited resources.

Dr. Currie said the statute requires the panel to produce an annual report by the end of November, but it has requested additional time in the past couple of years in order to include reviews of as many of the cases as possible. The reports include recommendations for prevention strategies.

Dr. Currie described a near fatality involving

a 3-year-old child who apparently had accidentally overdosed on a parent's prescribed Suboxone that was left accessible to the child. The panel determined that this was a potentially preventable case of caregiver neglect related to unsafe access to a deadly substance. Dr. Currie said cases involving overdose or ingestion of substances had increased over the past few years. She discussed several legal and illegal substances and noted that Suboxone, often used to treat opioid addiction, was the most frequent. The poison control center has records of approximately nine times as many ingestion cases as the panel has seen. She said that some of these cases were not reported to DCBS because they were truly accidental, but it is likely that there is significant underreporting in other situations.

Dr. Currie listed some recommendations that the panel has made related to overdoses. She described potential recommendations related to safe sleeping, babies with prenatal drug exposure, drug testing of caregivers, training for coroners and law enforcement, awareness of child head trauma, and encouraging everyone to report child maltreatment.

In response to a question from Representative King about why the child in the example case was removed from the mother's home and placed with the father, who had a history of substance abuse, violence, criminality, and substantiated child maltreatment, Ms. Blair explained that sometimes DCBS places a child without court involvement, which is what happened in the example case. The panel looks at these cases and works with DCBS to prevent such issues in the future. Dr. Currie said that this case would be in the annual report as a DCBS issue. Representative King requested that the panel keep the committee informed about those kinds of issues.

In response to questions from Representative Bechler, Dr. Currie clarified that "supervisory neglect" in the presentation meant neglect by the caregivers. She explained that cases usually reach the panel after a significant delay. If the child had still been with the father at the time of review, the panel would have discussed with DCBS whether that was prudent. If it is too late to intervene in a particular case, the panel considers preventive recommendations.

In response to a question from Representative Thomas, Dr. Currie said that in the cases reviewed by the panel, she was unaware of cases involving violence toward animals, but it is often seen in cases of severe child abuse. Ms. Blair said that in her practice, DCBS has often asked about and identified violence toward animals as a factor.

In response to a question from Representative Koenig, Dr. Currie explained that drug testing of caregivers could be done at the scene of a child death or shortly thereafter, but it takes some time to certify a near fatality, meaning drug testing cannot be done immediately. She said she would support drug testing of caregivers if it were obvious that a case involved a near fatality.

In response to questions from Representative Gentry, Dr. Currie said the number of overdose

and ingestion cases has continued to increase since FY 2018. Ms. Blair said that in cases involving caregiver substance abuse, drug tests on children often come back positive even when they have not ingested substances. Ms. Blair explained that the statute specifies some professionals as mandatory reporters, but everyone is required to report reasonable suspicions of child maltreatment. The question is what constitutes a reasonable suspicion.

In response to questions from Representative Bechler, Dr. Currie said the number of cases overall has gone up. Some of that is due to an increase in Department for Public Health referrals, most of which are sudden unexpected infant deaths with risk factors. There has been a modest increase in cases coming to the panel, but prior to the pandemic there had been an increase in the number of reports and substantiations coming through DCBS. She said it was not clear whether the pandemic would increase the number of maltreatment cases.

Senator Carroll asked if an open dialog exists with DCBS when an alarming issue is identified. Dr. Currie responded that such a dialog does exist with DCBS and law enforcement. She explained that dialog with law enforcement, other than the state police, is more difficult because there are many local agencies involved, and they are not directly represented on the panel. Ms. Blair agreed and said that as a result, the panel tries to make broad recommendations for law enforcement. Dr. Currie added that the panel has sometimes issued letters to agency leaders or judges requesting more information on specific cases. Senator Carroll said that the panel's feedback to individual law enforcement officers and social workers is important for their follow-up. He then shared an example from his experience as an investigator related to a Sudden Infant Death Syndrome case.

In response to further questions from Senator Carroll, Ms. Blair said that in order to keep the case reviews from being used in court, the panel redacts as much identifying information as possible in open meetings. Panel review often takes place before the criminal case has been completed. She expressed the opinion that a statute preventing the panel's findings from being used in criminal trials would be beneficial. Senator Carroll asked the panel members to suggest legislative language to limit the admissibility of that information.

In response to questions from Senator Berg, Dr. Currie said the panel has reviewed some gunshot cases. Peer-on-peer cases are not reported to DCBS or the panel, but young children who get access to a gun via supervisory neglect do go to the panel. Norton Hospital is seeing this as an issue. Ms. Blair said it has been addressed in previous annual reports. Dr. Currie and Ms. Blair agreed that they were unable to say what the effect would be of increasing the penalty for giving a minor access to a gun. Ms. Blair noted that there are questions about parental culpability when the minor is a teenager. Dr. Currie said looking at statistics from other states with different laws might

show an association between accidental gunshot deaths and strictness of gun safety laws.

In response to questions from Senator Buford, Ms. Blair suggested clarifying that child maltreatment cases in civil court can proceed before a related criminal case is completed. She explained that the statute requires that civil cases related to dependency, neglect, and abuse be disposed of within 45 days, but some jurisdictions hold those cases beyond 45 days when there is an ongoing criminal case. Dr. Currie and Ms. Blair also recommended funding for family drug courts.

In response to a question from Representative Bechler, Ms. Blair said her impression was that the majority of the panel's cases go to civil court, but not many go to criminal court. One difference is that criminal court requires identifying a specific perpetrator beyond reasonable doubt, but civil court does not. Dr. Currie said that of the cases identified at Norton Hospital as definitive physical abuse, which is not just fatalities and near fatalities, fewer than 10 percent go to criminal trial; some of the others might involve plea deals.

In response to a question from Representative Bechler, Dr. Currie said it was difficult to know how different agencies received the panel's recommendations, in part because of the volume of cases. She added that the panel has limited ability to follow up on its recommendations and cannot require agencies to comply. She also stated it is a challenge for the panel to develop meaningful recommendations. Dr. Currie believes that the size and composition of the panel is appropriate, and that the panel can add ad-hoc members if needed. Ms. Blair agreed.

Representative Bechler announced that there would be no further Program Review and Investigations Committee meetings in the 2020 Interim, but the committee is able to meet during legislative sessions if needed.

Senator Carroll thanked the staff and administrator and encouraged members to let the co-chairs know of any topics they would like to see addressed at a future meeting.

The meeting adjourned at 2:09 p.m.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 5th Meeting of the 2020 Interim**

September 22, 2020

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

The 5th meeting of the Public Pension Oversight Board was held on Tuesday, September 22, 2020, at 1:00 PM, in Room 171 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, Dennis Parrett, Wil Schroder, and Mike Wilson; Representatives Joe Graviss, Jerry

T. Miller, Phillip Pratt, Steven Rudy, and Buddy Wheatley; John Chilton, Mike Harmon, John Hicks, James M. “Mac” Jefferson, Sharon Mattingly, and Joseph Fawns.

Guests: Steven Shannon, Executive Director, Kentucky Association of Regional Programs, Inc.; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers’ Retirement System; and David Eager, Executive Director, and Rebecca Adkins, Executive Director of Operations, Kentucky Retirement System.

LRC Staff: Brad Gross, Bo Cracraft, Jennifer Black Hans, and Angela Rhodes.

#### **Approval of Minutes**

Representative Miller moved that the minutes of the August 24, 2020 meeting be approved. Representative Rudy seconded the motion, and the minutes were approved without objection.

Representative DuPlessis announced Joseph Fawns as the newest member for the Public Pension Oversight Board as the appointee for the Attorney General’s Office.

#### **Community Mental Health Centers – Pension Strategy 2021**

Steve Shannon, Executive Director, Kentucky Association of Regional Programs, Inc. (KARP), began with an overview of community mental health centers (CMHC). He stated that CMHCs have been in service since 1964, currently serve about 180,000 people annually, and provide a behavioral health public safety net for all Kentuckians. Mr. Shannon stated that KARP is a membership organization of 11 centers, and 9 of those 11 centers participate in Kentucky Employee Retirement System’s (KERS) nonhazardous pension plan.

Mr. Shannon thanked the General Assembly for the 49.47 percent frozen employer contribution rate, along with the \$23 million appropriation, which has allowed the CMHCs to continue providing the behavioral health public safety net. He stated that, if either of those were to be taken away, the centers would have problems. He emphasized a need for both the freeze on the employer contribution rate and the appropriation to remain in the upcoming budget proposals.

Mr. Shannon stated his purpose for presenting was to discuss a potential compromise solution that would meet the needs of the Kentucky Retirement Systems (KRS), while being affordable for the CMHCs, and also maintaining current employees in KERS Tier 1, Tier 2, and Tier 3 plans.

Mr. Shannon stated that the unfunded liability calculated for CMHCs during the 2020 Regular Session was \$1,154,821,405. KARP would propose that this unfunded liability amount be paid off over a 30-year period, contingent upon zero interest accrued, and CMHCs continuing to receive the \$23 million appropriation. He emphasized that KARP was not proposing cessations but did reference prior cessation legislation, HB 362 from the 2018 Regular Session passed with bipartisan support and required

no interest payments.

In response to a question from Representative Wheatley regarding funds that would be required to make the annual unfunded liability payment, Mr. Shannon stated that the annual amount would be about \$38 million. The \$23 million currently provided would be supplemented by the CMHCs along with the normal cost for active employees.

Mr. Shannon discussed a couple of graphs that included the KERS nonhazardous employer contribution rate and a comparison graph of the rising KERS nonhazardous employer rate compared to a declining number of CMHC employees. Mr. Shannon also discussed the three biggest expenses for the centers: payroll, KERS nonhazardous employer cost, and other benefits.

Mr. Shannon then discussed a handful of requests that have been made with regards to total contributions paid over time, estimated investment earnings and retirement payments made to current and former employees of the CMHCs. He expressed belief that CMHCs’ pension liability should not include any portion of the unfunded liability attributed to individuals hired by CMHCs on behalf of state agencies, including the Cabinet of Health and Family Services. Lastly, he re-iterated that CMHCs’ annual payment should be based on a 30-year payment with zero interest.

In response to a question from Representative Graviss regarding what a zero percent interest rate would cost KRS or other employers, Mr. Shannon stated he did not think that KARP’s proposal would increase costs to other KERS employers. He did state that the recent actuarial analysis (from SB 249 in 2020 Regular Session) indicated a zero percent rate would result in KRS receiving about \$26 million less a year.

In response to a question from Mr. Chilton regarding a remedy where some of the agencies have taken action to reduce their cost by outsourcing their employees, Mr. Shannon stated that KARP is not saying they are going to add more people to the system but intends to keep Tier 1, Tier 2, and Tier 3 employees in the system.

In response to questions from Representative DuPlessis regarding centers who have reduced payroll to avoid pension contributions, Mr. Shannon stated that the CMHCs would be responsible for paying their specific liability, but with no added interest and using some of the general fund appropriation they are receiving now. Representative DuPlessis added that one of the reasons he liked HB 171 was that it incentivized facilities who had shed employees out of the system to reemploy, since it was cheaper to pay normal costs. Mr. Shannon responded that he is not sure if centers would necessarily see it as an incentive to put people back into the system.

In response to a question from Senator Higdon regarding the employees who remain at NorthKey, Mr. Shannon stated that NorthKey offered an opportunity for an early retirement plan, and all three

current employees are non-management people who opted to stay.

In response to questions from Representative Graviss, Mr. Shannon stated that the \$23 million is an annual appropriation. In response to a follow up question, Mr. Shannon stated that KARP’s proposal would result in \$26 million less than the actuarial analysis from SB 249 required. In response to a second follow up from Representative Graviss, Mr. Shannon stated, based on the \$1.154 billion divided by 30 years, which is \$38 million, the actuarial analysis had the CMHCs paying \$62 million. Representative Graviss commented that if KRS does not get the full payment, someone is going to have to make it up. Mr. Shannon stated that this is a compromise, a way for the CMHCs to pay the actual unfunded liability of \$1.154 billion over 30 years, modeled after legislation passed in 2018, and be able to continue to operate.

Representative Tipton commented that the 30-year, zero interest proposal in HB 362 from 2018 was predicated on employers that agreed to the proposal no longer participating in the system so that no additional unfunded liabilities would occur. In response to a question from Representative Tipton, Mr. Shannon agreed that it is a fair assessment that at some point in the future, other employers of KERS would have an incrementally higher rate that would have to be paid.

In response to a question from Auditor Harmon, Mr. Shannon agreed that new employees will go into Tier 3. In response to a question regarding whether or not KARP would be willing to pay beyond the 30 years, if additional obligations were to occur, Mr. Shannon stated keeping KARP at the 49.47 percent going forward along with the \$23 million, it would be plausible.

In response to a question from Representative DuPlessis, Mr. Shannon stated that KARP has not discussed these proposals with KRS.

#### **Quarterly Investment/Cash Flow Update & Fund Stress Testing – Teachers’ Retirement System Continuation**

Beau Barnes, Teachers’ Retirement System (TRS), joined the meeting to continue a presentation about stress testing that was not finished during the August 2020 meeting. Mr. Barnes stated that TRS does a lot of stress testing with continual monitoring and evaluation of actual experience and potential fluctuations in experience versus what its assumptions are, while making adjustments in short and long terms based on those outcomes. Some of those adjustments are produced from a sensitivity analysis on the TRS investment return assumption and actuary studies and reports on the actual experience compared to what was assumed. The results of this sensitivity analysis are published annually as required by statute. An outside investment consultant periodically conducts asset liability modeling studies, which reassess assumptions, risks, asset allocation, and the likelihood of meeting assumptions to ensure benefits will be paid. Every five years an experience study compares actuarial experience projected five years ago to the

actual experience of those years.

In response to a question from Representative DuPlessis, Mr. Barnes stated that the next experience study should be released mid-year of 2021. In response to a follow up, Mr. Barnes stated he does not know what the experience study will predict for the assumed rate.

Mr. Barnes discussed TRS's 2019 sensitivity analysis for the retirement annuity trust for investment return assumption and payroll growth assumption, which included funding level, unfunded liability, and Actuarial Determined Employer Contribution (ADEC) change. The investment return assumption scenario was for a decline of 1 percent, the current assumption of 7.5 percent, and an increase of 1 percent, and the payroll growth assumption scenario was for the current assumption of 3.5 percent, a decline of 1.5 percent to 2 percent, and no growth.

In response to a question from Representative DuPlessis regarding who pays any extra funding required, Mr. Barnes stated that any extra funding comes from the general fund (taxpayer). In response to a follow up regarding historical data, Mr. Barnes stated that he does not know the five-year average for payroll growth, but recently it has been around 1 to 2 percent.

In response to questions from Representative Miller regarding the assumptions considered in the upcoming experience study, Mr. Barnes stated that several assumptions, in addition to payroll growth and investment return, include individual salaries, retirement rates, life expectancy, etc. would be evaluated.

In response to a question from Representative Pratt, Mr. Barnes stated that the unfunded liability represents the total amount of liability that is unfunded, and a change in the investment return assumption is going to increase or decrease the unfunded liability. In response to a follow up question regarding the change in the ADEC as a result of an assumption change, Mr. Barnes stated that the ADEC balance would be a budget request to the General Assembly.

In response to questions from Representative Graviss regarding how investment gains or losses are considered, Mr. Barnes stated that any gain or loss from year to year is considered when setting the assumption rate.

In response to a comment from Representative DuPlessis regarding TRS's returns being below 7.5 percent more recently, Mr. Barnes stated that the returns have been below 7.5 percent within a 20 year period, but have exceeded the benchmark in the shorter time frame of 10-years.

In response to a question from Senator Higdon, Mr. Barnes stated that the actuaries include sick days as part of the calculation for budget requests. In response to a follow up question, Mr. Barnes agreed that there is a statutory rate of 13.105 percent that is to be paid by primarily the general fund. Senator Higdon commented that, as the assumed rate of returns are reduced, it increases the unfunded liability which

increases the requests for contributions from the General Assembly. Senator Higdon also commented that reducing the payroll assumption does not increase the unfunded liability, but it does increase the requests for contributions from the General Assembly.

Mr. Barnes added that TRS received additional funding in 2016/2018 and almost all the ADEC funding for 2018/2020. In the first year of this budget biennial, TRS received all the funding for the pension fund requested. Mr. Barnes stated that TRS is very appreciative, and it is these budget line items put into the funding plan that will get TRS to 100 percent funded. Mr. Barnes added that once TRS reaches 100 percent funded, its budget request to the General Assembly would be 6.2 percent.

Representative DuPlessis commented that maybe TRS should possibly take a layered approach now to have a gradual decline.

Mr. Barnes discussed the market scenario analysis with actuary projections for the retirement annuity trust, which included current, positive scenario, expected scenario, flat scenario, and negative scenario for FY 2021, FY 2022, FY 2025, FY 2030, FY 2040, and the 20-year total cost.

In response to a question from Representative DuPlessis, Mr. Barnes stated that TRS had a negative year of return in 2016 with a -1 percent. Representative DuPlessis commented that anything that happens in the markets is 100 percent on the backs of the taxpayers.

In response to a question from Representative Graviss, Mr. Barnes stated that he was not sure if TRS's actuary is doing similar smoothing techniques as does KRS' actuary.

In response to a question from Representative DuPlessis, Mr. Barnes stated that TRS has run projections on the health insurance fund and believes it should be fully funded by 2028.

#### **Study Topic from 2019 Annual Report: Allocating Health Premium Subsidy Costs for Retirees with Service in Multiple Retirement Systems**

David Eager, Executive Director, Rebecca Adkins, Executive Director of Operations, KRS and Beau Barnes, TRS, came together to talk about KRS' and TRS's health insurance reciprocity. Mr. Eager stated that he is aware that there have been no payments between KRS and TRS for a number of years and states that the issue is KRS and TRS cannot resolve what the amounts are. He stated that he and Beau Barnes are in agreement to meet and determined to resolve this issue by June 30, 2021.

Ms. Adkins gave an overview on reciprocity. She stated that reciprocity is defined such that all state-administered retirement systems allow members across multiple systems, at the time of retirement, to pull service from any system the retiree has service for eligibility of health insurance and retirement. Health insurance reciprocity is defined by KRS 61.680, KRS 61.702(3)(a)4, and KRS 61.702(3)(b)2.

Ms. Adkins then gave a description of how

reciprocity works and stated that a member who has retired from multiple state-administered retirement systems at the same time selects the system from which to apply for health insurance during open enrollment. Service from both systems is used to determine how much of the premium is covered by each of the two systems. Each system pays a percentage of the premium based on the percentage of service attributable to each plan, and the amount paid by each system cannot exceed 100 percent of the monthly contribution adopted by the respective boards of trustees.

Ms. Adkins discussed the current reciprocity statistics. Between TRS and KRS, there are approximately 5,500 retirees. She stated that up until FY 2017, the calculated reciprocity reimbursement amounts varied, but generally stayed within a few hundred thousand dollars. Beginning in FY 2017, there has been a major shift to retirees electing to take insurance from KRS, and the reimbursement amounts exceed \$2 million annually. For reciprocity between KRS and the Judicial Form Retirement System (JFRS), there are approximately 50 retirees with the Judicial Retirement Plan, where KRS reimburses JFRS less than \$80,000 annually, and less than 5 retirees with the Legislators Retirement Plan, where KRS reimburses JFRS less than \$8,000 annually. Ms. Adkins added that TRS also has reciprocity with JFRS with very small numbers.

Lastly, Ms. Adkins discussed the reciprocity issues between KRS and TRS. She stated that, until 2005, reciprocity reimbursement calculations were straightforward and were performed annually. In 2012, KRS and TRS agreed upon a one-time payment of \$3.9 million from KRS to TRS for reciprocity payments from January 2, 2005, through June 30, 2012. Both parties agreed to reconcile the data and make any adjustments as needed. Since 2012, KRS and TRS staff have reviewed data and eliminated many of the discrepancies in the calculation methodologies. With work still needing to be done, there may be a time that a statutory clarification may be needed, but for now, the systems are continuing to address the issues.

Mr. Barnes added that he believes TRS and KRS will be able to work out the reciprocity issues.

With no further business, the meeting was adjourned.

## **CLASSIFICATION OF WORKERS IN THE CONSTRUCTION INDUSTRY TASK FORCE**

### **Minutes of the 3rd Meeting of the 2020 Interim**

October 14, 2020

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

The 3rd meeting of the Classification of Workers in the Construction Industry Task Force was held on Wednesday, October 14, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Jason

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

Present were:

**Members:** Senator Matt Castlen, Co-Chair; Representative Jason Nemes, Co-Chair; Senator Karen Berg; Representatives Terri Branham Clark and Sal Santoro; Jason Clark, Spencer Coates, Tommy Gumm, Marty Hammons, Patrick Jennings, Ken Lyons, Gary Morris, Anthony Russell, Kevin Sell, Allyson Smith, and Robert Swisher.

**Guests:** Ken Lyons, President, Indiana/Kentucky/Ohio Regional Council of Carpenters; Jason Clark, Political Director, Indiana/Kentucky/Ohio Regional Council of Carpenters; Patrick Jennings, Managing Partner, Commonwealth Alliances; and Allyson Watts Smith, Associate General Counsel, Kentucky Employers' Mutual Insurance.

**LRC Staff:** Andrew Manno, Audrey Ernstberger, Sasche Allen, and Kirsten Parker.

### **Approval of Minutes**

A motion to approve the minutes of the September 10, 2020 meeting was made by Representative Sal Santoro, seconded by Kevin Sell, and approved by voice vote.

### **Discussion of Issues and Potential Solutions**

Allyson Watts Smith, the Associate General Counsel for Kentucky Employers' Mutual Insurance (KEMI), presented KEMI's perspective on misclassification of workers and proposed a solution that could offer clarity, consistency, and simplification to the process from a carrier's standpoint. All state agencies use different multifactor subjective tests to determine whether a worker is an employee or independent contractor, which often yields varying results depending on the agency making the determination. The inconsistency causes issues for employers, workers, and workers' compensation insurance carriers. Ms. Smith presented a two factor process that could be used in both the public and private sectors and in all industries. The process has been considered by the U.S. Department of Labor and has been implemented in several other states. KEMI's proposed solution is an independent contractor certification process. A worker who is an independent contractor would file an affidavit alleging or declaring his or hers independent contractor status with the assigned state agency. The certification approved by the assigned state agency could be used by the worker's employer, insurance carrier, or any other applicable body, system, or agency, and would be given presumptive weight. Specific to workers' compensation, the insurance carrier would not charge a premium for the independent contractor's wages and the worker would not be covered by the workers' compensation system in the event of an injury.

Answering a question from Co-Chair Jason Nemes, Ms. Smith explained that the proposed independent contractor certification process would change the dynamics of the worker status determination process. Currently, employers and insurance carriers determine if a worker is an employee or independent

contractor, but under the proposed solution the worker would determine their own status. Replying to a follow up question, Ms. Smith stated KEMI goes through the employee and independent contractor determination process for about 7,000 of its policies. The proposed certification process would eliminate a large portion of the administrative back and forth that is involved in the current determination process.

Co-Chair Jason Nemes opened the floor for opinions on the certification process posed by Ms. Smith. Spencer Coates explained that the process would be cumbersome and stated that the IRS already has an adequate system in place. Kevin Sell voiced the opinion that he did not believe the General Assembly would pass any legislation that is both broad and could destroy future economic gains in the construction industry. He further stressed the need for uniform definitions, consistent messaging from all workers' compensation carriers, and data sharing amongst state agencies.

Representative Terri Branham Clark pointed out that the proposed certification process is similar to the process that business owners have to complete with the Secretary of State's Office. Answering a question from Representative Branham Clark, Ms. Smith clarified that Indiana and Montana are states that have a certification process.

Co-Chair Jason Nemes solicited more input from Spencer Coates and Kevin Sell. Spencer Coates made the point that some people often work as employees and independent contractors interchangeably, even on the same job. Kevin Sell explained that if the certification process was put in to place, then the General Assembly would have to decide which state agency would manage the program. He also stated that not all workers are technologically savvy which would eliminate them from the field or pose issues with their involvement in the certification process. Ms. Smith said KEMI in no way wants to make the process difficult for anyone to obtain independent contractor status. She pointed out that states with the certification process in place have a form downloadable form online.

Responding to a question from Jason Clark, Ms. Smith said evidence suggests that the certification process adopted in Montana reduced litigation pertaining to the determination of whether a worker is an employee or independent contractor.

Addressing Anthony Russell, Ms. Smith explained every state using the certification process has structured it under the authority of different state agencies. Some states have housed the program in the revenue department while others have housed it with the department of labor.

Replying to a question from Matt Gumm, a proxy for Tommy Gumm, Ms. Smith stated KEMI did not explore the applicability of fees in the certification process, but is open to discussing it.

Answering a question from Co-Chair Jason Nemes, Ms. Smith said KEMI, as a quasi-governmental entity, could not independently implement the

certification process without corresponding legislation passed by the General Assembly.

Ken Lyons, President of the Indiana/Kentucky/Ohio Regional Council of Carpenters, and Jason Clark, Political Director of the Indiana/Kentucky/Ohio Regional Council of Carpenters, jointly presented a second alternative proposal. In support, they presented to members a video with a worker that has been consistently misclassified. The interviewee shown was treated as both an employee and independent contractor at different times during his work on public projects. In addition, he was also paid in cash and check and, at various times, did not have taxes taken out of his pay. Mr. Lyons explained that worker misclassification is the norm and, to combat the issue, the Indiana/Kentucky/Ohio Regional Council of Carpenters proposed language for future legislation.

Representative Terri Branham Clark described her experiences visiting public work sites where misclassified workers were present. Various workers communicated with her that they were being compensated with cash. She explained that the goal is not to hinder economic opportunities, but to stop the misclassification that limits Kentucky's construction businesses. Mr. Clark added that this issue is more common than what people may realize and, he has personally taken legislators on tours where misclassified workers are present. Mr. Lyons also stated that he believes the issue began when employers started hiring undocumented workers for cost savings purposes.

Patrick Jennings, a Managing Partner at Commonwealth Alliances, presented components of proposed legislation drafted in conjunction with the Indiana/Kentucky/Ohio Regional Council of Carpenters. Mr. Jennings' proposal requires any contractor bidding on a taxpayer incentivized project to list all subcontractors, and any subcontractor to the primary subcontractor with their bid. Any contractor bidding on a taxpayer incentivized project shall certify that they are not misclassifying employees, and all Kentucky agencies shall use Internal Revenue Service (IRS) standards to determine classification, simplifying the process and limiting confusion for contractors. For taxpayer incentivized projects, the Department of Labor may investigate a job site to determine proper classification only when they receive a complaint. The complaint can come from the entity receiving the work product, local or state officials, an employee, law enforcement agency or a labor management cooperative committee. If it is determined that employees are misclassified on a taxpayer incentivized project, then work shall cease until all back taxes, penalty and interest is paid. The state or local entity reserves the right to withhold any tax incentive or state or local payment to the contractor until all appropriate taxes are paid. Lastly, if a contractor repeatedly violates this section of law, the state or local government reserves the right to prohibit that contractor from bidding on state or locally funded

or incentivized projects for a period of time.

Representative Branham Clark explained there is a difference between those that unintentionally misclassify workers and those that repeatedly and knowingly misclassify workers. Mr. Jennings agreed and stated the intention of penalties and fines is to deter repeat misclassification offenders.

Co-Chair Jason Nemes pointed out that previously filed legislation exempted general contractors. He also added that imposing fines and ceasing work on a project if not in compliance, worries him; and he would not want to punish everyone involved with a single project when only a small group is not in compliance. Mr. Jennings clarified that whoever is making bids on projects should be held individually liable.

Responding to a question from Allyson Smith, Mr. Jennings clarified that in previous iterations of proposed language data sharing amongst state agencies was addressed but not data sharing with carriers. He said that could be further discussed.

Kevin Sell supported removing contractors from bid lists but said more thought should be put into the complaint process as far as which agency will manage it. He also added that the repeat offender list of contractors should most definitely be shared with the Labor Cabinet.

Co-Chair Jason Nemes suggested that going forward he would like for legislation incorporating the presented content to be drafted then circulated to members in an effort to have a piece of legislation prepared for the upcoming session. Representative Terri Branham Clark agreed and stated this plan of action will allow time to address any unintended consequences.

There being no further business, the meeting adjourned at 10:09 a.m.

## **JAIL AND CORRECTIONS REFORM TASK FORCE**

### **Minutes of the 4th Meeting of the 2020 Interim**

October 16, 2020

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

The 4th meeting of the Jail and Corrections Reform Task Force was held on Friday, October 16, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Michael J. Nemes, John Schickel, and Robin L. Webb; Representatives Jason Petrie and Ashley Tackett Laferty; Brad Boyd, Cookie Crews, Mary C. Noble, and Steve Shannon.

Guests: Alecia Webb-Edgington, President of Life Learning Center; John Phelps, Cumberland County Judge/Executive; Dan Mosley, Harlan County

Judge/Executive; Major James Beach, Boone County Sheriff's Office; and Colonel Pat Morgan, Kenton County Sheriff's Office.

LRC Staff: Katie Comstock and Yvonne Beghtol.

#### **Approval of Minutes**

Senator Schickel made a motion to approve the September 18, 2020 minutes, seconded by Senator Nemes, and passed by voice vote.

#### **Life Learning Center**

Alecia Webb-Edgington, President of Life Learning Center (LLC), stated that her non-profit organization works with at-risk individuals who are unable to earn a living wage. LLC offers a 12-week education and care continuum to address the physical, financial, spiritual, relational, and emotional domains of life. Participants must be at least 18 years of age, willing to commit to making a permanent transformational change, have stable housing, be drug-free (other than medically assisted treatment), and have a 7<sup>th</sup> grade reading level. LLC has a 68 percent graduation rate. The 12-week continuum includes an educational program taught by volunteers from the community. In addition, non-profit businesses provide LLC participants services such as eye glasses, legal aid, childcare, transportation assistance, and much more. All of this is to help the individual to get on the path to earning a living wage; paying taxes rather than living off of tax dollars.

Some of the biggest barriers for individuals are lack of transportation, criminal convictions, and substance use disorder. Ms. Webb-Edgington stated that Kenton County is currently experiencing 6.8 overdoses per day and believes the rise in numbers is due to the Covid-19 isolation. John Middleton, Kenton County Circuit Clerk, helps to provide Kentucky IDs and drivers licenses so the participants can complete the I-9 Employment Eligibility Verification form when applying for work. LLC enrolled 221 participants in 2020, with an average of 14 candidates per cohort. Ms. Webb-Edgington stated that judges in Kenton, Boone, and Campbell County direct individuals to LLC for alternative and diversionary programs.

The family demographics data of LLC participants indicates that 87 percent are single parents. Thirty-six percent have completely lost custody of their children. Ninety-one percent are Caucasian, which is reflective of the Northern Kentucky demographics. Sixty-two percent are male, with an average age of 34 years old.

The LLC facility is 66,000 square feet which allows space for residential partners to spend one day a week in the facility providing services to participants. The facility consists of a full-service cafeteria serving three meals a day, a fitness center, a five-star daycare, and will soon have a hair salon. LLC offers day and evening programs. The Director of Enrollment travels to detention centers to help individuals devise a plan of action prior to their release. LLC has formed a Multidisciplinary Recovery Reentry Team (MRRT) that is community driven and provides care

interventions and resources in association with the judicial process, minimizing convictions with the goal of reducing recidivism. A LLC participant does not drop out of the program until they are stabilized and on their feet, and choose to leave. An average of 100 diverted inmates receiving services results in a detention cost savings of \$76,000 per month.

In response to Chairman Meredith, Ms. Webb-Edgington stated that LLC works with the Department of Corrections Division of Reentry Services, accepts Class D inmates being released, and would consider taking individuals who want to relocate to Northern Kentucky. There has been no public funding in the past, but LLC's Board has recently chosen to allow no more than 25 percent of public funding to be accepted. Ms. Webb-Edgington would like to offer transportation services for individuals from rural counties to areas where they can earn a living wage.

In response to Senator Nemes, Ms. Webb-Edgington stated that LLC works with the Workforce Investment Board to offer apprenticeship training. If an individual is administratively released, comes to LLC for a screening, is sent to a provider for an evaluation by a clinician to see if there is a substance use disorder, then they start the 12-week program. LLC is talking with the Department of Corrections to allow LLC programs to be an incentive for inmates to receive sentence credits. Northern Kentucky has over 178 employer partners that offer transformational employment.

In response to Mr. Shannon, Ms. Webb-Edgington stated that when an individual graduates from the program, they go from a candidate to a lifetime member, allowing them full access to the facility's programs. LLC also preserves contact through the individual's social media sources. One year of LLC data shows that recidivism has been lowered by 50 percent. Being a lifetime member helps the individual to create a new social network of people. Ms. Webb-Edgington mentioned that LLC is applying to be a Recovery Kentucky Center in Kenton County.

#### **Fiscal Impact of Jails on Counties**

Judge John Phelps, Cumberland County Judge/Executive, stated that the Cumberland County Jail closed in the mid-90s, requiring transportation of prisoners to the Adair County Regional Jail. The passing of HB 463 gave some relieve. However, while the Adair County housing cost was \$174,000 in 2017, the cost had risen to \$345,000 by 2018/2019, which is approximately 40 percent of the Cumberland County budget. Judge Phelps stated that some prisoners are in jail too long due to not being able to pay a small fine. He would like to have the inmates incorporated into the work community to help them be rehabilitated.

Per an email from Adair County Judge Gale Cowan, Judge Phelps stated that the per diem for state inmates has been \$31.34 per day for over a decade, when the current cost is approximately \$37.35 per day for incarceration. Currently housing 41 state inmates equals a loss of \$246 per day or \$89,939 per year.

Judge Cowan's email mentioned that the state should be responsible for all medical costs, and cities should have to contribute to the cost.

Judge Dan Mosley, Harlan County Judge/Executive, stated that jail costs throughout the state are having an adverse impact on every fiscal court budget, to the point that some jail costs are bankrupting the county. Judge Mosley stated that Pat White, Whitley County Judge Executive, told him that Whitley County is facing a \$1.2 million short fall in their jail fund this fiscal year. Judge Mosley stated that the increased cost to house inmates with no increase in revenue complicates the situation.

County jails also need to invest in jail operation pay. The \$134,000 yearly allocation established in the 1980s was based on a 75 bed facility. It now houses 200 beds but the allocation has never increased.

Judge Mosley noted that in the past few years Harlan County has had to transfer \$700,000 to \$1,000,000 in general fund monies to the jail fund. The Covid-19 situation has added further complications. From May 2019-September 2019 the Harlan County Jail generated \$718,000 in state prisoner payments. In the same months for 2020, the Harlan County Jail generated only \$533,000. Eleven employees had to be laid off to help subsidize the loss in revenue.

One area of concern with the Judges Association is the amount of money paid to private prisons for inmates. If the state inmate payment was the same as the private prison payment, Harlan County would have received just over \$1,400,000 in 2019, and \$1,049,000 in 2020 during the same five month period, and the jail would be nearly self-sustaining. This would allow funding for rehabilitation programs as well as lowering staff turnover by increasing the pay. The reduction of inmates added to the jail financial crisis as well as decreasing the availability of inmates to participate in work programs. Changes for county budgets need to include more revenue to fund jails, partnering with the state, corrections, and treatment programs.

Senator Schickel reiterated the negative financial effects on counties of not having the jail work programs offered as well as inmates not obtaining the benefit of work experience. Senator Schickel added that county jail beds are the cheapest form of incarceration.

Secretary Noble stated that she has been in discussion with county judge/executives and leadership of the Jailers Association. She clarified that there are no private prisons that compete with jails, as those in private prisons cannot be legally housed in county jails. In addition, the Lee Adjustment Center is the only private prison in Kentucky and it cannot house class D or C felons.

In response to Senator Nemes, Judge Mosley stated that their 227 bed facility requires at least 130 state inmates to stay on budget. They have had 90-95 state inmates in the last three months. Senator Nemes suggested the cost savings from the Sheriff's Department for not transporting inmates during the Covid-19 pandemic be transferred to the jails.

In response to Chairman Meredith, Judge Mosley stated that liability has increased due to Covid-19. Some staff and a few inmates have tested positive for Covid-19, but have recovered. The county covers the cost for any litigation or issues that occur with an inmate. The contract for routine medical is approximately \$260,000 per year, based on the average inmate population. Mr. Mosley is trying to negotiate a reduction due to the significant drop in inmates.

#### **Transportation and Mental Holds for Prisoners**

Colonel Pat Morgan, Kenton County Sheriff's Office, stated that KRS 70.130 and KRS 441.510 address the transportation of prisoners. The main reason for moving adjudicated prisoners is to adjust the overcrowding of jails. Prior to 2001, most inmates were held in the county detention center until all charges were adjudicated in that county. If an inmate was adjudicated, but had a detainer from another county, the sheriff of that county became the agent to transport to the receiving detention facility. As of June 2001, adjudicated inmates were being transported to counties with empty beds. This practice has drastically dropped due to Covid-19. When an inmate has been adjudicated of a Class D or low-level Class C in a county, the inmate may be moved to another county detention center by the Department of Corrections or a county detention center with open beds would call other detention centers to see if they had any adjudicated Class D or C inmates to be moved to their center. The inmates being moved to the new facilities may still have pending charges in the originating county. When an inmate is moved to another detention center before being adjudicated of all charges, the sheriff's office typically has to make several trips to bring them back to that county. The movement of inmates with pending charges is a great drain on manpower and a cost to sheriffs. Inmates are being transported back to counties where they had been previously housed for a hearing that can last a couple of minutes to a couple of hours, or for a hearing that has been cancelled. For example, his deputies may travel four or five hours from Kenton County to Western Kentucky to bring an inmate back for a hearing that has been cancelled due to a lawyer not being able to attend the hearing. These round trips usually require two deputies. The sheriff charges the state for mileage for a rate of \$9 per hour per deputy.

Colonel Morgan recommends for inmates to stay in the county jails until all charges are adjudicated and only be moved to other counties if they have detainers lodged against them. He also suggests that county detention centers be tasked with moving inmates to court appearances and proceedings rather than the Sheriff's Department. Colonel Morgan stated that the Kentucky Sheriff's Association (KSA) is willing to work towards a solution to resolve issues facing all parties involved.

Colonel Morgan reported that the KSA and the Kentucky Association of Chiefs of Police (KACP)

plan to meet and further discuss the issues of mental health, transport, and evaluation.

Major James Beach, Boone County Sheriff's Office, stated that the housing rate for federal prisoners is \$70 per day and the housing rate for state inmates is \$31.34 per day. Before the Covid-19 pandemic, facilities with open beds would pick-up prisoners who were not yet adjudicated in the originating county to house in their facility. This required the Sheriff's Department of the originating county to travel to the other facility to pick-up the inmate and bring them back for court appearances, then return them to the other facility. Since the state only pays \$9 per hour per deputy, and the average pay is \$24 to \$28 per hour, this results in a loss to the Sheriff's Department. Major Beach noted that during the Covid-19 pandemic judges have been relying on video arraignment and there has been a drop in the transporting of prisoners. However, some jails do not participate in video arraignment.

In response to Mr. Shannon, Colonel Morgan confirmed that inmates with mental health or medical conditions are transported in cruisers rather than ambulances. This increases liability for the Sheriff's Department. Major Beach added that, even when an inmate requires an ambulance for transport, the Sheriff's Department still has to follow the ambulance.

There being no further business, the meeting adjourned at 11:29 AM.

## **JAIL AND CORRECTIONS REFORM TASK FORCE**

### **Minutes of the 5th Meeting of the 2020 Interim**

November 6, 2020

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

The 5th meeting of the Jail and Corrections Reform Task Force was held on Friday, November 6, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Michael J. Nemes and Robin L. Webb; Representatives Jason Petrie and Ashley Tackett Laferty; Brad Boyd, and Cookie Crews.

Guests: B. Scott West, Deputy Public Advocate; Damon Preston, Pubic Advocate; Jasmine Heiss, Project Director of In Our Backyards, Vera Institute of Justice; Bea Halbach-Singh, Research Associate, Vera Institute of Justice; Jim Engle, CEO of Combined Public Communications; and Brett Ruschman, Chief Technology Officer of Combined Public Communications.

LRC Staff: Katie Comstock and Kate Talley.

#### **Approval of the Minutes**

Senator Nemes made a motion to approve the October 16, 2020 minutes, seconded by Representative Petrie, and passed by voice vote.

#### **Judicial Discretion**

B. Scott West, Deputy Public Advocate, stated

that judicial discretion is defined as the power or right to make official decisions using reason and judgment to choose from among acceptable alternatives. The Kentucky definition includes that the decision must be guided by the principal of law. In almost every case involving a discretionary decision, a judge must weigh factors and circumstances. However, case law, court rules, statutes, the Constitution, and the principles of fairness limit judicial discretion. Mr. West stated that judicial discretion is very broad and the abuse of discretion standard is the most deferential standard of review that asks whether a decision was arbitrary, capricious, whimsical, or unsupported by sound legal principles. Clear error is a less deferential standard that determines if findings of fact are supported by substantial evidence. The different evidentiary standards for finding facts include probable cause, preponderance of evidence, clear and convincing, and beyond a reasonable doubt. De novo is the least deferential standard allowing the appellate court to decide the issue as if the lower court had not already made a decision. The clear error standard is used for factual findings and the de novo standard for conclusions of law. Different evidentiary standards can have different appellate review standards.

In response to Chairman Meredith, Mr. West stated that courts are given broad discretion in handling failure to appear in court, which can be an abuse of discretion review if the attorney challenges the decision. Damon Preston, Public Advocate, added that the inconsistency in judicial discretion from county to county is why the legislature needs to set the parameters in which judicial discretion can be exercised. Chairman Meredith added that jailers, county attorneys, and judges need to work together when determining whether or not to release an individual to help reduce the overcrowding of jails.

#### **Fiscal and Policy Implications of COVID-19**

Jasmine Heiss, Project Director of the Vera Institute of Justice's In Our Backyards Program, stated that the decline in jail incarcerations due to COVID-19 has caused a decrease in the cost of running jails, which has prompted a review of jail policies and budgets.

Bea Halbach-Singh, Research Associate with the Vera Institute of Justice, presented a cost analysis based on reports from the Office of the State Budget Director, listing disbursements and receipts by Kentucky counties in FY 2019.

Ms. Halbach-Singh stated that in FY 2019 the average county spent \$2.6 million on jail expenses, which amounts to \$101 per resident. The total jail expenditures for all counties was \$308 million. Across the state the amount varies from three percent to 72 percent of the overall budget, which is \$5 to over \$1,000 per resident. The cost varies for each county due to the types of jails and jail services. Rural counties spend a greater share of their budgets and more per capita on jail costs which is likely due to having higher incarceration rates. Counties with a full service jail spend approximately 25 percent of

their budget on jail costs and counties without a jail spend approximately nine percent. Counties with Life Safety or Regional Jails spend approximately 10 to 12 of their budget on jail costs. Personnel costs make up the majority of jail expenses at 54 percent, followed by operating expenses of 37 percent. On average, 75 percent of jail costs are variable, which means these costs are expected to change based on jail population. These costs include expenses such as food, medical services, supplies, employee benefits, and part time personnel. Ms. Halbach-Singh gave a comparison of top expenses for a county without a jail and a county with a full service jail. The top expense for counties without jails is contracts with government agencies, whereas the top expense for counties with jails is the cost of deputies.

Intergovernmental revenues make up the majority of jail revenues, followed by surplus, borrowing, and transfers. Most intergovernmental jail revenues come from the state for housing class D felons. Counties received almost \$950,000 (or 24 percent of their jail revenues) for housing state inmates. Again, this varies significantly between counties. Counties that house inmates for the federal government received an average of \$1,333,201 from the federal government. Counties that house inmates for other counties received an average of \$264,672. Counties received an average of four percent of its jail revenues from fines and fees, with the highest amount being from inmate telephone commissions.

Ms. Halbach-Singh suggested redirecting savings from the reduction of variable expenditures toward investments that better promote community safety, including alternatives to incarceration, affordable housing, and treatment programs for mental illness and substance use disorder. The savings could also offset the revenue lost from not charging user fees. Ms. Halbach-Singh stated that Vera Institute is currently working on a tool to allow counties to estimate potential cost savings associated with reductions in the jail population.

Ms. Heiss stated that the nation's jail population declined 25 percent the first few months of 2020. Kentucky's jail population declined more than 30 percent. Currently, 49 jail facilities are operating at or above capacity; eight are above 150 percent capacity. Pre-COVID, 79 facilities were operating at or above capacity. The local jail population has rebounded more significantly in rural jails. One of the single biggest drivers in increased jail populations and rural incarceration has been pretrial detention. Bookings increased 107 percent from April 20, 2020 to October 24, 2020. Ms. Heiss presented a graph showing the increases and declines in pretrial interviews, same day releases, in custody at the end of the day, and financial custody between January 1, 2020 and November 1, 2020. On November 1, 2020, 37 percent of people with pretrial interviews were held on money bond with the majority being charged with class D felonies and class A misdemeanors.

In response to Chairman Westerfield, Ms. Heiss

clarified that the total number of people in custody at the end of the day includes people who had a hold of some kind, which shows the gap between financial custody and total in custody. One of the other types of people in custody at the end of the day would be the population with a supervision hold or some other kind of hold.

Ms. Heiss stated that the Vera Institute of Justice works nationally with APRAS, the makers of victim notification software, to look at how bookings and releases have changed. Nationally bookings declined significantly from 2019 to 2020, with most being for court, driving, and drug offenses. The number of releases was increased by people bonding out and being released by courts. But the overall number declined from 2019 due to fewer people being booked into jail.

Ms. Heiss recommended reducing bookings into jails, diverting people with behavioral health needs away from the justice system, expanding the nonfinancial release of high-needs people, narrowly tailoring the imposition of money bail to people who pose a clear and convincing risk to public safety, and individually tailoring the imposition of particularly onerous conditions of pretrial release.

In response to Chairman Meredith, Ms. Halbach-Singh verified that the county by county data presented is available for all Kentucky counties, all the way back to 2007. Chairman Meredith asked that they contact him to provide more data to be shared with the Kentucky Association of Counties in working with the financial reporting from the Department for Local Government.

#### **Jail Phone Vendors**

Brett Ruschman, Chief Technology Officer for Combined Public Communications (CPC), gave a review of the services and equipment supplied by CPC, who the services are offered to, and CPC's investment in software and infrastructure.

Mr. Ruschman stated the cost for calls is \$.21 per minute. The jail receives \$.11 for commission, \$.08 goes toward expenses, and \$.02 profit for CPC. Fees include an automated payment fee of \$3.00, and a live agent fee of \$5.95. CPC does not charge a refund or transfer of funds fee. Mr. Ruschman reviewed the telecom taxes deducted from every call, and the quarterly changes to the Universal Service Fee for the past 8 quarters. Examples were given of intrastate and interstate charges.

Mr. Ruschman stated that inmates having access to calls, texting, tablets, and video visitation helps to lower recidivism.

Mr. Ruschman explained that when there is a new installation, CPC is given a list of attorney phone numbers to be on the non-record list. CPC also checks the state legal directory to gather attorney phone numbers to add to the non-record list. If an attorney wants to add their cell phone or any other phone numbers, they would have to send the request to CPC on legal letterhead. Once a new installation is made, that county becomes part of CPC's Attorney Project,

requiring CPC to check every attorney, in every county, every year against the online state legal directory to ensure the most up-to-date information. If CPC is notified that an attorney's number was recorded, the number is immediately placed on the non-record list. Mr. Ruschman noted that when an attorney's call is not recorded, the ability exists for a third party call to be established without law enforcement knowledge. Inmates are allowed one free call to any number that has not been called in the past so that the inmate can notify the individual as to where they are.

CPC has two websites. One is geared towards jails and sheriff offices the other is for inmates.

Mr. Ruschman stated that the primary reason for increase in cost is due to larger companies dictating the commission paid to county jails, requiring CPC to increase cost to be competitive. Other factors would be updating software and infrastructure to keep up with technology, and an increase in taxes.

In regards to using a statewide contract, Mr. Ruschman stated that each county has different needs and should be able to pick the services they require.

In response to Chairman Westerfield, Mr. Ruschman stated that they currently serve 52 counties in Kentucky. Some counties asked for bids and others issued request for proposals (RFP). Jim Engle, CEO of CPC, added that their success is based on not price gouging, and the knowledge of jailers in discerning the misrepresentation of information provided in RFP responses and written contracts. Chairman Westerfield stated that high commissions may incentivize jailers to encourage inmates to make as many calls as possible, which should not bring financial gain to the jails. Mr. Engle responded that the commission is generally remitted back to the jails and not to the fiscal courts, but that is determined by each county. Mr. Engle advised of additional equipment and services CPC offers when making negotiations. CPC does not use Western Union, so they do not receive a share or referral fee from them.

In response to Public Advocate Damon Preston, Mr. Engle stated that low bandwidth is a direct result of a company not wanting to spend money on the quality needed to deliver calls.

In response to Brad Boyd, Mr. Engle advised that most contracts run the length of the jailer's term, so they have not had any new contracts in the last six months. When there is a switch in providers at a facility, CPC does a side-by-side setup to install their equipment before the previous vendor takes theirs out, allowing for zero down time of services. Mr. Ruschman added that the switch in video equipment may require a couple hours of down time.

There being no further business, the meeting adjourned at 11:50 AM.

## **PROPERTY VALUATION ADMINISTRATOR'S OFFICE TASK FORCE**

### **Minutes of the 4th Meeting of the 2020 Interim**

October 20, 2020

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

The 4th meeting of the Property Valuation Administrator's Office Task Force was held on Tuesday, October 20, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Randy Bridges, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Randy Bridges, Co-Chair; Senators Denise Harper Angel and Michael J. Nemes; Representatives Samara Heavrin and Nima Kulkarni; and Tom Crawford.

Guests: Tom Crawford, Department of Revenue; Mike Tackett, Department of Revenue; Kent Anness, GIS Branch Manager, Commonwealth Office of Technology; Lieutenant Colonel Patrick Morgan, Kenton County Sheriff's Office; Renesa Abner, County Clerk, Henderson County; and Cynthia Brown, Legislative Committee Analyst, Appropriations and Revenue Staff, Legislative Research Commission.

LRC Staff: Cynthia Brown, Cameron Childress, Jennifer Hays, and Chase O'Dell

#### **Approval of Minutes**

A motion was made by Senator Mills, seconded by Senator Nemes, to approve the minutes of the September 15, 2020 meeting. The motion passed by voice vote.

#### **Technology and Software**

Tom Crawford, Department of Revenue; Mike Tackett, Department of Revenue; Kent Anness, GIS Branch Manager, Commonwealth Office of Technology; Lieutenant Colonel Patrick Morgan, Kenton County Sheriff's Office; and Renesa Abner, County Clerk, Henderson County, discussed technology and software.

Tom Crawford testified that all county property tax rolls for 2020 have been certified. Tax bills are out in many counties. Real property assessments for the 2020 tax year totaled \$280.2 billion, which is up from \$269.4 billion in 2019. Assessments on new property for 2020 totaled \$4.2 billion, which is an increase from \$3.6 billion in 2019. State property tax collections totaled \$552 million in fiscal year 2019-2020. Local property tax collections totaled \$2.8 billion in 2018.

Valuation software is typically referred to as Computer Assisted Mass Appraisal (CAMA). CAMA can be very useful when a PVA must value a large area of properties that are similar in nature, such as a large subdivision. Nine counties use CAMA. Most of the counties not using CAMA are rural.

PVA offices are responsible for purchasing vehicles, computers, and tablets for field work. All equipment needs are paid for with local funds received

by the office.

The Finance Cabinet's enterprise license agreement for ArcGIS software currently includes 116 county PVA offices. An estimated annual savings of \$200,000 are realized through this agreement.

There are two types of aerial photography available to PVA offices. Ortho photography shoots straight down. Oblique photography is shot at an angle so that the side of buildings can be seen, which allows a PVA office to see more detail about improvements made on a parcel. Oblique photography also helps PVA offices locate new structures that are built within harder to access parts of a county. Thirty-three counties use aerial photography provided by Kentucky From Above, an initiative undertaken by the Commonwealth Office of Technology (COT). These counties only have ortho photographs. Seventy counties have their own contracts with vendors such as EagleView or Vexcel to provide them with ortho and oblique photography. The remaining 17 counties use USDA ortho aerial photography.

There are 11 tax roll software systems in use throughout the state. There are other various complementary software programs.

There are 107 PVA offices with a website. Each office negotiates its own contract agreement. Thirty-five PVAs are in an arrangement whereby they pay nothing for their website, but also do not receive any revenue from the site. Seventy-two PVA offices are charged anywhere from \$2,500 to \$44,000 a year for their website. These offices can generate subscription fees from their websites.

Sheriffs and county clerks are both involved in the collection of property taxes. Sheriffs collect over 98 percent of the amount of property taxes due. Delinquent tax bills are transferred to the county clerk's office from the sheriff on April 15<sup>th</sup> each year. All payments on these delinquent bills are received in the county clerk's office. The county clerks and sheriffs make their own decisions in regards to what software vendor they want to use. In a majority of cases there are no issues between vendors. If the same vendor was used by all offices involved in the property tax process, there could be a smooth transfer of data from the PVA office to the county clerk's office and to the sheriff's office.

Kent Anness testified that COT-GIS operates under KRS 42.650 and maintains the central statewide GIS clearinghouse. The agency provides centralized GIS services.

Kentucky is commonly known as the best mapped state in the nation. The state maintains a nationally recognized, publically available Enterprise GIS that is accessible as interactive maps, downloadable data, and baseline information. GIS began in Kentucky 40 years ago. The KyGeoNet and its supporting infrastructure at COT receives a monthly average of 15 million server requests from upwards of 30,000 unique visitors using interactive maps, retrieving data, or doing data research. Kentucky, through its KyFromAbove program, is one of the few states that

has achieved statewide elevation data coverage.

GIS data is data about objects or events that have a location. Several agencies use GIS data in a variety of ways. Kentucky has over 400 layers of GIS data in its repository. The Commonwealth still lacks data layers for 911 address points and parcel data. Kentucky GIS promotes collaboration and reduces duplicative spending.

Mr. Anness discussed the importance of having 911 address point data. This data will enhance the response time of first responders, provide the exact situs address needed for PVA parcel mapping and assessment operations, improve decision making during infrastructure planning stages, and more.

Parcel data is a graphic representation of a property boundary used in the assessment process; it is not a legal property boundary. Parcel data exists in 120 separately maintained county-based datasets. Most PVAs utilize aerial photography when creating parcel lines.

Mr. Anness underscored the importance of sharing parcel data. Efficiencies and standards could be improved. Data sharing and collaboration would enhance governmental operations. Cost savings would also be realized if data was integrated and shared.

Agencies use parcel data for land management, decision support, and situational awareness. Agencies in state government need GIS data. The public benefits from GIS data through reduced operational costs, improved decision making within state and local governmental entities, and enhanced situational awareness for first responders and emergency management. PVAs see benefits such as improved parcel data geometry for publicly-held properties and increased data sharing with government entities.

Aerial photography provides context and is crucial for data updates. Mr. Anness reviewed the different features of aerial photography, such as leaf-on and leaf-off photography, oblique photography, resolution, and accuracy.

The KyFromAbove program is a successful collaborative effort to acquire statewide aerial photography and elevation data from LiDAR acquisitions. Over 20 local, state, and federal partners have contributed over \$13 million to this effort since 2012. PVAs need aerial photography for effective operations. Some PVAs license rather than purchase their imagery. Aerial photography is occasionally shared at the local level, but rarely shared with state government. Many counties do not have the financial resources to afford leaf-off aerial photography which places them at a disadvantage.

Mr. Anness reviewed opportunities for cost savings, including purchasing flyovers once and letting everyone use it. All GIS users need ortho imagery. Oblique imagery needs to be made available to PVAs. Data should be openly shared at all levels of government.

In response to a question from Representative Bridges, Mr. Anness testified that the technology exists to provide ortho and oblique imagery statewide,

but that there must be a procurement mechanism to provide both.

Lieutenant Colonel Patrick Morgan discussed how the Kenton County sheriff's office and the Kenton County PVA's office work together with shared software on property tax issues, such as getting individuals signed up for the homestead exemption. The sheriff's office collected 99.2 percent of property taxes due. The office also has an in-house software system. Lieutenant Colonel Morgan concluded by saying that Kenton County's tax collection system is efficient.

In response to a question from Representative Bridges, Lieutenant Colonel Morgan testified that in Kenton County, if there is a problem with a property tax bill having the wrong address, the sheriff's office will send it to the PVAs office and the county clerk's office to resolve the issue.

Renesa Abner testified that the Henderson County PVA has a separate software, while the county clerk, county attorney, and the sheriff share the same software. It works well with the segregation of duties. By having a separate software system, it provides an extra layer of checks and balances to ensure the assessment data is accurate for preparing the tax bills. Approximately 21,000 tax bills were sent out this year in Henderson County. Annually, it costs about \$18,000 to produce those tax bills in her county. Ms. Abner testified that there are no problems in Henderson County with there being two separate software programs as opposed to one shared program.

In response to a question from Representative Bridges, Tom Crawford stated that 116 counties are already using the same GIS software through the enterprise license agreement. This saves an estimated \$200,000.

#### **Overview of the Property Tax Calendar**

Cynthia Brown, Legislative Committee Analyst, Appropriations and Revenue Staff, Legislative Research Commission, presented an overview of the property tax calendar.

Ms. Brown testified that the property tax calendar begins January 1 with the assessment date. The listing period follows the assessment date. The PVA is involved during this part of the calendar up through May. During the listing period, the PVA is collecting data to create the tax roll. The inspection period begins in May. During this time, the public can review the assessments and property owners can appeal the value of their property. After the inspection period, the Department of Revenue certifies tax rolls and assessments submitted by PVAs. The department certifies by doing a sales assessment ratio study to determine whether current assessments are within the acceptable range of fair cash value.

The Department for Local Government calculates a compensating tax rate and four percent tax rate for local taxing districts. Local taxing districts can levy those rates or elect to levy their own rates.

Once the assessments are complete and the tax rate is set, tax bills can be prepared. The county clerk

prepares tax bills and must deliver those bills to the sheriff by September 15. Once the bills are delivered, the sheriff can mail them and collect the taxes. Tax bills are due to be paid by December 31.

PVAs are busy during the beginning of the year with assessments, but they have work throughout the year. Local taxing districts are busy with setting the tax rate in July and August. County clerks are busiest in September when they are preparing tax bills. County clerks are also busy with the delinquency process at the end of the year. Sheriffs are busy at the end of the tax year mailing and collecting the tax, in addition to dealing with delinquencies.

The dates and deadlines within the property tax calendar are mandated by statute rather than the state constitution.

This year, the property tax calendar deadlines were adjusted due to COVID-19. The Department of Revenue has the authority to adjust the property tax calendar if needed. The deadlines were adjusted this year by 60 days.

The largest issue with the property tax calendar is that deadlines are tight. When an entity fails to meet its deadlines, there will be a ripple effect throughout the calendar. Delays in the property tax calendar can impact the budgets of local taxing districts. Some taxing districts solely rely on property tax income. The timing of the calendar can also impede on other job duties, such as when county clerks have to prepare property tax bills in September while also preparing for a November election. Assessment notifications also consume time and resources, which can impact the calendar.

In response to a question from Senator Mills, Ms. Brown stated that the property tax calendar has not been amended in a long time.

Tom Crawford stated that this year has demonstrated that it is possible to make up time in the property tax calendar; the tax calendar is still on time this year even with the initial 60 day delay. In response to a question from Senator Mills, Mr. Crawford expressed his opinion that the property tax calendar did not need to be amended.

With no further business before the committee, the meeting was adjourned.

## **EXCEPTIONAL SUPPORT WAIVER SERVICES TASK FORCE**

### **Minutes of the 4th Meeting of the 2020 Interim**

October 26, 2020

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

The 4th meeting of the Exceptional Support Waiver Services Task Force was held on Monday, October 26, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Julie Raque Adams, Co-Chair; Representative Steve Riley, Co-Chair; Senator Dennis Parrett, Representative Tina Bojanowski; David Allgood, LeeAnn Creech, Thomas Laurino, Wendy Morris, Bob Napolilli, Brad Schneider, Steve Shannon, Amy Staed, , and Bonnie Thorson Young.

**Guests:** Leslie Hoffmann, Policy Advisor, Department for Medicaid Services, Claudia Johnson, Division Director, Department for Behavioral Health, Developmental and Intellectual Disabilities, Alisha Clark, Assistant Director, Division of Community Alternatives, Department for Medicaid Services, Cabinet for Health and Family Services; James Cheely, Past President the Arc of Kentucky, Federal RAISE Family Caregiver and Advisory Council Member; Karen Napolilli, Jini Payne, and Becky Taylor.

**LRC Staff:** Chris Joffrion, and Hillary Abbott

#### **Approval of Minutes**

A motion to approve the September 28, 2020 meeting minutes was made by Steve Shannon and seconded by Senator Parrett and approved by a voice vote.

#### **Input from Families Receiving Waiver Support Services**

Steve Shannon, President of Kentucky Association of Regional Providers, read a letter submitted by Melanie Tyner-Wilson, a mother of a waiver participant and a nurse at the University of Kentucky Developmental Pediatric Clinic. Ms. Tyner-Wilson stated that her journey as a disability advocate began with her son Jay's diagnosis with autism, apraxia, and intellectual disabilities in 1993. Ms. Tyner-Wilson stated that her experiences as a mother of a waiver participant and a nurse in a clinic serving many waiver participants give her unique insight into the barriers to effective treatment these participants and their families face. Ms. Tyner-Wilson stated that navigating the system is one of the chief issues facing many caregivers and family providers, as well as the omnipresent question: "who will care for my child when I am gone?" Ms. Tyner-Wilson stated that partnership between the state waiver services and caregivers would help alleviate barriers and help the state develop solutions to the many issues that plague the waiver program.

Karen Napolilli, mother of Robby Napolilli, a waiver participant, stated that her son, who has physical, intellectual, and developmental disabilities, has received support services since he was born. Mrs. Napolilli stated that as her son aged, the community supports that could meet his needs dwindled, and the support from the state decreased as his needs increased. Mrs. Napolilli stated that Robby lived temporarily in the community on the waiver but the state could not continue to support his independent living, forcing him back into an intermediate care facility (ICF). Mrs. Napolilli stated that Robby thrived in the community, socially and mentally, and the progress he made in the community regressed when he was forced back into

an ICF. Mrs. Napolilli stated that she believes that there should be state-provided waiver resources in the community, so people like Robby with a complex set of needs, can live and thrive in the community.

Jini Payne, a mother of 3 adult foster children with intellectual and developmental disabilities, stated that despite having guardianship of her foster daughters she could not gain access to their records to enroll them in waiver services. Mrs. Payne stated that the gap in the application process for cases like hers does a disservice to the parents who have guardianship over children like hers and places unnecessary burdens on the families trying to help. Mrs. Payne stated that she had been frustrated by the process of receiving emergency services as it requires her to anticipate an emergency and will not cover emergency services after they have happened. Mrs. Payne stated that she and other participant families do not feel their concerns are being heard by the cabinet and suggested enhanced communication with the families of service participants.

Becky Taylor, a mother of an adult child receiving waiver support services stated that she feels her child is receiving great care under the waiver but would like to see a more stream-lined application approach. Mrs. Taylor stated that she feels the having to reapply for services every six months is unnecessary and that a more person-centered approach to the application process could be beneficial.

In response to questions and comments from Thomas Laurino, Jini Payne stated that being unable to get her daughter's intelligence tests from the state has prevented the state from assessing her for appropriate waiver services.

#### **The Need for Wavier Improvements**

James Cheely, Past President, the Arc of Kentucky, Federal RAISE Family Caregiver, stated that his son Brian, who has intellectual and developmental disabilities, has had support from many community members throughout his life who have ensured that he is treated as an active member of the community. Mr. Cheely stated that Rep. Steve Riley, when he was the high school basketball coach in Barren County, invited Brian to be a trainer on the team, which gave Brian a sense of inclusion and purpose. Mr. Cheely stated that he understands how lucky Brian is to have support and community inclusion and how many waiver participants do not have the opportunity to be a part of their community.

Mr. Cheely stated that improvements to the waiver program should include more choices for even the most disabled participants to be a part of their community. Mr. Cheely stated he echoes what families have already stated; his biggest fear is what will happen to his son when he is gone. Mr. Cheely stated that he does not want Brian to be sent to an ICF simply because it is convenient for the state to do so. Mr. Cheely stated that more investment needs to be made into the waiver programs and community resources to provide these participants with the ability to live and thrive in their community. Mr. Cheely

stated that many caregiver families have expressed concern with the application process for waiver services and noted gaps in community resources for their loved ones. Mr. Cheely thanked Representative Riley for all his has done for his son Brian and the Barren County waiver community.

In response to questions and comments from Representative Riley, Mr. Cheely stated that he thinks caregivers should have a seat at the table when the cabinet decides to improve the waiver. Mr. Cheely stated that he fears the issues and problems facing caregivers and participants do not make it to the drawing board.

In response to questions from David Allgood, Director of Advocacy

Center for Accessible Living, Amy Staed, Kentucky Association of Private Providers, stated that currently, waiver extended-stay hospital payments are authorized under the CARES act.

In response to questions and comments from Bob Napolilli, CEO, the Council on Developmental Disabilities, Alisha Clark, Assistant Director, Division of Community Alternatives, Department for Medicaid Services, Cabinet for Health and Family Services, stated that the claims review process often prevents double billing. Ms. Clark stated that even if a provider double bills, the claims process would resolve the claim, so the participant's waiver services quota is not billed twice.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:45 pm.

## **SUBSTANCE USE RECOVERY TASK FORCE**

### **Minutes of the 4th Meeting of the 2020 Interim**

October 13, 2020

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

The 4th meeting of the Substance Use Recovery Task Force was held on Tuesday, October 13, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Task Force's September 8, 2020 meeting were approved.

Present were:

**Members:** Senator Ralph Alvarado, Co-Chair; Representative Russell Webber, Co-Chair; Senators Julie Raque Adams, Johnny Ray Turner, and Max Wise; Representatives Danny Bentley, Joni L. Jenkins, and Lisa Willner.

**Guests:** Van Ingram, Executive Director, Kentucky Office of Drug Control Policy; Mike Cox, President, Isaiah House; Kevin Horn, Vice President of Programs, Isaiah House; Sarah Ann Long, Compliance Director, Isaiah House; Matthew Lorimer, Government Affairs Liaison, Isaiah House; Dr. Tuyen T. Tran, Partner, Chief Executive Officer, 2nd Chance Center for Addiction Treatment; Dr. Marvin A. Bishop, Partner, Chief Financial Officer,

2nd Chance Center for Addiction Treatment; Karyn Hascal, Chief Executive Officer, The Healing Place; Dr. Alex Elswick, Co-Founder, Board Member, Voices of Hope; Shelley Elswick, Co-Founder, President, Voices of Hope.

LRC Staff: Ben Payne, and Christina Williams.

### **Substance Use Treatment Program Discussion-State Perspective**

Van Ingram, Executive Director, Kentucky Office of Drug Control Policy spoke to the Task Force on the opioid epidemic and Kentucky's strategy on addressing the issue through various programs. Executive Director Ingram stated some programs are funded through General Fund dollars or Tobacco Settlement funds and many are funded through The Kentucky Opioid Response Effort (KORE), which consists of federal dollars that the state has received. Those KORE funds rest at the Division of Behavioral Health at the Cabinet for Health and Family Services. Commissioner Wendy Morris has a team to manage those funds and programs. Dr. Allen Brenzel is the principal investigator, and Dr. Katie Marks, is the Project Director for KORE. Executive Director Ingram stated there is communication between KORE and the Kentucky Office of Drug Control Policy on almost a daily basis to ensure dollars spent are complimenting each other, and services provided are not being duplicated.

Executive Director Ingram stated there have been three bills that have attempted to "stop the bleeding" or "narrow the funnel" of the opioid supply in Kentucky through the medical community. House Bill 1 of the 2012 Extraordinary Session, commonly referred to as the pill mill bill, was aimed at the prescribing of opioids for chronic pain. Senate Bill 192, from the 2015 Regular Session, which was called the Heroin bill, created some harm-reduction measures, such as a good Samaritan provision, greater access to Naloxone, allowance for syringe services, as well as tougher penalties for Heroin and Fentanyl offenses. House Bill 333 from the 2017 Regular Session addressed prescribing for acute pain, as well as created harsher penalties for trafficking Heroin.

It became clear that barriers to treatment needed to be removed. There were barriers such as people not knowing where to look for treatment, not knowing what was available, or even where to look for available options. Because of this, the Ky Help call center (1-833-8KY-Help) was created. The call center is in partnership with Operation Unite in the 5<sup>th</sup> congressional district. The call center is open Monday through Friday, 8:30 A.M. to 5:00 P.M. Because of KORE, those hours will soon be increased due to the uptick of calls since March. The people receiving those calls will be Kentucky social workers that have adequate knowledge, know how to help screen each disorder, and can link that person with the proper treatment.

Executive Director Ingram stated that [findhelpnowky.org](http://findhelpnowky.org) is a website that provides a list of every Kentucky-based addiction treatment provider

currently accepting clients. The website is operated by the Kentucky Injury Prevention Research Center and the University of Kentucky. This has been helpful in providing both patients and providers information on what and who is available. The website is updated daily.

Executive Director Ingram stated Naloxone distribution in Kentucky has been centralized. All distribution is now through the Kentucky Pharmacists Association, instead of the Department for Public Health, the Cabinet for Health and Family Services (CHFS), and the Office of Drug Control Policy. One reason for the centralization is so there is a running total of how much has been purchased and where it went.

Executive Director Ingram stated that they have reached out to residential providers and asked them not to turn people away due to inability to pay. He stated if Medicaid is needed and not yet signed up for, the cost of treatment can be covered until that coverage kicks in. When Medicaid has approved a 28 day stay, often-times that is not long enough. Executive Director Ingram stated the Office of Drug Control Policy has been able to help with the extended costs.

Executive Director Ingram stated KORE has worked with federal qualified health centers (FQHCs) to administer more medication treatment for opioid use disorder (OUD). Additionally, KORE has offered free data waiver training to physicians or nurse practitioners wanting to take training so they can prescribe Buprenorphine. Bridge clinics have been established within several different hospital emergency departments. Bridge clinics allow for hospitals to treat people in the emergency department that come in with a non-fatal overdose, and then take care of them for a few days until a more permanent solution can be found.

Quick response teams have been developed. Some of these response teams are made up of law enforcement officers or public health nurses. Sometimes a quick response team could include someone from Emergency Management Services (EMS). These response teams will intervene with someone that is having a non-fatal overdose and provide them with resources that can help them recover from their addiction.

The Kentucky State Police Angel Program is also helpful. The latest statistics show that there were over 140 people that have come into a Kentucky State Police post seeking help because they have a substance use disorder (SUD). Through the program, treatment can often-times be reached within hours. Executive Director Ingram stated that Casey's Law training is available. He added that Casey's Law is a way for loved ones to get an individual in for treatment that has been diagnosed with a substance use disorder and use KORE funding for the training of prosecutors or families that may be involved in this type of situation.

Executive Director Ingram stated there has been an expansion of syringe exchange services, as there

are over 75 syringe service programs in Kentucky, more than any other state in the country. Even more than exchanging syringes, these programs offer testing for Human Immunodeficiency Virus (HIV), Hepatitis A, and Hepatitis C. The programs also offer Naloxone distribution and wound care.

Executive Director Ingram stated the Restore program is in conjunction with the Administrative Office of the Courts, and provides training throughout the Commonwealth for those in the criminal justice field. He added that there are eight, one day trainings offered through the American Society of Addiction Medicine (ASAM). The ASAM standards are what treatment providers use to determine the level of care someone needs.

Executive Director Ingram stated a program was created called the Strategic Initiative for Transformational Employment (SITE). The SITE program is partially funded by the Office of Drug Control Policy and KORE. The SITE Program places a person in each of the vocational centers around the state that focuses on linking people in recovery with transformational or meaningful employment. Job coaches follow up to make sure the person has the right clothes, and/or transportation to be able to complete the job they have received.

Executive Director Ingram stated the Office of Drug Control Policy has entered a public private partnership with the Kentucky Chamber Foundation Project. They have hired people to train employers and provide the message that people in recovery can become successful employees. They also help employers adjust policies and procedures for second chance employment opportunities.

Executive Director Ingram stated it was recognized that people coming out of treatment and into recovery needed stable and drug free transitional housing. Because of this, there are now grants for transitional housing that support medications for opioid use disorder (MOUD). The expansion of the Oxford House Model has been utilized as well as State Mental Health Center (SMHC) grants for sober living. Also created were Neonatal Abstinence Syndrome (NAS) grants to support transitional housing.

Executive Director Ingram stated peer support specialists have received a significant amount of training, as peer support has been deemed critical for recovery. A pilot project is operated by the Department of Corrections to allow non-emergency medical transport providers who drive people to medical appointments. They have also been contacted to inquire if they could provide transportation to parolees that may need to get to a job interview or a parole office. Executive Director Ingram added that so many Kentucky counties are rural and do not have public transportation.

Executive Director Ingram spoke about the "I Am Too Good for Drugs" program that is an evidence-based education program now in 214 schools across Kentucky. "Sources of Strength" is also an evidence-based program in many Kentucky schools.

There are over 120 hospitals who have agreed to an opioid stewardship program, which provides patient education, physician and education support, community protection, and patient safety. He added in 2011 there were 371 million dosage units of opioids dispensed in Kentucky. That number has been reduced by 100 million over the past few years.

In response to a question asked by Co-Chair Alvarado, Executive Director Ingram stated that a way to reduce barriers in helping SUD individuals, is to continue to fund the necessary and crucial programs needed such as KORE. He added it is difficult to properly plan programs when there are only one-year grants. He urged legislators to request additional funding from Congress.

#### **Substance Use Treatment Program Discussion-Provider Perspective**

Mike Cox, President, Isaiah House spoke to the Task Force on the provider perspective on recovery. Mr. Cox stated that social distancing and the isolation that has been a result of the Covid-19 pandemic has significantly increased cases of depression, abuse, addiction, and overdoses. He added that the good news is more people are searching for meaning, purpose, and hope than ever before. And while there is more left to accomplish, individuals have come very far. Mr. Cox commended Kentucky for leading the way in recovery efforts.

Mr. Cox stated Isaiah House is one of Kentucky's longest running treatment centers, as it was established in 2001. The mission of Isaiah house is to provide hope through healing, opportunity, purpose, and education and employment (HOPE). Isaiah House takes a holistic approach in clinical, medical, spiritual, educational, and vocational treatment of individuals. Isaiah House is listed as nationally accredited by the Commission on Accreditation for Rehabilitation Facilities (CARF). A chaplain is on staff and outside church services are attended as there can be a spiritual component to recovery. All of this is done in a CARF compliant mode that respects each person's belief. Isaiah House was recognized recently by Newsweek as a top five best addiction treatment center, and one of the best rehab facilities in Lexington by help.org. The Isaiah House received the 2019 innovative non-profit award from Kentucky Non-Profit Network.

Mr. Cox stated Isaiah House has a 92 and a 16 bed facility at their main campus in Washington County, 49 beds in Nelson County, 16 beds in Mercer County, and 28 beds in Woodford County for a total of 201 state licensed, nationally accredited beds for both men and woman, providing residential, partial hospitalization, intensive out-patient, and out-patient levels of treatment and care. Additionally, there is an outpatient center in Boyle County that not only treats SUD but is now providing behavioral health counseling for all ages and members of the family. Mr. Cox stated that in the near future, they are going to try to provide primary health care for the community as well as those clients that come through the Isaiah House doors. Medication assisted therapy has been

incorporated into the Isaiah House programs, as medications such as Suboxone and Vivitrol are utilized. He added that all Isaiah House facilities include counseling, medical evaluation, drug testing, case management, peer support, and employment services.

Mr. Cox stated the road to long-term success involves addressing education, transportation, job skills/readiness training, full time employment and recovery housing for SUD individuals. Isaiah House provides free GED classes on-site for those whom addiction resulted in leaving high school before they graduated. He added through Campbellsville University, college level courses are offered on site as well. He stated in addition to an academic track, consisting of 12 free credit hours which are transferable to any accredited college or university, there is also a vocational track offered. Ten welding stations have been provided for a certified welding program. Isaiah House is exploring the addition of other vocational offerings such as HVAC, plumbing, and electrical courses in the near future.

Kevin Horn, Vice President of Programs, Isaiah House, spoke to the Task Force about funding sources needed to be able to provide access to quality services. He stated one funding shortage that needs to be addressed is that Intensive Outpatient Programs (IOP) receive no housing reimbursement if those services are provided in a state licensed or nationally accredited program and they live in that facility. They do have the same access to professional and paraprofessional staff as residential clients do. These clients need more support to remove the barriers. However, the Department for Medicaid Services (DMS) fee schedule does not include a code for housing, room and board reimbursement for those clients. Mr. Horn stated IOP with housing will improve the outcomes for those completing short-term treatment. It will also serve as an entry point for clients to enter a comprehensive long-term program. The additional time is critical for these individuals to become mentally, physically, and emotionally stable.

Mr. Horn stated that most programs that have a long-term component are available if the person comes in through a residential program. That individual is then stair-stepped into a long-term program. Mr. Horn added that long-term programs should still provide access to medical doctors, nurse practitioners, and all clinical staff. He reiterated that creating an IOP with housing would allow an organization to build that program, and could serve as an entry point for someone that is coming in from an incarcerated status. He added that unfortunately, having a Managed Care Organization (MCO) pay for it is very unlikely.

Mr. Horn stated that long-term programs that are professionally driven and include comprehensive reentry services are grossly underfunded. He stated it is common to hear that Kentucky needs quality reentry programs, long-term treatment programs, and transitional living, and for those individuals to receive

quality care and career services. He stated funding for these programs is a must if Kentucky expects to properly address reintegration issues.

Mr. Horn shared his personal story of active addiction and recovery, as he was a graduate of Isaiah House. He stressed the impact the long-term Isaiah House program had on his life and recovery. He stated consistent funding is a must, program requirements should be stringent, and programs should be state licensed and accredited.

In closing, Mr. Horn stated peer support, case management services, life skills and job support training, vocational and academic education opportunities, guaranteed opportunities for employment, and transportation to a workplace is critical. Drug screening, and staff that promote personal accountability. Continued wrap-around services are needed as clients head into transitional living. He added that all of these issues are able to be addressed in programs if there is adequate funding available. He added that sustainability for a comprehensive long-term program should come from the DMS fee schedule or a funding source like KORE.

Chairman Webber and Co-Chair Alvarado praised Isaiah House for their efforts and offered supportive comments on the work that is being done.

In response to a question asked by Senator Wise, Mr. Cox acknowledged that there is a stigma associated with addiction and treatment, and the key to getting past that stigma is building relationships with communities by showing them how the people in centers can become successful members of their community.

Dr. Tuyen T. Tran, Partner, Chief Executive Officer, 2nd Chance Center for Addiction Treatment, and Dr. Marvin A. Bishop, Partner, Chief Financial Officer, 2nd Chance Center for Addiction Treatment spoke to the Task Force about 2nd Chance Center for Addiction Treatment and the provider perspective for substance use disorder treatment programs. Dr. Tuyen stated that the name for the treatment center was chosen because they believe everyone deserves a second chance. The treatment center was established in 2012 by Dr. Tran and Dr. Bishop as a response to the addiction crisis. Dr. Bishop stated that the vision of 2nd Chance is that they will partner with community stakeholders to combat the opioid epidemic and alcohol use disorder at the local, state, and national level. The mission of 2nd Chance is to provide comprehensive evidence-based treatment in a dignified manner to patients afflicted with opioid and alcohol dependence.

Dr. Bishop stated the program treats patients with dignity, uses evidence-based medical therapy, psychosocial therapy, peer support, and case management techniques such as providing transportation needs, housing needs, and direction on situations such as domestic violence or legal concerns. Psychosocial therapy is provided through individual and group counseling. Hazelden protocol is utilized

in 2nd Chance Center for Addiction Treatment's psychosocial therapy. Dr. Tran stated peer support provides a great deal of credibility to the patients as they come in contact with people who have been where they are or were. Many patients begin to have the drive to get better so they can become peer support to others.

There is an average of 1,200 unique patients per month with approximately 2,200 average encounters per month. Specializations are offered at 2nd Chance as far as the use of Buprenorphine, Naltrexone, and Vivitrol medications.

Community collaboration with 2nd Chance is provided through several avenues. Jubilee Jobs assists in obtaining gainful employment for patients who have been stabilized. Dr. Tran stated unfortunately, many patients have some sort of ongoing or past domestic violence situation. Dr. Tran stated that 2nd Chance has partnered with The Nest Center for Women, Children, and Families to become involved in helping addicted women. Dr. Tran stated they have also collaborated with the College for Technical Education to help patients who are stabilized receive training needed to gain employment. Dr. Tran stated they have worked with StrongWell, a program that works with Medicaid to help pregnant patients. This is a special group of people who may need a little more than the traditional treatment model. Dr. Tran stated they have worked with National Alliance on Mental Illness (NAMI), and also Baptist Health bridge clinics in bridging the gap and further assisting patients. Instead of offering a bridge clinic, they were able to offer a definitive outpatient clinic. Inpatient consultation services were also offered.

The Journal of the American Medical Association (JAMA) did a comparative effectiveness retrospective study of 40,885 adults with opioid use disorder that compared various treatment modalities. They studied people that did not have any treatment, patients that utilized inpatient detoxification or residential services, patients that did intensive behavioral health, patients that were prescribed Buprenorphine or Methadone, patients that were prescribed Naltrexone, and nonintensive behavioral health.

The JAMA study found that, in only treatment with Buprenorphine or Methadone, there was an Adjusted Hazard Ratio (AHR) of .24, and a 95 percent reduction ratio in confidence intervals (CI). After 12 months there was an AHR of 0.41, and a 95 percent reduction ratio in CI. In serious opioid-related acute care use there was an AHR of 0.68, and a 95 percent CI. At 12 months, the reduction of serious opioid-related acute care use for AHR is 0.74, and 95 percent for CI.

Dr. Tran stated the treatment with Buprenorphine or Methadone will save healthcare costs, reduce acute care use, reduce emergency department visits, and will save lives by reducing the overdose rates. Dr. Tran stated the OUD success metrics are measured by the initiation of pharmacotherapy upon new episodes of opioid dependence, the use of opioid dependence

pharmacotherapy during a measurement year, the maintenance on pharmacotherapy for substance abuse, and outpatient treatment as a first line of defense for at least 90 days of treatment at the beginning of a new treatment episode. Dr. Tran added that success is also measured by the duration of outpatient addiction treatment for selected substance use disorder patients. Dr. Tran added that maintenance pharmacotherapy for opiate dependence at empirically based dosages is offered, filled, refused medication, or contraindicated. Success metrics are also measured on the counseling of psychosocial and pharmacologic treatment options for opioid addiction.

Rep. Bentley stated he understood a one size treatment for opioid use is impossible. He spoke to Dr. Tran briefly on detoxification treatment and several medications associated with it.

In response to a question asked by Co-Chair Alvarado, Dr. Tran stated he wishes there was more support with telehealth issues, and support for accessing telehealth in the rural areas of Kentucky. He added there is a barrier as the initial first appointment must be face-to-face if a controlled substance is to be prescribed, and he wishes there would be some leniency on that.

Dr. Tran stated another barrier is that there needs to be a way to get insurers to ease up on restrictions for quality treatment programs, as treatment approaches for clients are not the same. He stated he wished that professionals could use their judgement with treatment options.

Chairman Alvarado stated it is being discussed to allow for some changes that have been made because of the Covid-19 pandemic to remain permanent.

Karyn Hascal, Chief Executive Officer, The Healing Place stated The Healing Place was started in 1989 primarily as a homeless shelter. Ms. Hascal stated after working with the representatives from The Greater Louisville Medical Society, it was quickly realized that one of the greatest problems facing homeless individuals was alcoholism and other substance abuse. Because of this, The Greater Louisville Medical Society founded what is the Healing Place today. At its inception, there were only 80 beds available.

Currently there are over 1,000 men and women patients that receive services daily through The Healing Place. There are 690 patients at the Louisville Men's Campus, 250 patients at the Louisville Women's Campus, and 102 patients at the Campbellsville Men's Campus. Ms. Hascal stated outpatient programs are also offered.

There have been 70,466 overdose deaths in the United States in 2019. Of those deaths, 1,316 were in Kentucky. There has been a 5 percent increase in overdose deaths in 2020. One in five people that are incarcerated are incarcerated for a drug offense. There are approximately 29 percent-50 percent of workers that report substance abuse issues for alcohol, or recreational and prescription drugs.

The Healing Place is a social model recovery

program. The Recovery Kentucky initiative founded in 2015, was based on a model that was designed at the Healing Place. The services are provided at no cost to the client. Traditionally, the treatment is long-term, meaning six months or more, however, most people stay up to 12 months.

The Healing Place offers a range of services from detoxification, transitional living, employment, and reentry back into the community. Ms. Hascal stated they believe strongly that services need to be available to people when they need them. She added that most recently The Healing Place significantly expanded capacity in detox programs, as that is where the journey starts for some people. She added that all of the programs offered at the Healing Place are non-medical. She stated that, if needed, they do use Vivitrol in long-term residential programs. Ms. Hascal stated that at any time there are 100-150 people using Vivitrol in The Healing Place. The care provided by The Healing Place is available 24 hours a day/seven days a week. Ms. Hascal stated that heroin and cocaine use has declined in the previous years, but there has been a spike in methamphetamines. Alcohol use has remained consistent.

The Healing Place program is a 12-step based program, that offers a variety of peer-driven activities. The Healing Place also offers a program for homeless and addicted veterans. In the last five years outpatient services have been a priority. The Healing Place outpatient services are offered through Recovery Louisville, a division of The Healing Place. She added The Healing Places is able to provide housing for all the people that are in the intensive outpatient programs.

The Healing Place offers a residential social model recovery program where addiction alcoholics help one another, the traditional program is a 6-9-month program. Ms. Hascal stated that 90 percent of staff are in recovery. It costs \$30 per day to feed, clothe, and house a client.

In response to a question asked by Co-Chair Alvarado, Ms. Hascal stated she would recommend that the continuing of supportive services is considered. She added that as people move through the process, supportive services often have a short time limit around them, and looking at the disease as an acute event, rather than a process, is damaging. She added that it is essential to have ongoing services attached to housing that continue to provide necessary treatment for individuals. She stated that the transitional time is the most critical time, and ongoing support and housing is crucial. She stated transportation needs are also challenging for people in recovery.

Dr. Alex Elswick, Co-Founder, Board Member, Voices of Hope, provided the Task Force with information on Voices of Hope. He stated the mission of Voices of Hope is to promote life-long recovery from the chronic disease of addiction through recovery support services, advocacy, research, and education. Dr. Elswick shared his personal story of addiction and recovery.

Dr. Elswick stated Voices of Hope is responsive to the needs of the recovery community by using a top-down and bottom-up approach. Voices of Hope uses research and evidence-based practices. Voice of Hope uses a Community Advisory Board, and routine town hall meetings to approach the issue and receive feedback. He stated partnerships with the University of Kentucky are extremely crucial in Voices of Hope achieving its goals.

Dr. Elswick stated that one of many challenges is that most people will not go to treatment and therefore exist in a gap. Voices of Hope strives to stand in that gap and reach out to people who need recovery services. Another challenge faced is that addiction is a chronic disease, however treatment seems to be acute care. Voices of Hope provides long-term care in a community setting. A third challenge is that there are many paths to recovery, but abstinence, the most pushed path, is not the normative path to recovery.

To elaborate, Dr. Elswick stated in reference to the treatment gap, that most people will not be engaged in treatment. He stated there are approximately 23 million people in the United States with a substance use disorder, and of them, only 10 percent will receive treatment this year. Unfavorable contact such as arrests, overdoses, and hospitalizations tends to be the way engagement with people with substance use disorders first occurs. This only makes the outreach of treatment even harder. When we wait for people with a substance use disorder to come to treatment or recovery, 90 percent of them go untreated.

To further the second point of addiction being a chronic disease that is mismatched with acute care, Dr. Elswick stated that people may be fully recovered after five years in recovery, however, traditional treatment models provide services for one month to 12 months, and as a result there is a gap in care from that several month care to that five year span where they may likely be fully recovered. In that gap, 40-60 percent of people will relapse. He added that there is a drastic need for community-based and post-treatment support.

Dr. Elswick elaborated that there are many paths to recovery and that abstinence is not the normative pathway to recovery. He stated that most people who will not be engaged in treatment do not want to be abstinent. Of those 90 percent of people who will not get treatment, 96 percent felt they did not need it, and 38 percent did not want to be abstinent. Unfortunately, the current treatment paradigm is almost exclusively abstinence based. Dr. Elswick added that the gold standard for treating OUD is FDA-approved medications such as Buprenorphine, Naltrexone, Methadone, etc. Unfortunately, there is a tremendous amount of stigma from medical providers, the public, and particularly, the recovery community which creates barriers to accessing treatment.

Voices of Hope's solution is to engage people who exist in the gaps within the continuum of care, support life-long recovery from addiction, and to support all pathways of recovery.

Voices of hope believes in the power of peers, as peers have "been there." Dr. Elswick stated Voices of Hope peers help individuals build recovery capital and are an integral part of the behavioral health workforce. Peer services reduce substance use, improve treatment adherence, reduce hospitalizations, improve relationships with healthcare providers, increase hopefulness, improve quality of life, and increase community integration.

Recovery coaching and telephone recovery support is also provided at Voices of Hope. This helps participants meet their goals, and provides weekly check-in calls to offer social support and access to resources. Dr. Elswick added that in 2019 there were 12,000 telephone recovery support calls made. Also, in 2019, \$6,000 in scholarships were distributed to people impacted by addiction. In 2019, there were 3,588 square feet added to the recovery community center, and 1,566 attendees attended sober social activity events. Lastly, in 2019 there were 408 recovery coaching participants served, 18 people in recovery assisted by the Benevolence Fund, and four participants in the Employment Readiness Internship who achieved employment with the Voices of Hope.

Dr. Elswick concluded by stating the Voices of Hope's vision is to have a community supporting people impacted by addiction.

In response to a question asked by Chairman Webber, Dr. Elswick stated that more treatment dollars are always needed, and that the value of meaningful community-based support should be realized.

With no further business to come before the Task Force, Chairman Webber adjourned the meeting at 5:15 P.M.

## **SUBSTANCE USE RECOVERY TASK FORCE**

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

November 10, 2020

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

The 6th meeting of the Substance Use Recovery Task Force was held on Tuesday, November 10, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll. The minutes for the Task Force's October 13, 2020 meeting were approved.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Russell Webber, Co-Chair; Senators Julie Raque Adams, Johnny Ray Turner, and Max Wise; Representatives Danny Bentley, and Lisa Willner.

Guests: Tiffany Cole Hall, Chief Operating Officer Volunteers of America (VOA) Mid-States; Dr. Allen Brenzel, Clinical Director, Office of the Commissioner, Kentucky Department of Behavioral Health and Intellectual Disabilities, Cabinet for Health and Family Services (CHFS); Dr. Katie Marks, KORE Project Director, Kentucky Department of

Behavioral Health and Intellectual Disabilities, CHFS; Alex Waldron, Chief Strategy Officer, Pear Therapeutics BIO; Yuri Maricich, Chief Medical Officer and Head of Department, Pear Therapeutics BIO; Chad Grant, Senior Vice President, Grant Consulting Group; Michelle D. Ford, Senior Director of State Government Affairs, Mid-Atlantic Region, Emergent BioSolutions; Marc Wilson, Partner, Top Shelf Lobby; Dr. Nick Casale, Associate Director, Medical Outcomes and Value Global Medical Affairs and Safety, Indivior Treatment Services, Inc.

LRC Staff: Ben Payne, Samir Nasir, and Christina Williams.

#### **Substance Use Treatment Programs and Therapeutics Discussion - State Perspective**

Dr. Allen Brenzel, Clinical Director, Office of the Commissioner, Kentucky Department of Behavioral Health and Intellectual Disabilities (BHID), CHFS, and Dr. Katie Marks, KORE Project Director, Kentucky Department of Behavioral Health and Intellectual Disabilities, CHFS gave a brief presentation on the state perspective of substance use treatment programs and therapeutics. Dr. Brenzel stated that the Department of Behavioral Health and Intellectual Disabilities works with the Department for Public Health, the Department for Community Based Services, the Office of Inspector General, and the Department for Medicaid in opioid response efforts. Outside of CHFS, BHID works with the Governor's Office, the Justice and Public Safety Cabinet, the Office of Drug Control Policy, the Education and Workforce Development Cabinet, the Labor Cabinet, and the Administrative Office of the Courts in opioid response efforts.

Dr. Brenzel stated Kentucky has been fortunate that federal funding has been received in order to assist with the effort. These dollars come from the Substance Abuse and Mental Health Services Administration (SAMSA) which is a part of the United States Department of Health and Human Services (HHS). From October 2018 to September 2021, \$78.8 million in federal funds has been allocated and used towards the response effort. It is yet to be seen what will fully be awarded from October 2021 to September 2022, however, the State Opioid Response II effort has recently been awarded \$35.4 million. Those funds do not come unrestricted. A proposal has been made which utilizes the objectives set forth. The objectives in the Kentucky opioid response effort is to increase access to medications for opioid use disorder (MOUD), reduce the unmet treatment need, reduce opioid overdose related deaths, and expand evidence-based services to address stimulant misuse and use disorders.

A chart was provided to highlight Kentucky resident drug overdose deaths from January 2017 to September 2020. The data shown is as of October 26, 2020, and the data for 2017 to 2020 is provisional. The data for July through September 2020 is incomplete at this time. Dr. Brenzel pointed out an overdose death spike that occurred in May and early June of 2020.

He added the overdose deaths have now decreased to a base-line. There is a concern that some of these overdose deaths were younger people, and relapse scenarios. He added that both urban and rural areas were affected.

Dr. Brenzel stated that telehealth networking has been critical in providing access to care. The expansion of Narcan distribution, and the removal of preauthorization for services through third party payers has also been helpful in fighting substance use. He added it is also critical to make sure people know that places are open and treatment is available. He added continuing Medicaid eligibility is key in continuing access to treatment.

Dr. Brenzel stated they organized responses in large categories because this problem is complex. He stated there are initiatives in prevention which include harm reduction and treatment as well as recovery support. Dr. Brenzel stated they partner with many agencies, and Dr. Marks presented data around services in each of those categories.

Dr. Marks spoke about infrastructure prevention treatment and recovery. She stated the infrastructure is what is going to build the capacity to implement evidence-based practices in a data driven manner and it allows for the support of communities and residents towards positive health behaviors.

Dr. Marks highlighted a few of the infrastructure priorities. She stated work with the Kentucky All Schedule Prescription Electronic Reporting System (KASPER) has been instrumental in reducing overdose risk and it provides safer opioid prescribing. She stated they partnered with KASPER to enhance the Kentucky Health Information Exchange System to enable prescribers to be able to access patient health records related to past toxicology screens and non-fatal overdoses. Dr. Marks stated they have also worked aggressively to expand their workforce by providing training to prevention specialists and peer support specialists.

Dr. Marks stated that since 2018 approximately 22,338 individuals have participated in more than 325 trainings that support dissemination of evidence-based prevention treatment recovery support services. There have been 277 physicians that have received data waiver training to prescribe buprenorphine. The Hazelden Betty Ford Recovery Champions curriculum has been delivered to 5,034 DCBS staff, partners, and parents; 1,576 judges and court staff; 187 Citizen Foster Care Review Board volunteers; and 400 employers. There have been 1,025 people trained in peer support and recovery support services. To improve quality housing, they have established the Kentucky Recovery Housing network which has adapted the National Alliance of Recovery Residence standards for Kentucky. Dr. Marks added that these houses meet a minimum standard for safety quality and provide a supportive environment for recovery. She added that this is a way that they can drive individuals and treatment providers towards certified houses and away from predatory or unscrupulous

housing.

Dr. Marks stated that prevention ranges from primary prevention and working with those individuals who have not developed an opioid use disorder, to those at risk, to also reducing harm. This must be a data-driven and research-based process. Dr. Marks stated they have partnered with many different entities from K-12 schools, to the Kentucky hospital association, to early childhood mental health associates. She stated they are also expanding their reach to address issues that intersect with opioid use disorder, such as suicide risk.

Dr. Marks stated that since 2017 there have been 53,509 naloxone units distributed through the statewide program. Nearly 130,000 youth participated in universal prevention programming. There were 298 K-12 schools that implemented “Too Good for Drugs” and “Sources of Strength” programs. There were 87 percent of schools that committed to assessing their policies and procedures related to substance use and mental health. Approximately 120 hospitals committed to the Statewide Opioid Stewardship program. There were also 166 opioid overdose prevention trainings delivered to 588 prescribers, 726 first responders, and 2,216 community members.

Dr. Marks reviewed some treatment priorities. She stated she knows awareness must be increased, and there must be utilization of treatment resources for both clients and providers. She added that there must be an expansion of the number of settings in which services are delivered which includes primary care, hospitals, syringe services programs, and criminal justice settings. She added that an expansion of access to medications for opioid use disorder is necessary. Dr. Marks stated that medications for opioid use disorder decrease fatal and non-fatal overdoses. She added that structural barriers must also be decreased that prevent people from accessing the system and care.

Dr. Marks stated currently, they are partnering with 96 distinct treatment programs and providers at over 170 unique sites. This includes 10 KORE funded bridge clinics that provide screening, treatment, peer support, overdose education, and naloxone distribution. She stated they partner with the Kentucky Primary Care Association to increase the treatment capacity of federally qualified health centers. They, along with the Hazelden Betty Ford Foundation have built a sustainable model of treatment in a primary care setting.

Dr. Marks stated KORE serves as a last resort for individuals who are uninsured or underinsured and are in need of residential care. She stated KORE partners with over 23 methadone programs to also serve as a payer of last resort for those uninsured or underinsured. She added that KORE’s partnership with the Department for Community Based Services (DCBS) has allowed them to expand their child welfare initiative programs. She stated KORE has partnered closely with the Department of Corrections and the Office of Drug Control Policy to begin medications for opioid use disorder in prison settings,

and to fund re-entry coordinators.

Dr. Marks spoke about recovery supports that allow people to remain in remission long-term. These recovery supports range from supporting the recovery housing initiatives, to strengthening transformational employment initiatives, to expanding the number of mutual aid groups that support all paths to recovery. Dr. Marks stated in order to do this KORE has engaged with a wide variety of partners. For example, KORE’s strategic initiative for transformational employment has allowed them to partner with the Kentucky Chamber of Commerce and dozens of businesses to create recovery friendly environments.

Dr. Marks stated KORE funds numerous recovery housing expansion initiatives to create an environment where individuals with all paths to recovery can have a safe recovery-friendly environment to live in. She stated KORE also operates access to recovery programs that pay for those non-reimbursable services that often-times make a significant difference.

Dr. Marks stated there are 12,550 individuals that have been served by KORE-funded recovery support services. There have been 2,932 people served across six recovery community centers and two additional centers will be opening soon. There have been 2,241 individuals that have received recovery housing, 2,973 people received employment services, and 1,343 have been served by the Access to Recovery Program.

In conclusion, Dr. Marks stated the KORE motto is “together we are stronger than opioids.” She added that in the near future there are plans for KORE to expand and include 22 additional partners.

In response to a question asked by Chairman Alvarado concerning barrier reduction, Dr. Brenzel stated they would like to see individuals get out of the justice system and into treatment, therefore they are looking for partnerships for decriminalization, diversion programs, and the funding of drug courts. He added that they are working with Medicaid on a waiver that will allow for the providing of services prior to incarceration release.

Dr. Brenzel also suggested increasing and enforcing parody protections to ensure that third party payers recognize and reimburse for both behavioral health and substance use disorder services. He added that Kentucky was in the forefront of parody legislation, but it is imperative to make sure it includes substance use disorder, and that payers do not use preauthorization processes to block services. Dr. Brenzel stated he would also like the consideration of removing some preauthorizations. He added that some states have considered this step at least on the initial admission for an individual. Dr. Brenzel also stated he would like to see continued flexibility around telehealth use, as well as the co-prescribing of Narcan.

In response to a question asked by Chairman Alvarado, Dr. Brenzel stated the overdose death numbers provided are very close to real-time numbers, although they are not 100 percent completed. He stated he believes the trend is going back towards pre-

COVID-19 baseline numbers.

### **Substance Use Treatment Programs and Therapeutics Discussion - Provider Perspective**

Tiffany Cole Hall, Chief Operating Officer Volunteers of America Mid-States spoke to the Task Force on Volunteers of America's substance use disorder and re-entry services. She stated that VOA delivers integrated and evidence-based services, adding that VOA knows that comprehensive services are needed for life-changing recovery and re-entry for individuals and families.

Ms. Hall stated that VOA's services include assessment, family therapy, comprehensive case management, re-entry support, customized services for pregnant and parenting women and their children, veteran's services, a full continuum of care, transitional housing, and clinical services and peer support.

Ms. Hall stated that Kentucky incarcerates women two times more than the national average. The VOA Freedom House and re-entry program for pregnant and parenting women was started in 1993 and helps moms to overcome substance use disorder and keeps families together. A vital outcome is keeping more women out of the criminal justice system and transitioning women from the corrections system back into the community. Other measurable outcomes include delivering healthy babies and keeping children out of foster care. Ms. Hall added that this program recently was approved for conducting withdrawal management and partial hospitalization services. She also stated relationships with these women and families are maintained for at least three years as that is the timeframe likely for relapse and for possible abuse or neglect of a child.

Ms. Hall stated that VOA is uniquely qualified to partner with DCBS to provide early assessment and intervention that addresses substance use disorder and safely keeps families together. She added a pilot program was proposed in 2021 in two high needs counties: Clay and Hardin County. This pilot program would involve embedding a therapist in social worker offices to try to prevent the removal of a child from their home.

Ms. Hall stated the Halfway Back Men's Program is a comprehensive residential substance use disorder treatment program for men exiting the Kentucky Department of Corrections. The program allows men to engage in an individualized case plan that promotes greater accountability and ownership for living a healthy lifestyle. The program utilizes integrated clinical and peer support services. Residents of this program are expected to participate in individual and group counseling, life skills training, GED education, and employment readiness assessment and training. The program also provides re-entry support for men re-entering the workforce.

Ms. Hall stated currently there are a total of 50 beds in the Halfway Back Men's Program. As of March 2, 2020, there were 36 of those beds filled. As of today, there are 16 beds filled, which represents a two-year low, and has been trending consistently

lower even before the Covid-19 crisis. Because of this, Ms. Hall stated VOA is struggling with what to do with this program as VOA cannot continue to operate at one-fourth capacity in the men's re-entry program. She added that the Department of Corrections has a need for proven, comprehensive re-entry services and VOA provides that. The current issue is that they need to immediately and fully utilize VOA's re-entry beds or eliminate the re-entry beds so they can be repurposed for other individuals in need of treatment for a substance use disorder.

In response to a question asked by Co-Chair Webber, Ms. Hall stated she is unsure of what actions need to be taken by the task force and the General Assembly to be able to assist VOA in filling the beds. She added awareness and efforts to try to collaboratively solve the issue is a great step in the right direction.

In response to a question asked by Co-Chair Webber, Ms. Hall stated there is an open line of communication between VOA and DOC, and some great conversations have been had about how to address the issue. She added she is not sure that the conversations are being had with the correct people who have the ability to actually implement change.

In response to a question asked by Representative Willner, Ms. Hall stated it is possible that there are too many recovery beds available, but that is hard to determine. She also added that it is hard to determine if the actual need of these individuals are being met as well.

Senator Raque Adams suggested observing if community partnerships are being utilized to the best and fullest extent. She added that one objective of the task force should be to link partners together to achieve the common goal of helping the individuals in need. She also suggested a state-wide needs assessment be conducted.

### **Substance Use Treatment Programs and Therapeutics Discussion - Provider Perspective**

Chad Grant, Senior Vice President Grant Consulting Group introduced Alex Waldron, Chief Strategy Officer Pear Therapeutics BIO and Yuri Maricich, Chief Medical Officer and Head of Department Pear Therapeutics BIO spoke about Pear Therapeutics and the prescription of digital therapeutics for the treatment of diseases. Mr. Maricich explained prescription digital therapeutics (PDTs) and what they are. He stated that traditional medication is referred to as small molecules. He stated injectables which are used or injected like insulin are referred to as biologics. Mr. Maricich added that there are cell and gene therapies as well. He stated that Pear Therapeutics thinks of digital therapeutics as a fourth class of treatment. Pear Therapeutics is one of the leaders in this technology, but there are a number of other organizations that are developing this class of treatment, where there is software working either alone or with standard medications to treat diseases.

Mr. Maricich stated what sets PDTs apart from all of the other health and wellness applications is that

they deliver evidence-based and scientifically backed mechanisms of action to the software. He added that these therapeutics are ran through clinical trials like any traditional medication. The manufacturing and clinical data is submitted to the Federal Drug Administration (FDA) on both safety and effectiveness. If the FDA agrees and approves these products, then they have a label just like a medication.

Mr. Maricich stated that Pear PDTs follow the traditional therapeutics model for medication. There is a product that claims to treat the disease, and in this instance, software with effectiveness claims to treat the disease. An individual is then diagnosed by a physician and the product is prescribed. Payment is then administered and reimbursements via a pharmacy or medical benefits can sometimes occur. Fulfillment of the prescription occurs via a specialty pharmacy or patient service center. The patient then uses the product according to the indications for use and lastly, the patient follows up with a physician.

Mr. Maricich stated reSET and reSET-O are both prescription digital therapeutics for patients with substance use disorder or opioid use disorder. ReSET is derived from the content of the Therapeutic Education System (TES), developed by Lisa Marsch, PhD at Dartmouth's Geisel School of Medicine. The TES was developed in response to the National Institutes of Health (NIH) solicitation for projects to digitize evidence-based behavioral therapies. It is an interactive, web-based program rooted in the evidence-based community reinforcement approach to behavior therapy. ReSET delivers TES content via a mobile app, rather than a desktop computer. ReSET's digital delivery method is designed to increase engagement and retention and improve patient access to treatment.

Mr. Maricich stated that both reSET and reSET-O have two components. He stated when the patient is given the prescription, they then go to their application store on their device, download the software treatment and receive an access code. There are three different mechanisms of action. The first is addiction specific behavioral cognitive therapy which moves a patient from actively using the substance to eventual discontinuation of the use. Fluency training is then utilized that assess the individual's proficiency and reinforces onset mastery. Contingency management is also utilized which delivers positive rewards and reinforcements for patients when they do not use the substance and also when they engage in treatment. All of the assessment information is then collected and shared with a clinician dashboard so members of the clinical care team can access this data and use it to reform their treatment.

Mr. Maricich stated that reSET has a 12-week prescription duration. He stated it is available for patients with substance use disorder and for treatment of the following: stimulants, alcohol plus another substance, marijuana, cocaine, and opioids (when not the primary substance of abuse.) ReSET is not indicated for patients who are on opioid replacement therapy, or abusing alcohol solely, or abusing opioids

as their primary substance. Mr. Maricich stated ReSET delivers therapy based on the community reinforcement approach (CRA), an intensive form of validated neurobehavioral therapy for substance use disorder, along with contingency management and fluency training to enhance learning.

Mr. Maricich showed a chart that summarized one of the randomized clinical trials that evaluated reSET. In this study 399 patients with a substance use disorder received either treatment as usual (TAU) consisting of intensive face-to-face therapy or reduced TAU and reSET for 12 weeks. Patients provided urine samples twice per week to objectively monitor abstinence. Retention in treatment was also monitored. The results showed that patients who were randomized to the treatment as usual had a 17.6 percent rate of abstinence. When TAU was combined with reSET those numbers rose to 40.3 percent. He added that patients who have not been abstinent and are still using on their first day of treatment had a 3.2 percent rate of abstinence with TAU, and a 16.1 percent rate of abstinence with the combination of TAU and reSET. The clinical trial also showed that the retention in treatment for all patients was 63.2 percent in patients that utilized TAU alone, but 76.2 percent in patients that utilized TAU along with reSET.

Mr. Maricich stated the main difference between reSET and reSET-O is that reSET-O has some additional functionality to support using medications of opioid use disorder, particularly buprenorphine and Suboxone. It also has additional therapeutic models.

Mr. Maricich showed a chart that summarized another randomized clinical trial that evaluated reSET-O. In this trial, 170 patients were randomized to receive either TAU consisting of contingency management plus buprenorphine or TAU plus reSET – O. All patients received 30 minutes of face-to-face counseling every other week. Patients provided urine samples three times per week to objectively monitor abstinence. The retention rate with TAU was 66.4 percent, but the retention rate with TAU plus reSET – O is 82.4 percent.

Chairman Alvarado expressed his excitement for the ability to use a mobile device to attend therapy sessions needed to aide in addiction recovery. He added that the approval of the FDA for use of a PDT, as well as the proven scientific data that showcases the success of the use of a PDT is remarkable.

In response to a question asked by Chairman Alvarado, Mr. Maricich stated Pear Therapeutics is currently working with 12 states and the federal government to explore the coverage of the use of PDTs by Medicaid. He added that in several states Governors are also involved in these discussions. Mr. Maricich also stated that Centers for Medicare and Medicaid Services (CMS) has offered to provide states proactive guidance in terms of the fact that states can cover these products under their own state Medicaid plans.

#### **Substance Use Treatment Programs and Therapeutics Discussion - Provider Perspective**

Marc Wilson, Partner, Top Shelf Lobby spoke to the task force on the use of naloxone for addicted individuals. He stated naloxone is a drug that will immediately reverse the effects of opioids in case of an overdose. naloxone use has saved countless lives across the U.S. Mr. Wilson stated the goal is to identify those individuals that are at risk for overdose and ensure that naloxone is readily available to those individuals for a family member or friend to administer. He stated he believes greater access to naloxone should be a key part of the efforts in fighting the opioid epidemic.

Michelle D. Ford, Senior Director of State Government Affairs, Mid-Atlantic Region, Emergent BioSolutions spoke about Emergent BioSolutions and naloxone co-prescribing. Ms. Ford stated Emergent BioSolutions is a public health threat company that works on any number of things from an anthrax vaccine to naloxone nasal spray. Ms. Ford recognized Representative Bentley who has worked closely with Emergent on co-prescribing policy initiatives.

Ms. Ford stated that the Kentucky General Assembly has aided in addressing the number of opioids that can and are prescribed. In spite of that legislation there is still a high number of opioids being prescribed. She stated in 2018, Kentucky providers wrote 79.5 opioid prescriptions for every 100 persons compared to the average U.S. rate of 51.4 prescriptions. Despite widespread devastation caused by America's opioid epidemic, an investigation by National Public Radio (NPR) found that doctors and other health care providers still prescribe highly addictive pain medications at rates widely considered unsafe. Critics say the practice exposes tens of millions of patients each year to unnecessary risk of addiction, overdose, and death. It also floods communities with vast quantities of opioid medications that go unused, building up a deadly reservoir of drugs in home medicine cabinets that often wind up being abused.

Ms. Ford addressed the standing order and prescription volume in Kentucky. She stated that the standing order referenced is any order that allows for any person that goes into a pharmacy to ask for prescription naloxone, similar to the way they would ask for a flu shot, without having an individual prescription. In 2019, 248 prescriptions in Kentucky were standing order prescriptions for naloxone that were filled, and there were 65 in 2020. In 2019 there were 17,484 personal prescriptions of naloxone filled, and in 2020 there were 18,235 personal prescriptions filled.

A chart was presented that showcased Kentucky opioid mortality trends. The chart compared the use of all opioids, to prescription opioids, to heroin, and synthetic opioids from 1999 to 2018.

Ms. Ford stated most addicted individuals become addicted during their earliest days due to their legal prescription. She reiterated that for some people there is still a great need for opioids in different scenarios to aide with pain management. Ms. Ford referenced a continuum chart that showed different

points at which a person could overdose, and several points at which they could utilize naloxone. Those points included the initial prescription of opioids, the utilization of a community based organization to obtain help, treatment, emergency room discharge, incarceration or entanglement with the Department of Corrections, a meeting with first responders and law enforcement, or the eventual use of illicit opioids.

Ms. Ford stated it was important to note that in Kentucky there is a very strong advocacy program for the distribution of naloxone. This program is funded by federal grant dollars as well as the University of Kentucky and other organizations that have put forth their efforts and their dollars in order to provide naloxone.

Ms. Ford gave an overview of the co-prescribing Naloxone landscape. She stated many stakeholders support integrating naloxone for at-risk opioid patients. Some of those stakeholders include SAMHSA, CMS, the Center for Disease Control and Prevention (CDC), the American Medical Association (AMA), the World Health Organization (WHO), the American Society of Addiction (ASAM), the American Heart Association (AHA), the National Association of Boards of Pharmacy, and the American Pharmacists Association (APhA), just to name a few.

Ms. Ford stated that state legislation and rules requiring co-prescribing on naloxone have expanded naloxone to high-risk opioid patients. She added that there is a growing trend where states have implemented requirements to co-prescribe naloxone. To date, nine states have required co-prescribing naloxone with high-risk opioid prescriptions. Criteria that triggers a requirement for co-prescribing varies (mainly by level of morphine milligram equivalent (MME)), however, all states have seen significant adoption by physicians, and filled prescriptions by patients who are at increased risk of overdose.

Charts were provided that showed data which illustrated the spikes in naloxone distribution post implementation of those laws and regulations. Nine co-prescribing states show growth post implementation. Those states are Arizona, California, Florida, New Mexico, Ohio, Rhode Island, Virginia, Vermont, and Washington.

Ms. Ford stated in Utah the language on naloxone co-prescribing states that prescribers are encouraged to co-prescribe an opioid antagonist in those taking higher opioid dosages such as a dose greater than or equal to 50 MME per day or concurrent Benzodiazepine use. In California, the language reads that a prescriber shall offer a prescription of naloxone to patients with prior overdose, substance abuse, doses in excess of 90 MME per day/or concomitant Benzodiazepine. In New Mexico, the language reads that a physician shall co-prescribe opioid antagonist with any opioid prescription of more than five days.

In response to a question asked by Chairman Alvarado, Ms. Ford stated that because a majority of funding for naloxone comes from federal dollars, there is some concern about how long that funding stream

will last. She encouraged the General Assembly to study where funding sources outside of the federal government could be made available for continued naloxone prescription use.

#### **Substance Use Treatment Programs and Therapeutics Discussion - Provider Perspective**

Dr. Nick Casale, Associate Director, Medical Outcomes and Value Global Medical Affairs and Safety Indivior Treatment Services, Inc gave an overview of Sublocade, which is their current marketed product used for opioid use disorder. He stated Sublocade has been on the market for approximately two years, however, there has been an increase in Sublocade utilization over the past year. Sublocade is an extended release injection of buprenorphine. It is the first medication assisted treatment product that is delivered via the subcutaneous route.

Dr. Casale stated the indicated use of Sublocade is for moderate to severe opioid use disorder. Before Sublocade is prescribed, the patient must have some experience with buprenorphine products. He added that there is a warning on Sublocade due to if the product were to be injected in the vein it could form an occlusion that could be fatal to the patient. Because of this, there is a limited distribution program that ensures that this medication is never dispensed directly to a patient. It is shipped by one of their specialty pharmacies in the patient's name to the physician's office where their DEA registration is on file. Once it is delivered to the site, the physician or another health-care professional would administer the subcutaneous injection in their office.

Dr. Casale stated the rationale for developing this product was that they wanted to develop a buprenorphine contained product that delivers a sustained concentration of buprenorphine that has a positive correlation to opioid use disorder symptoms such as the symptoms of withdrawal and opioid blockade. Dr. Casale found that one nanogram per milliliter is needed of sustained buprenorphine concentration to keep patients out of the signs and symptoms of opioid withdrawal. He added that all buprenorphine products contain at least this amount for that reason.

Dr. Casale stated the half-life of Sublocade is 44 to 46 days, meaning it would take at least five half-lives for the drug to be cleared from the body. Because of this long half-life, it is delivered every month with no oral supplementation. Once the Sublocade is delivered the patient should be out of opioid withdrawal and in a state of blockade.

In response to a question asked by Representative Bentley, Dr. Casale stated if Sublocade is ordered though one of their specialty pharmacies, it would be considered as dispensed once it leaves the pharmacy because it would be sent in the patients name. He added that the other route of procurement for Sublocade is for a site to be enrolled in the Evaluation, Mitigation, and Strategy (EMS) program. That site, such as a physician's office, would have to get certified which would give them the ability to buy Sublocade in bulk.

In that case, Sublocade would ship without a patient's name, so that site would be responsible for storing it and then dispensing it within the site's setting.

In response to a question asked by Representative Bentley, Dr. Casale stated that because of the risks of dispensing Sublocade and the fear of patients self-injecting the product, a framework was established to start a limited distribution process of Sublocade, thus the reason for specialty pharmacy dispensement.

In response to a question asked by Representative Bentley, Dr. Casale stated there have not yet been any reports of self-removal of the product. He added however, that it is not impossible and could be done.

With no further business to go, Chairman Alvarado adjourned the meeting at 4:56 P.M.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

### **Minutes of the 5th Meeting of the 2020 Interim**

October 15, 2020

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

The 5th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, October 15, 2020, at 10:30 AM, in Room 171 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 Matt Castlen, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Kim King, Phillip Pratt, Brandon Reed, Rachel Roberts, and Dean Schamore.

Guests: Dorsey Ridley, Executive Director, Governor's Office of Agricultural Policy; Bill McCloskey, Deputy Executive Director, Governor's Office of Agricultural Policy; Amy Neal, Exective Director, Governor's Office of Early Childhood; Dr. Sarah Vanover, Director, Division of Childcare, Department for Community Based Services, Cabinet for Health and Family Services; Paula Goff, Division of Maternal and Child Health, Kentucky Department for Public Health, Cabinet for Health and Family Services; Jennifer Washburn, Executive Director, iKids Inc.

LRC Staff: Nathan Smith, Kelly Ludwig, and Rachel Hartley.

#### **Report on the projects considered for funding at the September meeting of the Agricultural Development Board**

Dorsey Ridley stated at the August meeting of the Agricultural Development Board, Daviess County approved funds to help pay for premiums and awards for the 4-H and Future Farmers of America at the Lions Club Fair. Mr. Ridley informed the board that Senator Hornback and Senator Parrett voiced concern

over the approved funds during the committee's September meeting.

Bill McCloskey described the Agricultural Development Board's (ADB) projects for September. Mr. McCloskey highlighted programs including the County Agriculture Investment Program (CAIP), Deceased Farm Animal Removal, Meat Processing Level 2 Expansion, Next Generation Farmer, Shared-Use Equipment Program, and the Youth Agriculture Incentive Program (YAIP).

The projects discussed included:

Triple J Farm was approved for up to \$180,000 in multiple county and state funds to build a new farm market.

Hinton's Orchard and Farm Market was approved for up to \$10,000 in multiple county funds to expand its commercial kitchen, which will include an additional food preparation area and increased concessions capacity for the fall.

Owen County Farm Bureau was approved for up to \$4,000 in Owen County funds to improve accessibility at the farmers market facility.

Greenup County Extension District Board was approved for up to \$10,000 in Greenup County funds to purchase mobile livestock pens, which will be used for the Greenup County Fair and other agricultural events.

Nash Farms was approved for up to \$45,679 in multiple county and state funds to develop a produce facility that will be designated for receiving, washing, packaging, and storing fresh produce.

Kentucky Agriculture and Environment in the Classroom was approved for up to \$120,000 in state funds for educational materials and program services to grow agricultural literacy, develop future consumers, and encourage students to consider agriculture-based professions.

The Kentucky Department of Agriculture was approved for up to \$259,000 in state funds over two years to continue to support the Kentucky Grape and Wine Council Initiatives.

Wilburn R. Sisco was denied \$10,000 in state funds to build a pond for his cattle operation. The On-Farm Water Management Committee recommended denying the request as it did not meet eligibility criteria.

Ghost Horse Highland Farm and Gifts was denied \$1,500 in state funds to develop a spring to harvest water for livestock. The

On-Farm Water Management Committee recommended denying the request as it did not meet eligibility criteria.

Honey Tree Farm was denied \$6,160 in state funds to install a water line and waterers for livestock. The On-Farm Water Management Committee recommended denying the request as it did not meet eligibility criteria.

### **Early Childhood Development**

Amy Neal stated the Governor's Office of Early Childhood (GOEC) received \$25,439,100 in tobacco settlement funds for Fiscal Year 2021. The majority of the funds are used for the Child Care Program and Health Access Nurturing Development Services (HANDS).

In 2018, the Early Childhood Advisory Council implemented a five year strategic plan. The mission is to provide leadership and direction for Kentucky by providing a comprehensive and sustainable prenatal-to-age-five early childhood system that will ensure a strong foundation for all children.

Dr. Sarah Vanover stated the Division of Child Care (DCC) has a budget allotment of \$9,750,000 for Fiscal Year 2020, and the majority of the funds go directly to providers through quality incentives with Kentucky All Stars. The tobacco settlement funds are used as matching funds to receive the federal Child Care and Development Fund block grant.

In response to Representative King, Dr. Vanover stated most of the federal funding goes directly to subsidies. Federal approval allowed centers to use subsidies while they were closed based on enrollment instead of attendance.

In response to Senator Embry, Dr. Vanover stated there is a list of centers and how they rate at [kynect.ky.gov](http://kynect.ky.gov).

In response to Representative Dossett, Dr. Vanover stated prior to the closure in March 2020, DCC was serving approximately 28,000 children. Currently, 50 out of 1,776 licensed centers are temporarily closed and 16 out of 216 certified homes are temporarily closed. Since March 19, 2020, 94 new centers have opened.

Jennifer Washburn stated she has owned and operated iKids in Benton, Kentucky for 21 years. They are rated five stars by GOEC and are licensed for 97 children. In partnership with Marshall County High School, iKids has a program for co-op placements for seniors and juniors to earn child care credentials. There are also programs with Murray State University and Western Kentucky Community and Technical College System for practicum placements.

Paula Goff stated Early Childhood Mental Health (ECMH) receives \$1,000,000 annually from the tobacco settlement funds, and the funds are part of the match for the Maternal and Child Title V Block Grant. The services include consultations, trainings, evaluations, and therapeutic services for children

from birth to five years old.

Child Care Health Consultation receives \$1,000,000 annually from the tobacco settlement funds. The funds support ten regional health consultants and two trainers to provide technical assistance and training on health, safety, and social-emotional development to licensed and certified childcare providers.

HANDS is a statewide home visitation program. In Fiscal Year 2020, HANDS served over 4,000 families. The program is designed to assist overburdened parents during the prenatal period until the child's third birthday.

There being no further business, the meeting was adjourned.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

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

November 13, 2020

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

The 6th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Friday, November 13, 2020, at 11:00 AM, in Room 171 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Kim King, Phillip Pratt, Brandon Reed, and Rachel Roberts.

Guests: Dorsey Ridley, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; and Paulette Akers, Director, Division of Conservation, Energy and Environment Cabinet.

LRC Staff: Nathan Smith, Kelly Ludwig, Stefan Kasacavage, and Rachel Hartley.

#### **Report on the projects considered for funding at the October meeting of the Agricultural Development Board**

Dorsey Ridley stated GOAP would be receiving \$2,000,000 in additional funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act for the meat processing program.

Bill McCloskey described the Agricultural Development Board's (ADB) projects for October. Mr. McCloskey highlighted programs including the County Agriculture Investment Program (CAIP), Deceased Farm Animal Removal, Next Generation Farmer, Shared-Use Equipment Program, and the Youth Agriculture Incentive Program (YAIP).

The requested program amendments discussed included:

Carroll County Conservation District requested an additional \$5,826 in Carroll

County funds for CAIP. The board recommended approval, which would bring the program total to \$126,624.

Nicholas County Conservation District requested an additional \$24,000 in Nicholas County funds for CAIP. The board recommended approval, which would bring the program total to \$276,000.

Henry County Cattlemen Association requested an additional \$28,000 in Henry County funds for CAIP. The board recommended no funding due to being designated low priority by the Henry County Council.

The projects discussed included:

Summit Holdings was approved for \$249,922 in state funds to expand its freezer, build a new holding pen area, relocate the office area, and to purchase additional processing equipment.

Bourbon County Board of Education was approved for \$18,000 in Bourbon County funds for a high school greenhouse.

Kentucky Horticulture Council was approved for \$980,768 in state funds across two years to continue technical assistance, education, research, market analysis, and market access for Kentucky's growing horticulture industry.

### **Division of Conservation**

Paulette Akers stated the state cost share program was established in 1994 and started receiving tobacco settlement funds in 2000. The funds provide financial assistance to farmers at a 75 percent reimbursement rate with the assistance of local conservation districts. There are funds that are returned every year due to canceled projects or an overestimation of cost. These funds are appropriated in the next fiscal year. The last biennial budget appropriated \$2.5 million.

The Division of Conservation revised the funding cap of \$7,500 to \$20,000 on July 9, 2020, by administrative regulation. The funding cap had not been revised since 1994 and 50 percent of projects were impacted by the current funding cap.

In response to Representative King, Ms. Akers stated farmers should build a relationship with their local conservation district to find programs best suited for their needs.

In response to Representative Dossett, Ms. Akers stated the most commonly funded projects involve fencing, pipelines, waterers, and rotational grazing. The main focus of these projects is to prevent soil erosion and improve water quality.

There being no further business, the meeting was adjourned.

# 2021 Prefiled Bills

**BR14** - Representative Jerry Miller  
(11/13/2020)

AN ACT relating to the Kentucky Retirement Systems. Amend KRS 16.578 and 61.640 to apply the alternate death benefit calculation options as written prior to 2009 legislation for deaths occurring prior to retirement; amend KRS 61.540 to remove requirement that the employer and member must file a statement of facts before benefit payments can commence; amend KRS 61.598 to provide that the ten percent cap on creditable compensation growth during a member's last five years of employment shall not apply to situations where the growth in excess of ten percent during the entire five-year period results in a benefit change of less than \$25 per month; provide that the implementation date of the amendments to 2017 Ky. Acts ch. 32, sec. 9(28) by the Kentucky Retirement Systems shall be December 1, 2019; provide that the amendments to KRS 16.578 and 61.640 are retroactive to JUNE 25, 2009.  
(Prefiled by the sponsor(s).)

**BR17** - Representative Jerry Miller  
(10/7/2020)

AN ACT relating to actuarial reporting for the state-administered retirement systems. Amend KRS 6.350 to establish additional standards and requirements for the completion of the actuarial analysis required for bills pertaining to state-administered retirement systems, including a projection of costs/savings over a 30-year period rather than 20 years, completion of the analysis in a format established by the Legislative Research Commission, and the addition of a summary of relevant data and information on the front page of the analysis; amend KRS 21.440, 61.670, and 161.400 to require the state-administered retirement systems to provide a projection/analysis over a 30-year period rather than a 20-year period regarding projections in the annual actuarial valuation and as it relates to experience studies, assumption changes, and other changes made by the boards of each system.  
(Prefiled by the sponsor(s).)

**BR22** - Representative Attica Scott, Representative Charles Booker, Representative George Brown Jr, Representative Kelly Flood, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Mary Lou Marzian, Representative Reginald Meeks, Representative Patti Minter, Representative Josie Raymond, Representative Rachel Roberts, Representative Buddy Wheatley, Representative Lisa Willner  
(8/13/2020)

AN ACT relating to public protection. Create new sections of KRS Chapter 455 to require peace officers to give notice before entering premises to execute a search warrant; require officers to activate body-worn cameras when serving a warrant; create processes for enforcement; allow disciplinary actions for non compliance; create a new section of KRS Chapter 15 to require officers to activate body-worn cameras when

engaged in law enforcement activity; establish rebuttable presumptions in investigative or legal proceedings regarding unrecorded conduct of statements; amend KRS 61.168 to provide for release of recordings in specific circumstances and allow waiver of privacy concerns; amend KRS 344.450 to expand scope of permissible suits against state and local governments and limit defenses; amend KRS 15.420 to define "deadly incident"; amend KRS 154.440 to require law enforcement agencies to create policies requiring mandatory drug and alcohol testing for officers involved in a deadly incident; amend various sections to conform; provide that Sections 1 to 8 shall be known as "Breonna's Law".  
(Prefiled by the sponsor(s).)

**BR24** - Representative Josie Raymond  
(10/6/2020)

AN ACT relating to public assistance. Amend KRS 205.200 to require that the value of all assets held by an individual be disregarded for the purpose of determining the individual's eligibility for a means-tested public assistance program.  
(Prefiled by the sponsor(s).)

**BR26** - Representative Josie Raymond  
(10/6/2020)

AN ACT related to teacher professional development. Amend KRS 156.095 to require all certified public school employees to complete high quality behavioral and mood disorder training annually.  
(Prefiled by the sponsor(s).)

**BR29** - Representative Josie Raymond  
(9/16/2020)

AN ACT relating to paid parental leave. Create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and to establish requirements for the paid leave of absence; amend KRS 18A.025 and 18A.110 to conform  
(Prefiled by the sponsor(s).)

**BR30** - Representative Josie Raymond  
(10/6/2020)

AN ACT relating to employment discrimination. Amend KRS 344.040, 344.050, 344.060, 344.070, 344.080, 344.100, and 344.110 to add protections against discrimination based on weight.  
(Prefiled by the sponsor(s).)

**BR41** - Senator Matt Castlen  
(8/6/2020)

AN ACT relating to emergencies. Amend KRS 39A.090 to limit the effective dates of executive orders issued by the Governor to 30 days unless an extension is approved by the General Assembly, and prohibit the Governor from issuing a new executive order

relating to the same emergency without the approval of the General Assembly; amend KRS 39A.100 to allow an executive order relating to elections to remain in effect regardless of the time limitations in KRS 39A.090; amend KRS 39A.180 to limit administrative regulations promulgated under KRS 39A.180 to 30 days unless an extension is approved by the General Assembly; amend KRS 214.020 to limit administrative regulations promulgated under KRS 214.020 to 30 days unless an extension is approved by the General Assembly; amend KRS 241.090 to limit the emergency jurisdiction and peace officer status of administrators and investigators under the alcohol beverage control board to the limitations in KRS 39A.090; amend KRS 315.500 to prevent the time limitations of KRS 39A.090 from affecting the emergency distribution of pharmaceuticals; amend KRS 39A.374 to prevent the time limitations of KRS 39A.090 from affecting the limitations on increased prices during an emergency.  
(Prefiled by the sponsor(s).)

**BR45** - Representative Rachel Roberts, Representative Lisa Willner  
(10/21/2020)

AN ACT relating to coverage of mental health wellness examinations. Create a new section of Subtitle 17A of KRS Chapter 304 to define terms; require certain health insurance policies to provide coverage for an annual mental health wellness examination of at least 45 minutes provided by a mental health professional; require the coverage to be no less extensive than coverage for medical and surgical benefits; require the coverage to comply with the Mental Health Parity and Addiction Equity Act of 2008; provide that coverage shall not be subject to cost-sharing requirements; amend KRS 205.522 to require the Department for Medicaid Services and managed care organizations contracted to provide Medicaid benefits to comply with the mental health wellness examination coverage requirement; amend KRS 205.6458 to require the Kentucky Children's Health Insurance Program to comply with the mental health examination coverage requirement; amend KRS 18A.225 to require the state employee health plan to comply with the mental health coverage requirement; EFFECTIVE, January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR47** - Representative Steve Sheldon  
(7/31/2020)

AN ACT relating to governmental emergencies. Amend KRS 39A.100 to require the Governor to call an extraordinary session of the General Assembly simultaneously with any declaration of emergency in order for the declaration to be valid for 15 days unless changed by the General Assembly; prohibit the Governor from declaring a new emergency based on the same facts upon the expiration of the initial declaration; prohibit the Governor from suspending statutes or administrative regulations unless the subject matter is enumerated under Chapter 39A; amend KRS 39A.280, 315.500, and 367.374

to conform.  
(Prefiled by the sponsor(s).)

**BR48** - Representative Daniel Elliott  
(10/22/2020)

AN ACT relating to production of vital medical supplies. Amend KRS 154.32-010 to further define manufacturer as a producer of personal protective equipment, and define vital medications and personal protective equipment; amend KRS 154.32-020 to declare a purpose of the subchapter is to provide an economic stimulus to bolster in-state production of vital medications and personal protective equipment and allow facilities that produce vital medications and personal protective equipment to qualify for tax incentives under the subchapter; amend KRS 154.32-060 to allow for facilities that are rehabilitated or replaced in order to produce vital medications and personal protective equipment to be eligible for tax benefits under the subchapter; amend KRS 154.34-010 to include a facility that reinvests in the production of vital medications and personal protective equipment to be eligible for benefits under the subchapter and define personal protective equipment; amend KRS 154.35-010 to define vital medications and personal protective equipment; amend KRS 154.35-050 to direct the University of Louisville research centers to identify facilities and businesses capable of producing vital medications and personal protective equipment, and work with health departments to assess the needs of medical facilities and communities.  
(Prefiled by the sponsor(s).)

**BR56** - Representative Danny Bentley  
(9/1/2020)

A CONCURRENT RESOLUTION calling for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes. Urge federal policymakers to expedite research regarding the safety and efficacy of the use of marijuana for medical purposes.  
(Prefiled by the sponsor(s).)

**BR57** - Representative Patti Minter  
(6/2/2020)

AN ACT relating to consumer protections in health insurance. Create a new section of Subtitle 17A of KRS Chapter 304 to define terms; establish health-status eligibility rules for health benefit plans in any market; prohibit requiring a greater premium or contribution, or different benefits coverage, on the basis of any health status-related factor; prohibit pre-existing condition exclusions; require coverage for essential health benefits; prohibit insurers from establishing lifetime or annual limits on essential health benefits; prohibit adjustment of premium or contribution amounts for group health plans on the basis of genetic information; require the commissioner of insurance to define essential health benefits; establish when the section controls; establish opt-in for health plans not otherwise required to comply with requirements of section; establish when section becomes effective; establish that section applies to health benefit plans and health plan options on or after the effective date; amend KRS 304.17A-096, 304.17A-097, 304.17A-200, 304.17A-220, 304.17A-

230, 304.17A-250, 304.17A-430, 304.17B-015, 304.17B-019, 304.18-114, and 304.18-120 to conform; amend KRS 18A.225 to require the state employee health plan to comply with Section 1 of the Act.  
(Prefiled by the sponsor(s).)

**BR61** - Representative Kimberly Moser, Representative Deanna Frazier, Representative Kim Banta  
(9/17/2020)

AN ACT relating to mental health parity. Amend KRS 304.17A-660 to define “classification of benefits” and “nonquantitative treatment limitation”; amend KRS 304.17A-661 to modify mental health parity requirements; require parity coverage for nonquantitative treatment limitations and medical necessity criteria; require compliance with nonquantitative treatment limitations set forth in federal law; require insurers to submit annual reports relating to the insurer’s compliance with mental health parity requirements; amend KRS 304.17A-669 to remove exemptions; EFFECTIVE January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR62** - Representative Kimberly Moser  
(9/17/2020)

AN ACT relating to the Advisory Council for Medical Assistance. Amend KRS 205.540 to add one representative of a recognized consumer advocacy group representing persons reentering society following incarceration to the Advisory Council for Medical Assistance; amend KRS 205.590 to amend the membership of the Technical Advisory Committee on Consumer Rights and Client Needs, amend the membership of the Technical Advisory Committee on Behavioral Health, and to create a Technical Advisory Committee on Persons Returning to Society from Incarceration to act in an advisory capacity to the Advisory Council for Medical Assistance.  
(Prefiled by the sponsor(s).)

**BR66** - Representative Lynn Bechler  
(6/19/2020)

AN ACT relating to emergencies. Amend KRS 39A.090 to limit the governor’s emergency orders to 28 days unless approved by the General Assembly; limit the local chief executive’s emergency orders to 28 days unless approved by the local government legislative body.  
(Prefiled by the sponsor(s).)

**BR68** - Representative Patti Minter  
(6/4/2020)

AN ACT relating to Women Veterans’ Day. Create a new section of KRS Chapter 2 to designate June 12 as Women Veterans’ Day in the Commonwealth.  
(Prefiled by the sponsor(s).)

**BR70** - Representative James Tipton, Representative Derek Lewis  
(7/9/2020)

AN ACT relating to state employee compensation. Amend KRS 18A.355 to provide for an annual cost of living adjustment for state employees with the cost of

living adjustment being the average of the consumer price index for the two calendar years prior to the biennium and not less than zero; amend KRS 18A.110 and 48.130 to conform; EFFECTIVE JULY 1, 2022.  
(Prefiled by the sponsor(s).)

**BR73** - Representative Jim Gooch Jr.  
(7/10/2020)

AN ACT relating to emergencies. Amend KRS 39A.090 to limit the effective dates of emergency executive orders issued by the Governor to thirty days unless extended by the General Assembly; amend KRS 39A.100 to require executive orders suspending or delaying an election to remain in effect unless changed by an action of the General Assembly; amend KRS 367.374 to allow the Governor only one additional fifteen day extension period.  
(Prefiled by the sponsor(s).)

**BR74** - Representative Rob Wiederstein  
(11/13/2020)

AN ACT relating to case disposition times. Create a new section of KRS Chapter 27A to mandate that beginning in the year 2024 the Administrative Office of the Courts issue an annual report concerning case disposition times; create a new section of KRS Chapter 27A that encourages judges to meet the disposition guidelines set forth in the Table of Model Time Standards located in the most recent publication of Model Time Standards for State Trial Courts by the National Center for State Courts.  
(Prefiled by the sponsor(s).)

**BR77** - Representative Attica Scott  
(8/26/2020)

AN ACT relating to implicit bias in perinatal care. Amend KRS 211.680 to expand the scope of the legislative intent and findings; create new sections of KRS Chapter 211 to define terms; require licensed health facilities under KRS Chapter 216B to provide each patient with written information regarding the patient’s rights and implement an evidence-based implicit bias program for all health providers involved in the perinatal care of patients within those facilities; require the Department for Public Health to track data on maternal death and severe morbidity.  
(Prefiled by the sponsor(s).)

**BR79** - Representative Rob Wiederstein  
(10/7/2020)

AN ACT relating to custodial interrogations by law enforcement. Create new sections of KRS Chapter 15 to define terms related to the electronic recording of custodial interrogations; require law enforcement officers to electronically record custodial interrogations; specify that law enforcement officers conducting custodial interrogations are not required to obtain consent from the individual being interrogated; provide exceptions to the requirement of recording interrogations based upon exigent circumstances, refusal to participate by the individual being interrogated, the occurrence of the interrogation in a different state in compliance with that state’s law or with federal law, or if the interrogation may reveal the identity of a confidential informant or jeopardize the safety of

a law enforcement officer; require prosecutors to prove an exception applies if the statement entered was not recorded; and require the Attorney General to promulgate administrative regulations to determine the means of recording, the collection and review of recordings, and other matters related to the recording of interrogations. (Prefiled by the sponsor(s).)

**BR80** - Representative Rob Wiederstein  
(11/13/2020)

AN ACT relating to solitary confinement of juveniles. Create a new section of KRS Chapter 15A to limit use of solitary confinement for juveniles and require reporting of data on its use.  
(Prefiled by the sponsor(s).)

**BR86** - Representative Kim Banta, Representative Kevin Bratcher, Representative Derek Lewis  
(7/8/2020)

AN ACT relating to Medicaid eligibility for individuals diagnosed with metastatic breast cancer. Create a new section of KRS Chapter 205 to require the Department for Medicaid Services to request approval of a Medicaid state plan amendment from the Centers for Medicare and Medicaid Services that exempts individuals who have been diagnosed with metastatic breast cancer from meeting spend-down requirements in order to be eligible for Medicaid services within 30 days of the effective date of this Act.  
(Prefiled by the sponsor(s).)

**BR96** - Senator Christian McDaniel  
(6/11/2020)

AN ACT relating to statues and making an appropriation therefor. Require the Department for Facilities and Support Services within the Finance and Administration Cabinet to relocate the Jefferson Davis statue from the Capitol Rotunda to either the Thomas D. Clark Center for Kentucky History or the Jefferson Davis Historic Site; require the Department for Facilities and Support Services to place a statue of United States Navy diver and Kentucky native Carl Brashear in the Capitol Rotunda; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR97** - Senator Gerald Neal  
(9/22/2020)

AN ACT relating to health disparity impacts. Create a new section of KRS Chapter 6 to define “health disparity impact” and “health disparity impact review”; require Legislative Research Commission staff to identify a bill, amendment, or committee substitute that may result in a health disparity impact and notify the sponsor and the Cabinet for Health and Family Services; require the cabinet to determine if a health disparity impact review is necessary, notify the Legislative Research Commission, and complete the review if appropriate; require other state agencies to provide requested information for the review; permit a new review to be requested if there is an amendment or committee substitute; require any bill, amendment, or committee substitute that requires a review to have a completed review before a vote is taken; permit a majority of members of the Senate or House of

Representatives to request a review; permit a majority of members of any standing committee to request a review; require reviews to include information on any health disparity impact and be completed within thirty days; require the cabinet to create a form to be use to complete the review.  
(Prefiled by the sponsor(s).)

**BR98** - Senator Christian McDaniel  
(7/9/2020)

AN ACT proposing to amend Section 36 of the Constitution of Kentucky relating to time and place of meetings of the General Assembly. Propose to amend Section 36 of the Constitution of Kentucky to require the General Assembly to convene if the Governor declares a state of emergency in the Commonwealth, and the state of emergency exceeds thirty days in the aggregate of a calendar year during which time the General Assembly is not in regular session. The subjects to be considered by the General Assembly shall be the Governor’s executive orders and directives issued pursuant to and relevant to the executive order declaring a state of emergency; ballot language; submit to voters for ratification or rejection.  
(Prefiled by the sponsor(s).)

**BR99** - Representative Lisa Willner, Representative Kim Banta, Representative Rachel Roberts  
(8/25/2020)

AN ACT relating to youth mental health protection and declaring an emergency. Create a new section of KRS Chapter 210 define sexual orientation and gender identity change efforts, mental health professional, and public funds; to prohibit mental health professionals from engaging in sexual orientation and gender identity change efforts with a person under eighteen (18) years of age or a person who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510; require violations to be subject to board discipline; prohibit public funds from being used for sexual orientation and gender identity change efforts; create a new section of KRS Chapter 211 to require the Department for Public Health to develop, produce, and disseminate educational materials regarding sexual orientation and gender identity change efforts; permit the cabinet to contract for the educational materials; add the short title “Mental Health Protection Act”; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR102** - Representative Danny Bentley  
(9/16/2020)

AN ACT relating to construction or demolition waste disposal. Amend KRS 224.40-120 to allow an off-site construction or demolition waste disposal permittee to request an increase in the size of the permitted area to no more than 2 acres total if the applicant is compliant with the permit requirements for the currently permitted area and complies with all permit requirements for the newly permitted area, including posting an additional bond for the newly permitted area.  
(Prefiled by the sponsor(s).)

**BR117** - Representative Kim Banta  
(9/16/2020)

AN ACT relating to mental health and making an appropriation therefor. Amend KRS 210.365 to make firefighters eligible for crisis intervention team training along with law enforcement officers currently permitted such training; amend KRS 95A.220 with an appropriation of \$1,250,000 each fiscal year for treatment of full-time and volunteer firefighters affected by post-traumatic stress injury (PTSI) and/or post-traumatic stress disorder (PTSD); provide that legitimate personnel actions are not compensable; establish the reference for definitions of PTSD and PTSI; require diagnosis by psychiatrist, psychologist, or counselor; allow certain mental health treatment benefits upon firefighter seeking treatment; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR119** - Representative Josie Raymond  
(10/6/2020)

AN ACT relating to campaign finance. Amend KRS 121.175 to define and include “necessary childcare expenses” as an allowable campaign expenditure.  
(Prefiled by the sponsor(s).)

**BR120** - Senator Phillip Wheeler  
(11/12/2020)

AN ACT relating to sex offender registrants. Amend KRS 17.545 to prohibit sex offender registrants from being on the grounds of a senior citizen center.  
(Prefiled by the sponsor(s).)

**BR124** - Representative Joe Graviss  
(6/19/2020)

AN ACT relating to state holidays. Amend KRS 2.110 to remove Robert E. Lee Day, Confederate Memorial Day, and Jefferson Davis Day as state holidays.  
(Prefiled by the sponsor(s).)

**BR127** - Representative Joe Graviss  
(6/19/2020)

AN ACT relating to state holidays. Amend KRS 2.110 to add the nineteenth of June as a state holiday commemorating Juneteenth National Freedom Day.  
(Prefiled by the sponsor(s).)

**BR130** - Representative Savannah Maddox, Representative Joseph Fischer, Representative Mark Hart, Representative Thomas Huff, Representative Kim King, Representative Derek Lewis, Representative Bobby McCool, Representative Richard White  
(7/7/2020)

AN ACT relating to emergencies and declaring an emergency. Create a new section of KRS Chapter 39A to define “emergency order”, set parameters for the issuance of an emergency order, and provide for legal action to enforce the parameters; amend Section 39A.090 to apply the emergency order definition to executive orders issued

under KRS Chapters 39A to 39F; amend KRS 39A.100 to require that emergency orders issued by the Governor contain an expiration date not greater than 14 days, with extension only as provided by the General Assembly, require that emergency orders issued by a chief executive of a local government contain an expiration date of not greater than 14 days with extension only as provided by the legislative body of the local government, move associated election deadlines if the date of the election is moved, prohibit the suspension of any laws, and specify that no governmental entity may prohibit or severely limit in-person worship; amend KRS 194A.025 to specify that the Secretary for Health and Family Services may not take any action contrary to the specific limitations on actions by the cabinet in the event of infectious or contagious diseases; amend KRS 214.020 to limit actions taken by the Cabinet for Health and Family Services in the event of infectious or contagious disease to 21 days unless extended or changed by the General Assembly, and prohibit similar or related actions taken to extend the time limitation; name the Act the “Ensuring Basic Checks and Balances and Basic Liberties During Emergencies Act; EMERGENCY. (Prefiled by the sponsor(s).)

**BR139** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to on-site sewage disposal systems. Amend KRS 211.350 to require the Department for Public Health to notify property owners with on-site sewage disposal systems by mail every two years of the need to maintain the system; require the department to conduct an information campaign to increase public awareness at least once every two years; require the department to promulgate a regulation to outline policy for health departments to maintain a list of properties serviced by on-site sewage disposal systems. (Prefiled by the sponsor(s).)

**BR140** - Representative Bobby McCool  
(8/20/2020)

AN ACT relating to welding safety. Create a new section of KRS Chapter 198B to establish requirements for projects requiring structural steel welding such as certification of welders and certified inspectors; provide definitions; EFFECTIVE January 1, 2022. (Prefiled by the sponsor(s).)

**BR141** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to cannabidiol products. Create a new section of KRS Chapter 217.005 to 217.215 to establish labeling requirements for cannabidiol products. (Prefiled by the sponsor(s).)

**BR146** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to public water and wastewater. Create new sections of KRS Chapter 74 to define “appointing authority,” “board,” “commissioner,” “governing body,” “joint commissioner,” “joint water commission,” “public service commission,” “public water or wastewater system,” “water association”, and “water district”; establish eligibility requirements for

members of a water district, water association, and joint water commission; require online training and continuing education hours for water commissioners; require the Kentucky Public Service Commission to develop best management practices for governing bodies of public water and wastewater utilities; establish penalties for failure to meet training and eligibility requirements; create new sections of Subchapter 70 of KRS Chapter 224 to establish the Public Water and Wastewater Working Group; identify the members and responsibilities of the working group; allow for the creation of stakeholder advisory groups; require the group to report to the Legislative Research Commission by November 1 of each year and develop methods to identify failing public water and wastewater utilities; create a Kentucky Public Water and Wastewater System Protection Panel and name executive branch members of the panel; require the panel to develop metrics to identify systems at risk of insolvency, develop a priority list for intervention by the panel, and promulgate administrative regulations to develop comprehensive criteria for sanctions against governing bodies at risk of failure; identify remedies for failing system and interventions; amend KRS 65.007 to add misfeasance and nonfeasance to reasons for removal by an appointing authority; amend KRS 74.012 to clarify entities and conform to definitions; amend KRS 74.020 to clarify definitions and require commissioners to comply with initial and continuing education; increase initial hours from six to nine; require twelve hours of continuing education every three years; amend KRS 74.025 to allow removal for failure to complete training; amend KRS 74.030 to change reference from commission to board to conform with chapter definitions; amend KRS 74.040 to establish requirements for the chief executive officer and update duties to include financial and water loss audit, rate and operations review, and infrastructure improvement plan and conform definitions; amend KRS 74.080 to update board duties and responsibilities regarding rates, procedures, audits, and planning; allow the commission to review rates on its own motion and require rate adjustment for full cost recovery; amend KRS 74.100 to require a comprehensive infrastructure improvement plan and conform definitions; amend KRS 74.110 to require notice to the commission when annexing or striking district territory; amend KRS 74.177 to clarify distinction between water district and agricultural district; amend KRS 74.240 to update requirements of the district and require qualified infrastructure improvement plan filed and approved by the commission; amend KRS 74.050, 74.070, 74.280, 74.090, 74.120, 74.130, 74.140, 74.150, 74.160, 74.180, 74.190, 74.200, 74.220, 74.290, 74.300, and 74.330 to conform definitions; amend KRS 74.361 to authorize the commission to investigate merger of water districts after repeated water loss or failure to perform audits; amend KRS 74.370 to clarify the commission’s authority over water districts; amend KRS 74.395 to allow recovery through a surcharge for improvements designed to reduce water loss and specify range over 15 percent; require improvement plan and water loss audit be submitted for surcharge; amend KRS 74.430, 74.440, 74.460, 74.470, 74.480, 74.490, 74.500, 74.510, 74.520, and 74.990 to clarify distinction between joint water commissions and joint commissioners; amend KRS 74.450 to establish eligibility to serve as joint commissioner; amend KRS 91A.040 to require the auditor to obtain a copy of an audit performed on any public water or wastewater system owned by the city; include in the audit report whether

the city is compliant in performing the audit and report to Department for Local Government and Kentucky Infrastructure Authority if noncompliant; amend KRS 96.172 to establish eligibility to serve on municipal board of public utilities; amend KRS 96.173 to require expenses incurred to be prudent and reasonable in order to be payable from revenues; amend KRS 96.176 to require financial practices to be consistent with best management practices developed by the Kentucky Public Service Commission; amend KRS 96.181 to require board finances to be consistent with best management practices; amend KRS 96.182 to restrict use of rate receipts for anything not related to the provision of service by the electric and water plant; amend KRS 96.190 to require initial training and continuing education; amend KRS 96.200 to require conformity to best management practices; amend KRS 96.240 to establish requirements for appointees to board of waterworks; amend KRS 96.320 to establish requirements for appointees to cities owning waterworks; amend KRS 96.351 to establish qualifications for members of waterworks commission and waterworks and sewerage commission. (Prefiled by the sponsor(s).)

**BR147** - Representative Joe Graviss  
(7/8/2020)

AN ACT relating to soil conservation and making an appropriation therefor. Create new sections of KRS Chapter 262 to establish a Healthy Soils Program and a Healthy Soils Program fund in the Department for Natural Resources, Division of Conservation; require the department to provide technical advice and assistance and assist with soil health assessments and soil health plans; require the commissioner to approve applications for grants and other types of financial assistance under the Healthy Soils Program; authorize the department to promulgate administrative regulations to implement the Healthy Soils Program and the Healthy Soils Program fund; amend KRS 146.100 to require the director of the Division of Conservation to have experience in healthy soil practices; amend KRS 224.71-110 to require the Agriculture Water Quality Authority to promote soil restoration, include an organic agriculture organization among appointments to the authority and add healthy soil practices as a committee; amend KRS 262.010 to define “healthy soil practices,” “soil health,” “soil health assessment,” and “watershed health”; amend KRS 262.020 to add restoration, biological diversity, watershed health, and healthy soil practices to the purpose of soil and water conservation districts; amend KRS 262.748 and 262.778 to conform; APPROPRIATION. (Prefiled by the sponsor(s).)

**BR149** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to actuarial analysis on retirement bills. Amend KRS 6.350 to establish additional requirements for the completion of the actuarial analysis required for bills pertaining to state-administered retirement systems; specify additional requirements projecting costs/savings over a 30 year period rather than 20 years, completing the analysis in a format established by the Legislative Research Commission, and requiring the front page of the analysis to include summary information; provide that Legislative Research Commission shall not transmit

a request for analysis unless authorized by a bipartisan working group consisting of 4 members of the General Assembly, but that nothing shall prevent the systems from obtaining an analysis at their own discretion on bills that have been filed, prefiled, or released by the sponsor. (Prefiled by the sponsor(s).)

**BR152** - Representative Terri Branham Clark, Representative Ashley Tackett Laferty, Representative Lisa Willner  
(7/14/2020)

AN ACT relating to state employment offices.  
Amend KRS 151B.285 to mandate that public employment offices be located in specified locations.  
(Prefiled by the sponsor(s).)

**BR153** - Representative Matthew Koch  
(6/30/2020)

AN ACT relating to property taxes for veteran service organizations.  
Create a new section in KRS Chapter 132 to exempt veteran service organizations from ad valorem taxation if over 50 percent of the organization's annual net income is expended on behalf of veterans and other charitable causes; amend KRS 132.010 to define "veteran service organization"; apply to property assessed on or after January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR157** - Representative Joe Graviss  
(8/19/2020)

AN ACT relating to election districts and making an appropriation therefor.  
Create new sections of KRS Chapter 5 to establish the Advisory Redistricting Commission, which shall be composed of members appointed by the General Assembly and members of the public at large; define terms; establish commissioner pay, conditions, powers, and duties; provide that commissioners' terms correlate with obligations of each census cycle; establish the conditions, powers, and duties of the commission; require the commission to draft redistricting plans for legislative and congressional districts, with parameters prescribed; establish standards to be followed by the commission for commissioners who develop plans; require the commission to submit its redistricting plans to the Legislative Research Commission; require the General Assembly to consider the commission's plans; allow the General Assembly to enact or reject the plans of the commission by a date certain or to return to the commission for adjustment; provide that if the General Assembly does not enact the plans, the plans shall be returned to the commission, which may incorporate changes requested by the General Assembly, but shall not be required to incorporate changes; require the commission to submit to the General Assembly new redistricting plans for enactment at a date certain; allow General Assembly to enact its own redistricting plans after a date certain; provide for penalties and fine upon conviction of persons attempting to influence, or commissioners accepting influence, per the duties of the commission; include severability clause and delay clause; amend KRS 5.005 to remove the Secretary of State being named as a defendant in any action challenging the constitutionality of any legislative district and replace with the Advisory

Redistricting Commission being named the defendant; provide that the Act may be cited as the "Fair Maps Act."  
(Prefiled by the sponsor(s).)

**BR158** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to transparency in campaign finance.  
Amend KRS 121.015 to define "unauthorized campaign committee"; amend KRS 121.190 to include public disclosure requirements for Internet announcements that expressly advocate for the election or defeat of political candidates or group of candidates; expand the class for public disclosure requirements of paid political advertising and announcements; amend KRS 121.210 to update the statutory reference of unauthorized campaign committees and to provide reporting requirements to the Kentucky Registry of Election Finance; state that this legislation may be cited as the "Campaign Fund Disclosure and Transparency Act of 2021."  
(Prefiled by the sponsor(s).)

**BR159** - Representative Joe Graviss  
(8/19/2020)

AN ACT relating to a tax credit for volunteer firefighters.  
Create a new section of KRS Chapter 141 to establish a \$1,000 refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit; amend KRS 131.190 to allow reporting.  
(Prefiled by the sponsor(s).)

**BR160** - Senator Phillip Wheeler  
(7/9/2020)

AN ACT relating to off-highway vehicles and making an appropriation therefor.  
Create a new section of KRS Chapter 189 to define the terms "off-highway vehicle," "local government," and "regional authority"; allow a local government that is located within the boundary of a regional authority, to pass an ordinance allowing for the operation of off-highway vehicles (OHVs) on a roadways under local government jurisdiction and state roadways approved by the Transportation Cabinet; allow a local government to petition the Transportation Cabinet to include state-maintained roadways located within the local government's jurisdiction, for OHV use under local ordinance; prohibits OHV use on fully controlled access highways; outlines OHV ordinance requirements; allow the local government to assess a fee of \$30 for an annual OHV permit for Commonwealth residents and \$50 for nonresidents; specify that all OHV permits expire on April 1 of each year; permit a local government to contract with a regional authority or a private vendor for the issuance of OHV permits; outline OHV operating requirements for OHV permit holders; require OHV passengers under the age of 18 to wear a helmet; outline OHV signage requirement for local governments and the Transportation Cabinet; require reciprocity between local governments who have passed OHV ordinances; allow the Transportation Cabinet to prohibit the operation of OHVs on any public highway that crosses a state highway or any state highway if deemed in the interest of public safety; outline exemptions; amend

KRS 189.515 to conform.  
(Prefiled by the sponsor(s).)

**BR162** - Senator Robby Mills  
(7/9/2020)

Urge local governments to make resources available for the protection of monuments, edifices, graves, and lands, and urge peace officers, prosecutors and members of the Kentucky Court of Justice including county attorneys, Commonwealth's attorneys, and the Kentucky Attorney General to charge and pursue the most stringent violations against defacement and damage of monuments, edifices, graves, and lands, as well as to urge judges of the Circuit, District, and appellate courts to impose and sustain sentences against persons convicted of these offenses to the maximum penalties permitted under law.  
(Prefiled by the sponsor(s).)

**BR168** - Representative James Tipton  
(9/17/2020)

AN ACT relating to dually employed retirement system members.  
Amend KRS 61.545 to provide that if a member is working in a regular full-time hazardous duty position that participates in the Kentucky Employees Retirement System or the County Employees Retirement System and is simultaneously employed in a nonhazardous position that is not considered regular full-time with a different participating employer, the member shall participate solely as a hazardous duty member and shall not participate under the nonhazardous position unless he or she makes an election within 30 days of taking employment in the nonhazardous position; amend KRS 61.680 to conform; specify that provisions shall only apply to prospective nonhazardous employment occurring on or after the effective date of the Act.  
(Prefiled by the sponsor(s).)

**BR169** - Representative Attica Scott  
(9/16/2020)

AN ACT relating to discriminatory practices against a person.  
Amend KRS 344.010 to provide definitions of "protective hairstyle" and "race" that include traits historically associated with race; amend KRS 158.148 to provide that school disciplinary codes shall prohibit discrimination on the basis of race; establish the short title of "C.R.O.W.N. Act".  
(Prefiled by the sponsor(s).)

**BR171** - Representative Randy Bridges, Representative David Hale  
(11/16/2020)

AN ACT relating to intimidation of a sports official.  
Create a new section of KRS Chapter 518 to create the crime of intimidation of a sports official as a Class A misdemeanor.  
(Prefiled by the sponsor(s).)

**BR176** - Representative Tina Bojanowski, Representative Kim Banta  
(7/29/2020)

Direct the commissioner of education to convene a strategic assessment and accountability committee; establish minimum requirements for the composition of the committee; establish the duties of the committee; require the commissioner to report the findings of the committee to the Interim Joint Committee on Education by December 1, 2021, and December 1, 2022, EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR179** - Representative Joe Graviss  
(11/17/2020)

AN ACT relating to cruelty to animals.  
Amend KRS 525.130, relating to cruelty to animals, to prohibit spectators and vendors from attending an event where any animal, rather than any four-legged animal, is caused to fight.  
(Prefiled by the sponsor(s).)

**BR180** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to state employee compensation.  
Amend KRS 18A.355 to provide for an annual increment for state employees amounting to the average of the consumer price index for the two calendar years prior to the biennium.  
(Prefiled by the sponsor(s).)

**BR181** - Representative Joe Graviss  
(10/21/2020)

AN ACT relating to tax expenditures.  
Create a new section of KRS Chapter 7A to establish the Tax Expenditure Oversight Board of the General Assembly and establish a timetable related to the expiration of specifically identified tax expenditures; amend KRS 11.068 to require the Office of State Budget Director to provide an estimate on or before November 30 of each odd-numbered year of the revenue loss resulting from each tax expenditure for the general fund and road fund for the current fiscal year and the next two fiscal years; amend KRS 131.020 to require the Department of Revenue to collect, report, and provide data to the Tax Expenditure Oversight Board; amend KRS 131.190 to allow certain taxpayer data to be exempted from the confidentiality provisions.  
(Prefiled by the sponsor(s).)

**BR184** - Representative Matthew Koch  
(11/17/2020)

AN ACT relating to postsecondary readiness.  
Amend KRS 158.6455 to require inclusion of the Armed Services Vocational Aptitude Battery test as a measurement of postsecondary readiness for the state accountability system.  
(Prefiled by the sponsor(s).)

**BR187** - Representative Myron Dossett  
(11/9/2020)

AN ACT relating to landlords and tenants.

Create a new section of KRS Chapter 383.200 to 383.285 to allow a landlord, or agent of a landlord to file and practice a forcible detainer action.  
(Prefiled by the sponsor(s).)

**BR196** - Representative Maria Sorolis  
(9/14/2020)

AN ACT relating to open records.  
Amend KRS 61.882, relating to open records, to require the award of costs and attorney fees if a court finds there was an absence of a good faith basis to believe the requested records were exempt from disclosure.  
(Prefiled by the sponsor(s).)

**BR197** - Representative Maria Sorolis  
(9/14/2020)

AN ACT relating to student health.  
Amend KRS 160.645 to require at least 25 minutes of student physical activity each school day; expand requirement to include students up to grade 8; prioritize free-play activities taking place outdoors.  
(Prefiled by the sponsor(s).)

**BR198** - Representative Maria Sorolis  
(9/14/2020)

AN ACT relating to open meetings.  
Amend KRS 61.846 to allow an agency or the Attorney General to vacate actions taken at a meeting where the agency failed to give notice of the meeting; amend KRS 61.848 to require a person to be awarded court costs and attorney fees when a court finds no basis in good faith for an agency's denial of an open meetings complaint, and to allow a court to vacate actions taken at a meeting where the agency failed to give notice of the meeting.  
(Prefiled by the sponsor(s).)

**BR199** - Representative Maria Sorolis  
(9/16/2020)

AN ACT relating to epinephrine auto-injectors.  
Create a new section of Subtitle 17A of KRS Chapter 304 to require health benefits plans to cover epinephrine auto-injectors; cap cost-sharing at \$75 per epinephrine auto-injector; allow cost-sharing cap to be adjusted every 5 years for inflation; amend KRS 18A.225 to require the state employee health plan to comply; EFFECTIVE, January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR202** - Representative Tom Burch  
(10/12/2020)

AN ACT relating to firearms.  
Create new sections of KRS Chapter 237 to define terms; grant authority to District Court to issue search warrants to law enforcement officers to seize firearms from persons believed to be dangerous due to untreated mental illness or documented evidence of a propensity for violence; grant authority to law enforcement officers to seize firearms from persons believed to be dangerous without a warrant; establish protocols for court hearing to determine dangerousness of person and authority to prohibit person from possessing firearms; establish protocol for petitions to prove person is no longer dangerous; establish protocol

for disposition of seized firearms after specified time; require the Administrative Office of the Courts to collect and publish statistics on gun seizures; establish penalties; amend KRS 16.220 to conform.  
(Prefiled by the sponsor(s).)

**BR215** - Senator Richard Girdler  
(8/19/2020)

AN ACT relating to indemnification of prosecutors.  
Amend KRS 15.753 to provide that the Finance and Administration Cabinet shall reimburse the Attorney General, a Commonwealth's attorney, or a county attorney for fees or judgments after being sued for an act or omission in the course of his or her duties.  
(Prefiled by the sponsor(s).)

**BR216** - Senator Alice Kerr  
(8/25/2020)

AN ACT relating to youth mental health protection and declaring an emergency.  
Create a new section of KRS Chapter 210 define sexual orientation and gender identity change efforts, mental health professional, and public funds; to prohibit mental health professionals from engaging in sexual orientation and gender identity change efforts with a person under eighteen (18) years of age or a person who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510; require violations to be subject to board discipline; prohibit public funds from being used for sexual orientation and gender identity change efforts; create a new section of KRS Chapter 211 to require the Department for Public Health to develop, produce, and disseminate educational materials regarding sexual orientation and gender identity change efforts; permit the cabinet to contract for the educational materials; add the short title "Mental Health Protection Act"; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR217** - Representative Buddy Wheatley  
(9/17/2020)

AN ACT relating to polling places.  
Amend KRS 117.087 and 118.035 to extend the ending voting hour from 6 p.m. to 7 p.m.  
(Prefiled by the sponsor(s).)

**BR220** - Representative Rachel Roberts, Representative Attica Scott  
(10/30/2020)

AN ACT relating to sexual offenses by peace officers.  
Amend KRS 510.060, rape in the third degree, to include a peace officer who subjects a person in custody or under arrest to sexual intercourse; amend KRS 510.090, sodomy in the third degree, to include a peace officer who subjects a person in custody or under arrest to deviate sexual intercourse; amend KRS 510.120, sexual abuse in the second degree, to include a peace officer who subjects a person in custody or under arrest to sexual contact.  
(Prefiled by the sponsor(s).)

**BR223** - Representative Rachel Roberts  
(10/13/2020)

AN ACT relating to elections.  
Amend KRS 117.085 to provide convenience of the voter as a basis for absentee voting; amend KRS 117.088 to conform.  
(Prefiled by the sponsor(s).)

**BR226** - Senator Mike Nemes  
(8/25/2020)

AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.  
Propose to amend Section 170 of the Constitution of Kentucky to include in the homestead exemption for owners who are sixty-five years of age or older any increase in ad valorem taxes that are assessed after the latter of the year the owner turned sixty-five, the year the owner purchased the property, or the date this provision was ratified by the voters; add the continued biennial inflation indexing of the homestead exemption amount; make various typographical changes of a nonsubstantive nature; provide ballot language; submit to voters for ratification or rejection; apply to property assessed on and after the January 1st immediately following the date of ratification.  
(Prefiled by the sponsor(s).)

**BR231** - Representative Kim Banta  
(8/27/2020)

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.  
Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four terms of office, not including partial terms of two years or less, and to prevent members of the House of Representatives from serving more than six terms of office, not including partial terms of two years or less, beginning with those elected in November 2024; provide ballot language; submit to voters for ratification or rejection.  
(Prefiled by the sponsor(s).)

**BR236** - Representative James Tipton  
(8/25/2020)

AN ACT relating to the Kentucky Educational Excellence Scholarship.  
Amend KRS 164.7874 to delete the requirement that an eligible high school student and eligible postsecondary student not be a convicted felon for KEES eligibility purposes.  
(Prefiled by the sponsor(s).)

**BR239** - Representative Kathy Hinkle  
(9/4/2020)

AN ACT relating to nonteaching time for teachers.  
Amend KRS 158.060 to require teachers to be provided a minimum of 120 minutes per week for nonteaching activities; specify types of teacher-directed activities to be completed during nonteaching time.  
(Prefiled by the sponsor(s).)

**BR240** - Representative Kathy Hinkle  
(9/4/2020)

AN ACT relating to boards of education.  
Amend KRS 160.280 to require local school board members to be offered health insurance at the same rates offered to district employees.  
(Prefiled by the sponsor(s).)

**BR241** - Representative Walker Wood Thomas  
(9/15/2020)

AN ACT relating to an exemption of income taxation for military pensions.  
Amend KRS 141.019 to exclude United States military retirees' pension income from income taxation for taxable years beginning on or after January 1, 2021, and before January 1, 2025; require reporting by the Department of Revenue; amend KRS 131.190 to conform.  
(Prefiled by the sponsor(s).)

**BR243** - Representative Walker Wood Thomas, Representative Kim Banta, Representative Tina Bojanowski, Representative McKenzie Cantrell, Representative Kelly Flood, Representative Joe Graviss, Representative Kimberly Moser, Representative Rachel Roberts, Representative Cherlynn Stevenson, Representative Nancy Tate, Representative Susan Westrom, Representative Richard White, Representative Lisa Willner  
(8/26/2020)

AN ACT relating to interpersonal violence.  
Amend KRS 403.720 to include violence against an animal when used as coercive conduct in the definition of "domestic violence and abuse"; amend KRS 403.740 to allow a judge to award possession of a shared domestic animal to the petitioner; amend KRS 456.010 to include violence against an animal when used as coercive conduct in the definition of "dating violence and abuse"; amend KRS 456.060 to allow a judge to award possession of a shared domestic animal to the petitioner.  
(Prefiled by the sponsor(s).)

**BR244** - Representative Walker Wood Thomas  
(9/15/2020)

AN ACT relating to audiology and speech-language pathology.  
Create a new section of KRS Chapter 334A.010 to enact and enter into the Audiology and Speech-Language Pathology Interstate Compact with all other jurisdictions that legally join in the compact; declare the purpose of the compact; establish definitions; recognize a multistate licensure privilege to practice for audiologists and speech-language pathologists; recognize a multistate licensure privilege for audiologists and speech-language pathologists to practice audiology and speech-language pathology via telehealth; establish provisions for active duty military personnel and their spouses; authorize a remote state to take adverse action against an audiologist or speech-language pathologist's privilege to practice within that member state; authorize a home state to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state; create the Audiology and Speech-Language Pathology Compact Commission; provide immunity for party states, officers, employees, or

representatives of the Commission who act in accordance with the compact; require the Commission to create a database and reporting system containing licensure, adverse actions, and investigative information on all licensed individuals in member states; establish procedures for rulemaking; authorize the Commission to attempt to resolve disputes related to the compact that arise among member states and between member and non-member states; require provisions of the compact to become effective the day it is enacted into law once a state enters the Compact; provide for severability for any provision in the compact that is contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance.  
(Prefiled by the sponsor(s).)

**BR245** - Representative Walker Wood Thomas, Representative Lisa Willner, Representative Kimberly Moser  
(9/15/2020)

AN ACT relating to the Psychology Interjurisdictional Compact.  
Create a new section of KRS Chapter 319 to enact and enter into the Psychology Interjurisdictional Compact with all other jurisdictions that legally join the compact; declare the purpose of the compact; define terms; allow a psychologist to hold one or more compact state licenses at a time; recognize the right of a psychologist licensed in the compact to practice telepsychology in other compact states where the psychologist is not licensed; establish conditions under which a psychologist licensed to practice in a compact state can practice telepsychology; establish the conditions under which a psychologist licensed to practice in a compact state may be granted a temporary authorization to practice; authorize a home state to take adverse action against a psychologist's license issued by the home state; allow a receiving state to take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state; authorize a compact state's ability to issue subpoenas for hearings and investigation as well as cease and desist and injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology and temporary authorization to practice; establish the Psychology Interjurisdictional Compact Commission; require the commission to provide for and maintain a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on psychologists participating in the compact; provide immunity for members, officers, executive director, employees and representatives of the commission who act in accordance with the provisions of the compact; authorize the commission to establish rulemaking procedures; authorize the executive, judicial, and legislative branches of state government to enforce the provisions of the compact; affirm that rules promulgated will have standing as statutory law; require provisions of the compact to become effective on the date the compact is enacted into law in the seventh compact state.  
(Prefiled by the sponsor(s).)

**BR258** - Representative Ashley Tackett Laferty  
(11/16/2020)

AN ACT establishing celebratory commissions for the

Kentucky State Parks centennial anniversary, the Old Fort Harrod State Park semiquincentennial anniversary, and the United States semiquincentennial anniversary. Create a new section of KRS Chapter 148 to establish the Kentucky State Park Centennial Commission, the Kentucky Semiquincentennial Commission, and the Old Fort Harrod Semiquincentennial Commission to coordinate celebrations; establish membership of the commissions; establish sunset dates for the provisions. (Prefiled by the sponsor(s).)

**BR259** - Representative Ashley Tackett Laferty  
(10/6/2020)

AN ACT relating to workers' compensation. Amend KRS 342.020 to require an employer to pay for medical benefits at the time of injury and thereafter during disability instead of 780 weeks; amend KRS 342.990 to conform. (Prefiled by the sponsor(s).)

**BR260** - Representative Ashley Tackett Laferty  
(10/6/2020)

AN ACT relating to the taxation of pension income. Amend KRS 141.019, relating to the individual income tax, to increase the pension income exclusion from \$31,110 to \$41,110. (Prefiled by the sponsor(s).)

**BR261** - Representative Ashley Tackett Laferty  
(10/6/2020)

AN ACT relating to a tax credit for volunteer firefighters. Create a new section of KRS Chapter 141 to establish a refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit; amend KRS 131.190 to allow confidential tax return information to be shared with the Legislative Research Commission. (Prefiled by the sponsor(s).)

**BR262** - Representative Ashley Tackett Laferty  
(10/6/2020)

AN ACT relating to occupational disease claims. Amend KRS 342.125 to remove the requirement that an affected employee previously diagnosed with occupational pneumoconiosis resulting from exposure to coal dust must have an additional two years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease in order to reopen a claim. (Prefiled by the sponsor(s).)

**BR274** - Representative Jason Nemes, Representative Russell Webber  
(11/18/2020)

AN ACT relating to free-standing alternative birthing centers. Create a new section of KRS Chapter 216B to define "free-standing alternative birthing center"; require the Cabinet for Health and Family Services to promulgate administrative regulations to establish licensure standards

for free-standing alternative birthing centers including requiring accreditation by the Commission for the Accreditation of Birth Centers, compliance with the American Association of Birth Centers (AABC) Standards for Birth Centers, and a six-month provisional license to be issued when all requirements for licensure other than accreditation have been met to allow a facility time to become accredited; require the cabinet to form an ad hoc committee to provide input on the development of administrative regulations; state that a certificate of need is not required to establish and license a free-standing alternative birthing center; amend KRS 216B.020 to conform; add the short title Mary Carol Akers Birth Centers Act. (Prefiled by the sponsor(s).)

**BR280** - Representative James Tipton  
(11/4/2020)

AN ACT proposing an amendment to the Constitution of Kentucky relating to the recall of elected officials. Propose to create a new section of the Constitution of Kentucky to provide for the recall of all elected officials, except judges, by the voters; provide ballot language; submit to voters for ratification or rejection. (Prefiled by the sponsor(s).)

**BR283** - Representative Jeffery Donohue  
(8/27/2020)

AN ACT relating to bus operation safety. Create a new section of KRS Chapter 158 to require the Department of Education to develop, in cooperation with the Transportation Cabinet, a risk reduction program for school bus operators; outline requirements of the program; outline school district implementation requirements; require reporting of assaults; specify that the provisions also apply to public charter schools; require the Department of Education to promulgate administrative regulations; create a new section of KRS Chapter 281 to require the Transportation Cabinet to develop a risk reduction program for commercial bus operators; outline requirements; outline implementation requirements; require reporting of assaults; amend KRS 281.990 to establish an initial penalty of \$5,000 for failure to implement the program required; if program is not implemented 14 days after the initial penalty is assessed, an additional fee of \$250 per day shall be assessed until implementation. (Prefiled by the sponsor(s).)

**BR284** - Representative Chris Freeland, Representative Tina Bojanowski, Representative Kelly Flood, Representative Joe Graviss, Representative Rachel Roberts, Representative Dean Schamore, Representative Susan Westrom, Representative Richard White, Representative Lisa Willner  
(9/25/2020)

AN ACT relating to torture of a dog or cat. Amend KRS 525.135, relating to torture of a dog or cat, to add specific acts to definition of torture; make all violations a Class D felony; make each act of torture prosecutable as a separate offense; make the exemptions applicable only where there is no intent to cause, increase, or prolong the pain and suffering of the dog or cat. (Prefiled by the sponsor(s).)

**BR301** - Representative Savannah Maddox, Representative Mark Hart, Representative Joseph Fischer, Representative Thomas Huff, Representative Richard White  
(9/9/2020)

AN ACT relating to ensuring basic liberties regarding immunizations and declaring an emergency. Amend KRS 214.036 to prohibit required immunization of any person by any state agency or instrumentality; create the short title "Ensuring Bodily Autonomy and Informed Consent Act"; EMERGENCY. (Prefiled by the sponsor(s).)

**BR303** - Senator Danny Carroll  
(9/18/2020)

AN ACT relating to the safety of canines and felines. Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed. (Prefiled by the sponsor(s).)

**BR305** - Senator Danny Carroll  
(9/18/2020)

AN ACT relating to assisted-living communities. Create a new section of KRS 194A.700 to 194A.729 to prohibit certification or certification renewal of an assisted-living community if it is owned, managed, or operated by any person convicted of certain crimes or listed on an abuse list; exempt owner of an assisted-living facility certified as of July 1, 2020; amend KRS 194A.700 to amend definitions; amend KRS 194A.707 to make changes to the appeals and renewal processes; amend KRS 194A.717 to prohibit on-site staff person from being shared with another level of care; amend KRS 194A.723 to permit the cabinet to initiate injunctive relief in Circuit Court. (Prefiled by the sponsor(s).)

**BR312** - Representative Jeffery Donohue  
(9/15/2020)

AN ACT relating to a living wage. Create a new section of KRS Chapter 337 to require any employer doing business in Kentucky that receives governmental incentives or subsidies to pay its employees a living wage. (Prefiled by the sponsor(s).)

**BR314** - Representative Joni Jenkins, Representative Lisa Willner  
(9/4/2020)

AN ACT relating to wages. Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from \$95,000 to \$500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state inimum wage to \$8.20 per hour on July 1, 2021, \$9.15 per hour on July 1, 2022, \$10.10 per hour on July 1, 2023, \$11 per hour on July 1, 2024, \$12.05 per hour on July 1, 2025, \$13.10 per hour on July 1, 2026, \$13.95 per hour on July 1, 2027, and \$15 per hour on July 1, 2028; raise the state minimum wage for tipped employees to \$2.13 per hour on the effective date of the Act, \$3.05 per hour on July 1, 2022, \$3.95 per hour on July 1, 2023, and \$4.90 per

hour on July 1, 2024; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage. (Prefiled by the sponsor(s).)

**BR315** - Representative Al Gentry, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner (9/22/2020)

AN ACT relating to prevailing wage.  
Establish new sections of KRS Chapter 337 to create a prevailing wage law for all public works projects; amend KRS 12.020, 99.480, 227.487, 336.015, 337.010, and 337.990 to conform.  
(Prefiled by the sponsor(s).)

**BR316** - Representative Rachel Roberts, Representative Joni Jenkins, Representative Lisa Willner (9/4/2020)

AN ACT relating to wages for employment.  
Create a new section of KRS Chapter 337 to make it a discriminatory employment action if an employer asks questions about previous salary or wages, relies on previous salary when setting a new salary, or refuses to hire if an applicant does not provide previous salary, except to allow a request for information voluntarily provided in response to an offer of employment; allow previous salary to be considered when required by law, when discovered while looking at other nonsalary information, and for public employee positions; require notice to be posted for employees; amend KRS 337.990 to assess a civil penalty for a violation.  
(Prefiled by the sponsor(s).)

**BR317** - Representative Cherlynn Stevenson, Representative Joni Jenkins, Representative Lisa Willner (9/4/2020)

AN ACT relating to earned paid sick leave.  
Create a new section of KRS Chapter 337 to require employers to provide earned paid sick leave to employees; provide that employees earn paid sick leave upon the date of hire and can use the leave after being employed for 90 days; set forth allowable uses of earned paid sick time; designate how notice of need to use sick time is provided by employees; amend KRS 337.990 to establish penalty for employers that fail to follow paid sick leave requirements.  
(Prefiled by the sponsor(s).)

**BR318** - Representative Josie Raymond, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner (9/4/2020)

AN ACT relating to employment provisions for employees on parental leave.  
Create a new section of KRS Chapter 337 to require employers with 50 or more employees to provide 12 weeks of paid parental leave for an employee who has been employed for at least one year; allow an employee to waive the paid parental leave; provide for the promulgation of administrative regulations.  
(Prefiled by the sponsor(s).)

**BR319** - Representative Jim Glenn, Representative Joni Jenkins, Representative Lisa Willner (9/16/2020)

AN ACT relating to workers' compensation.  
Amend KRS 342.020 to require an employer to pay for medical benefits at the time of injury and thereafter during disability instead of 780 weeks; amend KRS 342.990 to conform.  
(Prefiled by the sponsor(s).)

**BR322** - Representative Jeffery Donohue, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner (9/15/2020)

AN ACT relating to employment.  
Amend KRS 336.130 to delete references restricting rights of public employees to organize, associate collectively, or strike; amend KRS 336.180 definition of "labor organization" and delete definitions of "employer" and "employee"; amend KRS 336.990 to conform; amend KRS 67A.6904 to allow urban county governments to make an agreement with a labor organization to require as a condition of employment membership therein; amend KRS 67C.406 to allow consolidated local governments to make an agreement with a labor organization to require as a condition of employment membership therein; amend KRS 70.262, KRS 78.470 and KRS 78.480 to remove exceptions; amend KRS 345.050 to allow public employers to make an agreement with a labor organization to require as a condition of employment membership therein; repeal KRS 65.016, KRS 336.132 and KRS 336.134.  
(Prefiled by the sponsor(s).)

**BR324** - Representative Ashley Tackett Laferty (10/6/2020)

AN ACT relating to wage theft.  
Create a new section of Chapter 514 to create the offense of theft of wages and establish penalties; define employer and employee; amend KRS 336.080 to indicate the secretary may enter places of employment without unreasonable delay to inspect a place of employment; amend KRS 337.020 to allow the commissioner to charge and collect past due wages; amend KRS 337.070 to require certain employers to include rate of pay, the number of hours worked, and the total amount of gross pay earned on wage statements provided to employees; amend KRS 337.320 to require employers to keep certain records for three years; create a new section of Chapter 337 to require employers to provide to an employee a written notice at the time of hire that sets forth employment terms; amend KRS 337.990 to include a civil penalty for failure to provide the written notice to employee and maintain a copy of the signed notice.  
(Prefiled by the sponsor(s).)

**BR327** - Representative Danny Bentley (9/16/2020)

A RESOLUTION proclaiming April 26, 2021, to be Diabetic Ketoacidosis Awareness Day in Kentucky. Proclaim April 26, 2021, to be Diabetic Ketoacidosis Awareness Day in Kentucky.  
(Prefiled by the sponsor(s).)

**BR328** - Representative Danny Bentley (9/16/2020)

AN ACT relating to reimbursement for pharmacist services.  
Create a new section of Subtitle 12 of KRS Chapter 304 to establish certain insurance practices relating to the reimbursement of pharmacists; amend KRS 304.14-135 to establish a clean claim form for the reimbursement of certain pharmacist services or procedures; amend KRS 304.17A-844 and 304.17B-011 to conform; amend KRS 18A.225 to require the state employee health plan to comply with pharmacist reimbursement requirements; amend KRS 342.020 to require workers' compensation employers, insurers, and payment obligors to comply with pharmacist reimbursement requirements.  
(Prefiled by the sponsor(s).)

**BR329** - Representative Danny Bentley (9/16/2020)

AN ACT relating to the taxation of incontinence products.  
Amend KRS 139.472 to exempt prescription incontinence products from sales tax and use tax when sold to a person with a medical diagnosis of incontinence and a prescription for the product; amend KRS 139.190 to allow the Department of Revenue to report the exemption to the Legislative Research Commission by October 1 each year; EFFECTIVE August 1, 2021.  
(Prefiled by the sponsor(s).)

**BR333** - Representative Dean Schamore (10/16/2020)

AN ACT relating to the Kentucky National Guard Adoption Assistance Program and declaring an emergency.  
Amend KRS 36.477 to raise the amount of available assistance from the Kentucky National Guard Adoption Assistance Program; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR334** - Representative Dean Schamore, Representative Joni Jenkins, Representative Rachel Roberts (9/16/2020)

AN ACT relating to prevailing wage in the Commonwealth.  
Create new sections of KRS Chapter 337 to create a prevailing wage law for all public works projects; amend KRS 12.020, 99.480, 227.487, 336.015, 337.010, and 337.990 to conform.  
(Prefiled by the sponsor(s).)

**BR336** - Representative Maria Sorolis, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner (9/16/2020)

AN ACT relating to leave from employment.  
Amend KRS 337.415, relating to court-ordered appearances by employees, to prohibit employers from discharging or retaliating against an employee who is a crime victim when the employee takes leave to attend proceedings associated with a crime; require an employee to give an employer reasonable notice to take leave when practicable; provide guidelines for use of paid leave; require the employer to maintain confidentiality of

records and communication with employee crime victim; create a private right of action for improper discharge, discrimination, retaliation, and failing to maintain confidentiality; define terms; amend KRS 337.990 to establish penalties in the case of violation by employer. (Prefiled by the sponsor(s).)

**BR342** - Representative Rob Wiederstein  
(11/13/2020)

AN ACT relating to the right to repair heavy equipment. Create a new section of KRS Chapter 367 to require heavy equipment dealers in the Commonwealth to make available for purchase heavy equipment parts, repair tools, manuals, schematics, updates to embedded software, and electronic diagnostic repair equipment; require the Attorney General to administer and enforce these provisions; establish penalties for noncompliance. (Prefiled by the sponsor(s).)

**BR344** - Representative Jason Nemes  
(9/18/2020)

AN ACT relating to paid parental leave. Create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and to establish requirements for the paid leave of absence; amend KRS 18A.025 and 18A.110 to conform. (Prefiled by the sponsor(s).)

**BR345** - Representative Rob Wiederstein  
(11/13/2020)

AN ACT relating to antitrust regulation in Kentucky. Amend KRS 367.175 to expand the unlawful activities to include persons in dominant positions and abusing that position; to include a criminal fine for persons and corporations in violation of this section; to subject insurance entities in the state to this section with exception; and to create a civil cause of action, including class actions, for persons violated by conduct defined in this section. (Prefiled by the sponsor(s).)

**BR346** - Representative Dean Schamore  
(9/16/2020)

AN ACT relating to public procurement. Create new sections of KRS Chapter 45A to set forth findings of the General Assembly and establish a policy of the Commonwealth of Kentucky to promote the Kentucky and United States economies by requiring a preference for iron, steel, aluminum, and manufactured goods produced in Kentucky and the United States; define “manufactured in Kentucky,” “manufactured in the United States,” and “United States”; require preference for iron, steel, aluminum, and manufactured goods made in Kentucky in construction and maintenance contracts and subcontracts; provide for a waiver of the Kentucky preference requirement; require preference for iron, steel, aluminum, and manufactured goods made in the United States if the Kentucky waiver is granted; provide for a waiver of the United States preference requirement; establish a short title of “Kentucky Buy American Act”; amend KRS 45A.343, 45A.352, 65.027, 162.070, 164A.575, 176.080, and

424.260 to require compliance. (Prefiled by the sponsor(s).)

**BR349** - Representative Rob Wiederstein  
(10/7/2020)

AN ACT relating to adopting the most cost-effective alternative in administrative regulations having a major economic impact on the Kentucky economy. Create new sections of KRS Chapter 13A to establish requirements and procedures for an administrative regulation that constitutes a major economic action; create the Regulatory Economic Analysis Advisory Group to consult on these regulations; set the group’s membership, powers, and duties; require a promulgating agency to provide listed documents to the group and the public at least 60 days before filing the regulation; direct an agency to conduct and publish a detailed analysis of any major economic action regulation, including a cost-benefit analysis; establish filing requirements for these regulations; require an agency to publicly provide a framework for assessing the regulation; designate a short title of the “Kentucky Regulatory Cost Minimization Act of 2021”; amend KRS 13A.010 to define a major economic action; amend KRS 13A.030 to add a defective major economic action to the list of reasons a subcommittee may find a regulation deficient; amend KRS 13A.3104 to establish certification letter procedures for a major economic action regulation; stagger the initial terms of the appointed members of the advisory group. (Prefiled by the sponsor(s).)

**BR350** - Representative Rob Wiederstein  
(10/7/2020)

AN ACT relating to eliminating the certificate of need in order to control healthcare costs through competition and declaring an emergency. Amend KRS 13B.020 to delete reference to certificate of need hearings; amend KRS 194A.010 to delete reference to the certificate of need and the state health plan; amend KRS 194A.030 to delete reference to the certificate of need; amend KRS 211.192 to conform; amend KRS 205.634 to delete requirement for certificate of need; amend KRS 216.361 to delete requirement for certificate of need; amend KRS 216.380 to delete requirement for certificate of need and reference to the state health plan; amend KRS 216.560 to conform; amend KRS 216.885 to delete requirement for certificate of need; amend KRS 216B.015 to delete and correct definitions relating to certificate of need; amend KRS 216B.020 to delete exemptions to the certificate of need; amend KRS 216B.042 to delete reference to the certificate of need; amend KRS 216B.0445 to delete the requirement for a certificate of need; amend KRS 216B.065 to delete the requirement for a certificate of need; amend KRS 216B.066 to delete the requirement for a certificate of need; amend KRS 216B.115 to delete reference to the certificate of need; amend KRS 216B.131 to delete reference to the certificate of need; amend KRS 216B.185 to conform; amend KRS 216B.250 to change Human Resources to Health and Family Services; amend KRS 216B.300 to conform; amend KRS 216B.332 to delete exemption from certificate of need; amend KRS 216B.455 to delete the requirement for a certificate of need; amend KRS 216B.457 to delete the requirement for a certificate of need; amend KRS 216B.990 to delete penalty for not

obtaining a certificate of need; amend KRS 218A.175 to conform; amend KRS 304.17-312, 304.17-313, 304.17-317, 304.18-035, 304.18-037, 304.32-156, 304.32-280, 304.38-210, and 311.760 to replace the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board with the Cabinet for Health and Family Services; amend KRS 304.17A-147 to conform; amend KRS 304.17A-1473 to conform; amend KRS 304.38-020 to delete reference to the certificate of need; amend KRS 304.38-040 to delete required evidence of a certificate of need; amend KRS 304.38-090 and KRS 304.38-130 to replace the Kentucky Certificate of Need and Licensure Board with the Cabinet for Health and Family Services; amend KRS 311.377 to delete references to the certificate of need; amend KRS 314.027 to delete reference to the certificate of need; amend KRS 347.040 to delete reference to the state health plan; repeal KRS 211.9523, 216B.010, 216B.035, 216B.040, 216B.061, 216B.0615, 216B.062, 216B.085, 216B.086, 216B.090, 216B.095, 216B.125, 216B.130, and 216B.180; establish short title; EMERGENCY. (Prefiled by the sponsor(s).)

**BR353** - Representative Buddy Wheatley  
(9/24/2020)

AN ACT relating to collective bargaining for public employees. Create a new section of KRS Chapter 336, relating to collective bargaining for public employees; amend KRS 336.010 to define “public employees”; amend KRS 336.130 to allow employees of the Commonwealth of Kentucky to collectively bargain. (Prefiled by the sponsor(s).)

**BR354** - Representative Rob Wiederstein  
(10/19/2020)

AN ACT relating to health care to provide for an all-payer claims database and making an appropriation therefor. Create a new section of KRS Chapter 194A to require the executive director of the Office of Health Data and Analytics to establish an advisory committee to make recommendations regarding the creation of a Kentucky all-payer claims database; establish the Kentucky all-payer claims database fund; require the executive director to establish the database if certain conditions are met; set forth requirements for the database; amend KRS 304.2-100 to require the commissioner of the Department of Insurance to assist; create a new section of Subtitle 99 of KRS Chapter 304 to require the commissioner to promulgate administrative regulations designating the assessment of a fine for persons that do not comply with reporting requirements; establish short title; APPROPRIATION. (Prefiled by the sponsor(s).)

**BR357** - Representative Josie Raymond  
(10/6/2020)

AN ACT related to preschool education programs. Amend KRS 157.320 to define “at-risk”; amend KRS 157.3175 to expand eligibility for preschool education programs to children who reside in households with an income at or below 200% of the federal poverty level. (Prefiled by the sponsor(s).)

**BR359** - Representative Josie Raymond  
(10/28/2020)

AN ACT relating to campaign finance.  
Amend KRS 121.175 to define and include “personal use services,” including childcare and elder care, as an allowable campaign expenditure.  
(Prefiled by the sponsor(s).)

**BR362** - Representative Maria Sorolis  
(9/18/2020)

AN ACT relating to election districts and making an appropriation therefor.  
Create new sections of KRS Chapter 5 to establish the Advisory Redistricting Commission, which shall be composed of members appointed by the General Assembly and members of the public at large; define terms; establish commissioner pay, conditions, powers, and duties; provide that commissioners’ terms correlate with obligations of each census cycle; establish the conditions, powers, and duties of the commission; require the commission to draft redistricting plans for legislative and congressional districts, with parameters prescribed; establish standards to be followed by the commission for commissioners who develop plans; require the commission to submit its redistricting plans to the Legislative Research Commission; require the General Assembly to consider the commission’s plans; allow the General Assembly to enact or reject the plans of the commission by a date certain or to return to the commission for adjustment; provide that if the General Assembly does not enact the plans, the plans shall be returned to the commission, which may incorporate changes requested by the General Assembly, but shall not be required to incorporate changes; require the commission to submit to the General Assembly new redistricting plans for enactment at a date certain; allow General Assembly to enact its own redistricting plans after a date certain; provide for penalties and fine upon conviction of persons attempting to influence, or commissioners accepting influence, per the duties of the commission; include severability clause and delay clause; amend KRS 5.005 to remove the Secretary of State being named as a defendant in any action challenging the constitutionality of any legislative district and replace with the Advisory Redistricting Commission being named the defendant; provide that the Act may be cited as the “Fair Maps Act.”  
(Prefiled by the sponsor(s).)

**BR366** - Representative Jerry Miller  
(10/21/2020)

AN ACT relating to local school boards.  
Amend KRS 160.210 to require county school board election divisions be compact and contiguous and respect existing neighborhood, community, and city boundaries if possible; require division lines be redrawn upon merger, annexation, or compliance with KRS 117.055; require a county school board to initiate reapportionment proceedings within 90 days of the General Assembly’s redistricting plan becoming law; establish deadline to change election divisions to June 1 of an election year; delete antiquated language; amend KRS 116.200 to conform.  
(Prefiled by the sponsor(s).)

**BR371** - Representative Buddy Wheatley, Representative Rachel Roberts  
(10/13/2020)

AN ACT relating to elections.  
Amend 118.025 to remove straight-party voting as a ballot option in a regular election; amend KRS 117.125, 117.381, 117.155, and 117.205 to conform.  
(Prefiled by the sponsor(s).)

**BR376** - Representative Melinda Prunty  
(11/19/2020)

AN ACT relating to the performance of an abortion upon a minor and declaring an emergency.  
Amend KRS 311.732, relating to performance of an abortion upon a minor, to require the informed written consent of a parent or legal guardian to include a copy of that parent’s or legal guardian’s government-issued identification and to include specific language; require the physician to keep a copy of the informed written consent for at least 7 years; require the physician to execute an affidavit; require additional criteria and standards for when a court determines whether to allow a minor to self-consent to an abortion; require the court hearing to remain confidential and be held in a private, informal setting within the courthouse; require, in the case of a medical emergency, for the physician to notify the parent or legal guardian within 24 hours of the abortion; amend KRS 311.595 to allow the Kentucky Board of Medical Licensure to suspend or revoke the license of any physician for violations; amend KRS 311.990 to establish criminal penalties for violations; amend KRS 213.101 to expand the statistical reporting system for abortions; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR377** - Representative Rob Wiederstein  
(11/13/2020)

AN ACT relating to the publication of minutes of special purpose governmental entities.  
Create a new section of KRS Chapter 65A to require special purpose governmental entities to submit their minutes to the Department for Local Government for publication on the portal; amend KRS 65A.040 to conform.  
(Prefiled by the sponsor(s).)

**BR379** - Senator John Schickel  
(10/5/2020)

Honor Randy Poe upon being appointed to the Kentucky Board of Education.  
(Prefiled by the sponsor(s).)

**BR389** - Representative Kimberly Moser  
(9/25/2020)

A CONCURRENT RESOLUTION establishing the Severe Mental Illness Task Force.  
Create the Severe Mental Illness Task Force to study the provision of mental health services to adults with a severe mental illness; outline task force membership; require the task force to meet monthly during the 2021 Interim and to submit findings and recommendations to the Legislative Research Commission by December 1, 2021.  
(Prefiled by the sponsor(s).)

**BR394** - Representative Matthew Koch  
(10/28/2020)

AN ACT relating to massage therapy.  
Amend KRS 309.350 to establish the definition for “massage establishment”; amend KRS 309.351 to allow licensed massage therapists to use pulsed electromagnetic field therapy or microcurrent devices for which they are trained; prohibit the application of ultrasounds and the prescribing of medication; amend KRS 309.354 to allow at least one board member to be a designated representative of a school owner or designated representative of a school director; amend KRS 309.355 to allow the board to fine any massage establishment that employs or contracts with unlicensed practitioners who perform massages; allow the board to fine any massage establishment that fails to report to the board any license massage therapist who violates KRS Chapter 309.350 to 309.364 or administrative regulations promulgated by the board while employed by the massage establishment; give the board the authority to hire staff for the work of the board; amend KRS 309.357 to remove the list of existing fees from statute and charge the board with promulgating administrative regulations that establish a reasonable schedule of fees for the issuance and restoration of licenses and certificates and for the renewal of licenses; establish the conditions under which a license may be reinstated or renewed; require the completion of one hour of continuing education for every six months a license has been in an inactive state; KRS 309.358 to add background checks conducted by the Kentucky State Police and the Federal Bureau of Investigation as a requirement for licensure; allow licensure to be obtained through an associate’s degree if the program meets the requirements of a training program approved by the board; amend KRS 309.361 to require licensees to complete 12 hours of continuing education instead of 24 as a condition of licensure renewal; require 3 of the 12 hours of continuing education to be completed in ethics; amend KRS 309.362 to increase the cap on fines from \$500 to \$1,000 per violation for repeat offenders; amend KRS 309.363 to require the board to accept the Federation of State Massage Therapy Boards’ guidelines in approving continuing education; amend KRS 309.3631 to require applications for the initial certificate of good standing and annual renewals to be submitted with a fee prescribed by the board.  
(Prefiled by the sponsor(s).)

**BR399** - Representative Myron Dossett, Representative Derek Lewis  
(11/9/2020)

AN ACT relating to exemptions for disaster response businesses and employees.  
Amend sections of KRS Chapter 141 to define new terms and provide exemptions for disaster response employees and disaster response entities from income tax beginning on or after January 1, 2021, and before January 1, 2025; amend KRS 68.180, 68.197, 91.200, and 92.300 to exclude the income of a disaster response employee and a disaster response business from local tax; amend KRS 227.480 to exclude a disaster response business from certain permit requirements; amend KRS 227A.030 to exclude disaster response employees and disaster response businesses licensed in another state from certain licensing requirements; create a new section of KRS 67.750 to 67.790 to prevent the new provisions from being construed

as establishing a nexus or minimum contact for taxing purposes, except as related to disaster response business and employees for work performed during disaster response periods.  
(Prefiled by the sponsor(s).)

**BR415** - Representative Jeffery Donohue  
(9/30/2020)

AN ACT relating to railroads.  
Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.  
(Prefiled by the sponsor(s).)

**BR418** - Senator Richard Girdler  
(10/12/2020)

AN ACT relating to immunization and declaring an emergency.  
Amend KRS 214.036 to prohibit required immunization of any person by any state agency or instrumentality; create a new section of KRS Chapter 338 to prohibit required immunization of any employee by an employer as defined in KRS 338.015; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR425** - Representative Jerry Miller  
(11/12/2020)

AN ACT relating to the taxation of tobacco products.  
Amend KRS 138.140 to apply the vapor products tax to an open vaping system when the actual price includes both the components and the liquid solution; apply the tax to the liquid solution when it is sold separately; EFFECTIVE July 1, 2021.  
(Prefiled by the sponsor(s).)

**BR428** - Representative George Brown Jr  
(11/4/2020)

AN ACT relating to firearms and declaring an emergency.  
Create new sections of KRS Chapter 237 to specify definitions for “assault weapons,” “large-capacity ammunition-feeding devices,” and “ammunition sellers”; require background checks for private firearms sales; require reporting to law enforcement of firearm and ammunition thefts and losses; require the safe storage of firearms; amend KRS 395.250 to require an estate’s inventory to list each firearm; amend KRS 403.735 to require judges, when issuing an order of protection, to consider whether a person against whom the order is entered should be prohibited from possessing an firearm; amend KRS 504.030 to require judges in criminal cases where a person is found not guilty by reason of insanity to demand the surrender of the defendant’s firearms; amend KRS 237.104 to conform; amend KRS 506.080 to specify that the offense of facilitation includes assistance in providing firearms; amend KRS 508.020 to include physical injury to a minor by virtue of the intentional discharge of a firearm within the offense of assault in the second degree; create a new section of KRS Chapter 527 to create the offense of criminal purchase or disposal of a weapon; amend KRS 527.040 to require that the sentence for a felon in possession of a firearm be served subsequent to any other felony sentence; amend KRS 527.070 to

include postsecondary education facilities within the existing ban on firearms in schools; amend KRS 532.030 to require the judge pronouncing a defendant guilty but mentally ill to demand the surrender of the person’s firearms; create a new section of KRS Chapter 237 to require the State Police to promulgate administrative regulations relating to the licensing of persons to possess handguns and assault weapons, the registration of handguns and assault weapons, and the logging of firearms and ammunition sales effective January 1, 2022; amend KRS 532.025 to conform; amend KRS 237.115 to conform; repeal KRS 65.870; EMERGENCY; some provisions EFFECTIVE January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR431** - Representative George Brown Jr  
(10/30/2020)

AN ACT relating to gun safety for children.  
Create a new section of KRS Chapter 527 to make it a crime to unlawfully store a firearm; establish elements of the crime for recklessly allowing access to an unsecured firearm by a minor; establish the crime as a Class B misdemeanor unless a physical injury or death results, in which case it is a Class A misdemeanor; establish the short title of “Baby Dre Gun Safety Act.”  
(Prefiled by the sponsor(s).)

**BR436** - Representative Jerry Miller  
(10/21/2020)

AN ACT relating to living organ donation.  
Create a new section of Subtitle 12 of KRS Chapter 304 to define “insurance coverage” and “living donor”; prohibit certain insurance coverage determinations based upon the status of an individual as a living organ donor; amend KRS 2.240 to encourage the Cabinet for Health and Family Services to develop and circulate educational materials relating to living organ donation; provide that the Act applies to insurance policies issued, renewed, or declined on or after the effective date of the Act; provide that the Act may be cited as the “Living Organ Donor Protection Act of 2021.”  
(Prefiled by the sponsor(s).)

**BR441** - Senator Julie Adams  
(10/30/2020)

AN ACT relating to surgical smoke evacuation.  
Create a new section of KRS Chapter 216B to define terms and direct the Cabinet for Health and Family Services to promulgate administrative regulations requiring the use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke; amend KRS 216B.990 to establish penalties.  
(Prefiled by the sponsor(s).)

**BR448** - Representative Nima Kulkarni  
(10/28/2020)

AN ACT relating to unemployment insurance.  
Amend KRS 341.370 to prohibit disqualification from benefits for workers unemployed as a result of domestic violence and abuse, dating violence and abuse, sexual assault, or stalking; amend KRS 341.530 to charge benefits to pooled account for workers displaced from employment through domestic or dating violence and abuse, sexual

assault, or stalking; amend KRS 341.125 to require the secretary to provide training to personnel who process claims related to domestic or dating violence and abuse, sexual assault, or stalking and to report to the Legislative Research Commission annually the number of claims paid involving domestic or dating violence and abuse, sexual assault, or stalking; amend KRS 341.360 to conform.  
(Prefiled by the sponsor(s).)

**BR460** - Senator Dennis Parrett  
(11/19/2020)

AN ACT relating to reciprocity among the state-administered retirement systems.  
Amend KRS 61.680 to provide that retirees of the Teachers’ Retirement System (TRS) who suspend their retirement benefits in order to return to covered employment and build upon their existing TRS account as provided by current law, may utilize omitted service (service that should have been reported for prior full-time work) in the Kentucky Retirement Systems (KRS) that was purchased during the period of reemployment for purposes of determining eligibility and the amount of benefits upon subsequent retirement from both KRS and TRS; make the provision retroactive to retirements on or after December 31, 2009.  
(Prefiled by the sponsor(s).)

**BR467** - Representative Nancy Tate  
(10/14/2020)

AN ACT relating to life insurance for members of the Kentucky National Guard.  
Create a new section of KRS Chapter 38 to set forth the adjutant general’s duties regarding the state-sponsored group life insurance program for the Kentucky National Guard.  
(Prefiled by the sponsor(s).)

**BR475** - Representative Danny Bentley  
(11/19/2020)

AN ACT relating to controlled substances.  
Create a new section of KRS Chapter 218A to require a practitioner who prescribes an opioid medication to a patient to concurrently prescribe an opioid antagonist and provide education on overdose prevention and the use of the opioid antagonist under certain circumstances.  
(Prefiled by the sponsor(s).)

**BR483** - Representative Tom Burch  
(11/24/2020)

AN ACT relating to Medicare supplement insurance.  
Amend KRS 304.14-520 to prohibit an insurer from denying, or conditioning the effectiveness of, a Medicare supplement policy, or discriminating in price, based on the age, gender, health status, claims experience, receipt of health care, or medical condition of an applicant or a person covered under the policy; prohibit the policy from containing a waiting period or pre-existing condition limitation or exclusion; require applications to be accepted, and policies issued, at all times throughout the year.  
(Prefiled by the sponsor(s).)

**BR498** - Senator Reginald Thomas  
(11/24/2020)

AN ACT relating to wages.  
Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from \$95,000 to \$500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to gradually raise the state minimum wage to \$15 per hour by July 1, 2026, and to gradually raise the state minimum wage for tipped employees to \$7.25 per hour by July 1, 2026; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.  
(Prefiled by the sponsor(s).)

**BR826** - Representative Sal Santoro  
(11/23/2020)

Urge the General Assembly to adopt legislation to adequately fund the Commonwealth’s transportation system.  
(Prefiled by the sponsor(s).)

**BR831** - Representative Danny Bentley  
(11/19/2020)

AN ACT relating to prescription insulin.  
Amend KRS 304-17A.148 to cap the cost-sharing requirements for prescription insulin at \$30 per 30 day supply; amend KRS 18A.225 to require the Kentucky Employee Health Plan to comply; EFFECTIVE January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR835** - Representative Joseph Fischer, Representative Derek Lewis  
(11/18/2020)

AN ACT proposing an amendment to the Constitution of Kentucky relating to abortion.  
Propose to create a new section of the Constitution of Kentucky to state that Kentucky’s Constitution does not secure or protect a right to abortion or funding of abortion.  
(Prefiled by the sponsor(s).)

**BR840** - Representative Cherlynn Stevenson  
(11/17/2020)

Direct all hospitals offering emergency services, the Kentucky Board of Nursing, the Kentucky Association of Sexual Assault Programs, and the Kentucky Office of Victim Advocacy to report information relating to sexual assault nurse examinations and sexual assault medical-forensic examinations to the Interim Joint Committee on Health, Welfare, and Family Services by July 1, 2022; permit the co-chairs of the Interim Joint Committee on Health, Welfare, and Family Services to send the data to be analyzed and reported on by December 1, 2022.  
(Prefiled by the sponsor(s).)

**BR860** - Representative Patti Minter  
(11/19/2020)

AN ACT relating to civil rights.  
Amend 344.450 to allow parties to recover punitive

damages.  
(Prefiled by the sponsor(s).)

# BRs by Sponsor

\* - denotes primary sponsorship of BRs

## Senate

Adams, Julie Raque  
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Carroll, Danny  
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Castlen, Matt  
BR41\*  
Girdler, Rick  
BR215\*, 418\*  
Kerr, Alice Forgy  
BR216\*  
McDaniel, Christian  
BR96\*, 98\*  
Mills, Robby  
BR162\*  
Neal, Gerald A.  
BR97\*  
Nemes, Michael J.  
BR226\*  
Parrett, Dennis  
BR460\*  
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Thomas, Reginald  
BR498\*  
Wheeler, Phillip  
BR120\*, 160\*

Banta, Kim  
BR61, 86\*, 99\*, 117\*, 176, 231\*, 243  
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BR66\*  
Bentley, Danny  
BR56\*, 102\*, 327\*, 328\*, 329\*, 475\*, 831\*  
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BR176\*, 243, 284  
Booker, Charles  
BR22  
Branham Clark, Terri  
BR152\*  
Bratcher, Kevin D.  
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Bridges, Randy  
BR171\*  
Brown Jr, George  
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BR48\*

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Flood, Kelly  
BR22, 243, 284  
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BR61\*  
Freeland, Chris  
BR284\*  
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# Parental leave for state workers studied

by Jim Hannah

FRANKFORT – A legislative panel took testimony on Oct. 27 on measures that would grant state employees paid parental leave and annual cost of living raises.

Bill Request 344 would allow state employees a paid leave of absence of 12 weeks for the birth or adoption of a child. Employees would have to work for the state for at least 52 weeks to be eligible for the proposed benefit.

“This is not unique to Kentucky,” Rep. Jason Nemes, R-Louisville, said while presenting the prefiled bill to the Interim Joint Committee on State Government. “This is Kentucky getting on board with what Republicans and Democrats are doing across the country and in Washington.”

Rep. John Blanton, R-Salyersville, asked whether the 12 weeks would have to be taken consecutively. Nemes said the paid time off would not have to be taken consecutive but would have to be used within the first 24 weeks.

Sen. Michael J. Nemes, R-Shepherdsville, who is Rep. Nemes’ father, asked why fathers would also be eligible for the paid leave under the proposal.

The younger Nemes responded that science has shown maternal and paternal leave benefits infants the most. Rep. Josie Raymond, D-Louisville, who also testified in support of BR 344, added that mothers who have complications during childbirth often need someone to care for them. Fathers, she said, are often uniquely positioned to provide that care.

“Paid leave gives families peace of mind to focus on the baby in this really important, but short period, of their lives,” Raymond said after recalling returning to session in January, two weeks after she gave birth. “Without paid parental leave, we see mothers, in particular, going back to work before they have recovered.”

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Rep. Josie Raymond, D-Louisville, (left) and Rep. Jason Nemes, R-Louisville, testify in support of Bill Request 344, legislation that would allow state employees a paid leave of absence of 12 weeks for the birth or adoption of a child during a meeting of the Interim Joint Committee on State Government.

# Lawmakers receive update on KY billboard regs

by Jim Hannah

FRANKFORT – Legislators recently summoned Kentucky transportation officials to the Capitol campus after a federal judge ruled the state's billboard regulations were unconstitutional.

The results were unlicensed billboards springing up along Kentucky's roadways. There's even a possibility the state could lose tens of millions of dollars annually in federal highway money for not effectively regulating outdoor advertising.

Although the ruling is being appealed, the fallout may require legislative action, said Mark McCoy, administrator of Kentucky's outdoor advertising program for the Transportation Cabinet. He made the comments during the Nov. 12 meeting of the Interim Joint Committee on Transportation.

Committee Co-chair Sen. Jimmy Higdon, R-Lebanon, asked if the state requested the court to stay the judge's ruling while the appeal went forward. McCoy and Will Fogle, the cabinet's director of legal services, both declined to answer. They cited the pending appeal.

McCoy said the department would propose legislation to deal with billboard regulations during the 2021 Regular Session of the General Assembly. Higdon said he looked forward to reading the language of that proposed legislation.

McCoy added that similar constitutional challenges in Oregon, Texas and Tennessee had prompted those state legislatures to consider outdoor advertising legislation.

Rep. Ashley Tackett Laferty, D-Martin, asked where Kentucky's outdoor advertising policy stood. McCoy said the transportation cabinet had placed a moratorium on licensing any billboards until the appeal process was exhausted. That had not, however, stopped advertising companies from erecting unlicensed billboards across the state.

"The current court ruling has basically opened the door for some within the advertising industry who have chosen to take a gamble – a gamble to erect advertising devices without state consent and in disregard to the fact that a final ruling on the case has not yet been received from the appeals court," McCoy said.



He advised any property owner considering a billboard on their land to get all the facts before deciding. "Myself or anyone within the permits department in transportation would be more than happy to assist with any questions," McCoy said to landowners who might be watching a digital stream of the committee hearing.

McCoy said the court ruling upended a more than a six-decade history of effectively regulating

billboards in Kentucky.

In 1958, Congress passed the first advertising control legislation, known as the Bonus Act. This act, among other things, provided incentives for states to control outdoor advertising within 660 feet along interstates. Although it was a voluntary program, McCoy said Kentucky was among 25 states who enacted laws to implement the act's provisions.

In 1965, the act was replaced by the more sweeping Highway Beautification Act. It mandated the remaining states to enact effective control of outdoor advertising along certain routes. (In Kentucky, McCoy said those routes include interstates, scenic parkways and certain highways.) The federal legislation was a priority of President Lyndon B. Johnson with his wife, Lady Bird Johnson, as the act's No. 1 proponent.

The federal penalty for not being in effective control of outdoor advertising is 10 percent of annual federal highway funding. McCoy said that's \$70 million annually for Kentucky.

## Parental leave, from page 99

In response to a question from Rep. Kelly Flood, D-Lexington, Nemes said if both parents worked for state government, each would be eligible for the 12 paid weeks of leave.

Bill Request 70 would provide an annual cost of living raise for state employees. The cost of living adjustment would be the average of the consumer price index for two calendar years.

Rep. James Tipton, R-Taylorsville, testified that all state employees are supposed to get a 5 percent salary increment increase every year, under current state law, but that hasn't happened since July 2001.

"The idea behind this legislation (BR 70) is to have a more obtainable goal as far as compensation," said Tipton, who sponsored the prefiled bill along with Rep. Derek Lewis, R-London.

Lewis said a coalition of lawmakers has been working to address state employee compensation over the last several sessions. "It's a bipartisan issue," he said. "Let's get this thing passed."

Rep. Joe Graviss, D-Versailles, said something is needed to keep the state competitive in the job market. "I think it is desperately needed," he said. Graviss has also filed similar legislation, known as Bill Request 180.

The prefiled bills could be taken up during the 2021 Regular Session of the Kentucky General Assembly, set to convene on Jan. 5.

## 2021 REGULAR SESSION CALENDAR

### JANUARY – PART I

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 New Years' Day	2
3	4	5 Part I Convenes (1)	6 (2)	7 (3)	8 (4)	9
10	11	12	13	14	15	16
17	18 Martin Luther King, Jr. Day	19	20	21	22	23
24	25	26	27	28	29	30
31						

### FEBRUARY – PART II

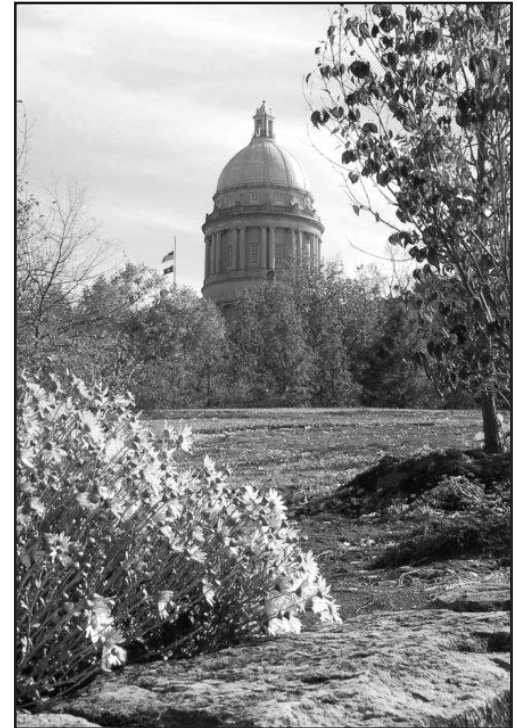
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 Part II Convenes (5)	3 (6)	4 (7)	5 Last Day for Bill Requests (8)	6
7	8 (9)	9 (10)	10 (11)	11 (12)	12 Last day for new Senate bills (13)	13
14	15 Presidents' Day HOLIDAY	16 Last day for new House Bills (14)	17 (15)	18 (16)	19 (17)	20
21	22	23 (18)	24 (19)	25 (20)	26 (21)	27
28						

Denotes break between Parts I and II. Bill drafts may be requested during this period for introduction when Part II convenes.

### MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 (22)	3 (23)	4 (24)	5	6
7	8 (25)	9 (26)	10 (27)		12	13
14	15 Concurrence (28)	16 Concurrence (29)	17 VETO	18 VETO	19 VETO	20 VETO
21	22 VETO	23 VETO	24 VETO	25 VETO	26 VETO	27 VETO
28	29	30 SINE DIE (30)	31			

( ) Denotes Legislative Day



### Calendar set for General Assembly's 2021 session

*LRC Public Information staff report*

FRANKFORT – The 2021 Regular Session of the Kentucky General Assembly is scheduled to begin on Jan. 5 and will last 30 legislative days.

As usual during an odd-numbered year, the session will have two parts. The first four days of the session – Jan. 5 to Jan. 8 – will focus on organizational work, such as electing legislative leaders, adopting rules of procedure and organizing committees. The introduction and consideration of legislation can also begin during this time.

The second part of the session begins on Feb. 2, with final adjournment scheduled for March 30.

The veto recess – the period of time when lawmakers commonly return to their home districts while the governor considers the possibility of issuing vetoes – begins on March 17. Lawmakers will return to the Capitol on March 30 for the final day of the session.

The 2021 session calendar is online at: [https://legislature.ky.gov/Documents/21RS\\_Calendar.pdf](https://legislature.ky.gov/Documents/21RS_Calendar.pdf).

2020 Interim  
**LEGISLATIVE  
RECORD**

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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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