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# INTERIM RECORD

A SUMMARY OF INTERIM ACTIVITIES

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2021

November

Volume 34, No. 8

PUBLISHED BY  
LEGISLATIVE RESEARCH COMMISSION  
[LEGISLATURE.KY.GOV/LEGISLATION/PAGES/DEFAULT.ASPX](http://LEGISLATURE.KY.GOV/LEGISLATION/PAGES/DEFAULT.ASPX)

## Legislative panel hears testimony on bill to curtail distracted driving

By Jordan Hensley - *LRC Public Information*

FRANKFORT— While a ban on texting and driving is not new, Kentuckians may soon be asked to put their phones down while driving altogether.

Rep. James Tipton, R-Taylorsville, testified before the Interim Joint Committee on Transportation on Nov. 15 about his intentions to file a bill for the 2022 legislative session that would only allow the hands-free use of a personal communication device while driving.

“We’re talking about proposed legislation that’s intended to save lives and improve public safety,” Tipton said.

Under this proposed legislation, personal communication devices are defined as a text messaging device, a stand-alone computer, a tablet, a laptop, a notebook computer, a personal digital assistant, a GPS system, a telephone or any device capable of displaying a video, movie or visual image.

The measure would make using your hands to operate a personal communication device while driving illegal. It would also prohibit drivers from unbuckling their seatbelt to reach for a device.

Drivers can, however, use a hands-free Bluetooth device to make phone calls while driving.

Lawmakers cannot make any decisions on any proposed legislation until the next legislative session begins on Jan. 4. Tipton said if the general assembly adopts this measure, there would be a grace period until Oct. 1, 2022, where drivers would receive a warning.

After the grace period, drivers would be fined at least \$50 but no more than



Rep. James Tipton, R-Taylorsville, holds up a cell phone as he shares his plans with the Interim Joint Committee on Transportation to file a bill that would only allow the hands-free use of a personal communication device while driving.

Continued on page 3

# Committee hears testimony on proposed air ambulance membership subscription regulations

by Jordan Hensley - *LRC Public Information*

FRANKFORT— The likelihood of needing an air ambulance is rare. However, many Kentuckians are taking the cost of that service into consideration.

Thousands of Kentuckians have air ambulance membership subscriptions to pay any remaining costs that health insurance may not cover. During the Interim Joint Committee on Banking and Insurance meeting on Nov. 9, Rep. Deanna Frazier, R-Richmond, shared how she believes those membership subscriptions need more oversight.

“These memberships are products that transfer an unknown amount of risk to the policy holder to the air ambulance company in exchange for a premium payment,” Frazier said. “Why aren’t these policies regulated as insurance?”

Frazier added that she does not seek to ban air ambulance membership subscriptions. Instead, she wants to ensure consumer protection.

“It’s time that we take a hard look at these policies and provide consumers of Kentucky with needed protections from predatory policies and marketing tactics,” Frazier said.

Frazier also questioned whether or not air ambulance membership subscriptions will be needed once the federal No Surprises Act goes into effect on Jan. 1. This federal law will prohibit surprise medical bills for patients who receive emergency care from out-of-network providers at in-network facilities. Patients will only be responsible for paying their co-pays and deductibles.

Chris Brady, general counsel at Air Methods Corporation, an air ambulance company, testified alongside Frazier. Air Methods does not offer air



Rep. Deanna Frazier, R-Richmond, shares how she would like to see state regulation of air ambulance membership subscriptions during the Interim Joint Committee on Banking and Insurance meeting on Nov. 9.

ambulance membership subscriptions. Instead, Brady said the company works with insurance companies to make sure its services are covered as an in-network service.

Brady testified that Air Methods would like

to see state regulation of air ambulance membership subscriptions as a form of supplemental insurance.

Representatives of Global Medical Response’s Air MedCare Network and Air Evac Lifeteam testified against state regulation of the services.

Jason Monday, national director of field sales for Air MedCare Network, said the subscriptions his company and other Global Medical Response (GMR) companies offer are not the same as supplemental insurance.

Monday said GMR has contracts with several insurance companies, including Anthem Blue Cross Blue Shield, where services are considered in-network and more than 80% of its services are covered by certain insurance companies. For those with a GMR subscription, the remaining balance is paid in full.

Monday also said existing laws and court cases already establish air ambulance subscriptions as distinct from insurance.

During discussion, Rep. Tom Smith, R-Corbin, said his constituents are happy with their air ambulance membership subscriptions.

“I can’t see where we’re going to benefit as legislators to bring oversight to the problem that doesn’t exist,” Smith said, adding he understands that those in favor of oversight are arguing there is a problem and he’s willing to listen.

As of Nov. 9, no lawmakers have pre-filed any air ambulance-related bills for the 2022 regular session. Lawmakers cannot act on any proposed legislation until the legislative session begins on Jan. 4.

# Testimony highlights desire for an electric vehicle tax

by Jordan Hensley - LRC Public Information

FRANKFORT— Counties across the Commonwealth would like to see lawmakers make a few changes during the upcoming 2022 legislative session.

One of those changes includes establishing an electric vehicle tax or fee.

Representatives from the Kentucky Association of Counties (KACo) presented the group's 2022 legislative agenda to the Interim Joint Committee on Local Government on Nov. 22.

"The time for Kentucky to address this is now," said Shellie Hampton, KACo director of government affairs. "Thirty states, including all of our neighbors, have already instituted an electric vehicle fee."

Hampton also noted that many of the states that have implemented electric vehicle fees share the revenue with county governments.

KACo reports that nearly 40% of county roads are in need of moderate to significant repair, and that county governments own and maintain half of the roads in the state. Currently, counties only receive a portion of the motor fuel tax funds from the state to fund their own road departments.

Hampton said while electric vehicles account for less than 1% of vehicles in Kentucky, and the initial revenues from an electric vehicle tax would be

small, that number is expected to grow.

"Automakers that account for roughly a quarter of the global auto sales in 2019, including Ford, GM, Volvo and Mercedes, announced earlier this month that they will all work toward phasing out sales of gasoline and diesel powered vehicles by 2040 worldwide," Hampton said.

Sen. Michael J. Nemes, R-Shepherdsville, asked if there had been a discussion about not establishing a separate electric vehicle tax and implementing just one "usage tax" instead.

Jim Henderson, KACo executive director and CEO, said ultimately, KACo would like to see counties receive more money to take care of roads and bridges.

"As Shellie mentioned earlier, there are projections that as many as 30% of the cars that will be sold new by 2030 will be electric," Henderson said. "So whatever we do, we really can't wait much longer to start thinking about an alternative funding source for transportation."



Sen. Michael J. Nemes, R-Shepherdsville, asks a question about an electric vehicle tax during the Interim Joint Committee on Local Government meeting on Nov. 22

As of 2 p.m. on Nov. 22, no bills relating to an electric vehicle tax or fee had been pre-filed by any lawmakers. The Kentucky General Assembly cannot take any action on any proposed legislation until the 2022 legislative session begins on Jan. 4.

## Distracted driving, from page 1

\$100 for a first or second offense, according to a draft of the bill request. On third offense or if the offense results in an accident, the penalty would be at least \$100 but no more than \$199. If the offense occurs in an active school zone or construction zone, the penalty would be at least \$200 but no more than \$250. Traffic school

would be allowed for a first offense.

Kentucky would not be the first state to implement this type of law, Tipton said. According to Jennifer Smith, CEO and founder of StopDistractions.org, 24 states have adopted this type of legislation, including Tennessee, Virginia and Indiana.

This not the first time Tipton has sponsored a bill like this. He sponsored House Bill 255 during the 2020 legislative session, which did not make it to a floor vote in either chamber.

Kathleen Strack, a co-founder of Two Eyes,

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# 2021 Kentucky General Assembly

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## Distracted driving, from page 3

Just Try, testified alongside Tipton on Nov. 15. Her brother died near Verona, Kentucky, in 2015 after his truck was hit by a distracted semi-truck driver. Strack said the driver of the semi had been sending and reading text messages for miles leading up to the accident.

“Distracted driving is 100% preventable, just like drunk driving,” Strack said. “The difference is drunk driving has become socially unacceptable. That’s not the case for distracted driving.”

Steve Blackistone, the state and local liaison for the National Transportation Safety Board (NTSB), also joined the conversation. He said NTSB supports this type of legislation.

“As a result of our investigations, we’ve seen firsthand that distraction is a growing and life-threatening problem,” Blackistone said. “To reduce the crashes and injuries and deaths, drivers completely need to refrain from engaging in these distractions.”

While discussing the proposed bill, a few lawmakers asked about the effectiveness of the state’s texting while driving ban. Tipton said that it is not uncommon for someone accused of texting while driving to say, “No, I wasn’t texting I was putting in a phone number,” or some other excuse. This legislation would attempt to close that loophole.

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# Committee Meetings

## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 570th Meeting

November 10, 2021

#### Call to Order and Roll Call

The 570th meeting of the Legislative Research Commission was held on Wednesday, November 10, 2021, at 11:30 AM, in Room 125 of the Capitol Annex. Representative David W. Osborne, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

#### LRC Staff:

Jay Hartz and Christy Glass.

There being a quorum present, Representative Osborne call for a motion to approve the minutes of the August 4, 2021, meeting; accept as indicated items A. through I. under Staff and Committee reports; refer prefiled bills as indicated and approve items B. through K. under New Business; and, accept and refer as indicated items 1. through 50. under Communications.

There being no discussion, a motion having been made by Representative Meade and seconded by Representative Rudy, a roll call vote was taken.

The following items were approved, accepted, or referred.

Minutes of the August 4, 2021, meeting.

## STAFF AND COMMITTEE REPORTS

Committee Activity Reports since August 2021.

Report of the Administrative Regulations Review Subcommittee meetings on August 10, September 14, and October 12, 2021.

Committee review of administrative regulations by the Interim Joint Committee on Agriculture during its meeting on July 8, 2021.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meeting on August 3, 2021.

Committee review of administrative regulations by the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations during its meeting on August 12, 2021.

Committee review of administrative regulations by the Interim Joint Committee on Health, Welfare, and Family Services during its meetings on August 26, September 22, and October 20, 2021.

Committee review of the FFY 2022-2024 Child

Care and Development Fund Block Grant Preliminary State Plan by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on June 16, 2021.

Committee review of the FFY 2020-2021 Community Services Block Grant Preliminary State Plan by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on August 26, 2021.

Committee review of administrative regulations by the Education Assessment and Accountability Review Subcommittee during its meeting on August 3, 2021.

## NEW BUSINESS

Referral of prefiled bills to the following committees:

**BR 490** (An act relating to labeling requirements for fresh produce) to **Agriculture**; **BR 267** (An act relating to the promotion of organ and bone marrow donation), **BR 365** (An act relating to the ad valorem taxation of mobile home inventories), **BR 367** (An act relating to pari-mutuel tax) to **Appropriations and Revenue**; **BR 96** (An act relating to student loan servicers), **BR 125** (An act relating to coverage for diabetes treatment), **BR 180** (An act relating to coverage of mental health wellness examinations), **BR 376** (An act relating to chronic pain treatments), **BR 379** (An act relating to health care to provide for an all-payer claims database and making an appropriation therefor) to **Banking and Insurance**; **BR 91** (An act relating to wages), **BR 228** (An act relating to bereavement medical leave for loss of an infant), **BR 322** (An act relating to income assistance and making an appropriation therefor), **BR 358** (An act relating to immunizations), **BR 377** (An act relating to family care leave), **BR 407** (An act relating to unemployment insurance), **BR 432** (An act relating to workers' compensation and declaring an emergency) and **BR 496** (An act relating to occupational exposure to COVID-19 and declaring an emergency) to **Economic Development and Workforce Investment**; **BR 185** (An act relating to student mental health), **BR 275** (An act relating to full-day kindergarten), **BR 301** (An act relating to the Kentucky Educational Excellence Scholarship), **BR 359** (An act relating to facial coverings in educational settings), **BR 360** (An act relating to school food programs), **BR 384** (An act prohibiting vaccination requirements for postsecondary education students), **BR 427** (An act relating to curriculum), **BR 440** (An act relating to school resource officers) and **BR 483** (An act relating to school bus lighting) to **Education**; **BR 53** (An act relating to the establishment of emergency insulin programs and declaring an emergency), **BR 128** (A Resolution proclaiming April 26, 2022, to be Diabetic Ketoacidosis Awareness Day in Kentucky), **BR 137** (An act relating to long-term care facilities), **BR 147** (An act relating to maternal mental health), **BR 152** (An act relating to



medical order for scope of treatment), **BR 826** (An act relating to reproductive privacy and declaring an emergency) and **BR 832** (An act relating to DNA) to **Health, Welfare, and Family Services**; **BR 61** (An act relating to crimes and punishments), **BR 191** (An act relating to assisted reproduction), **BR 290** (An act relating to animal cruelty) and **BR 370** (An act relating to theft of mail matter) to **Judiciary**; **BR 210** (An act relating to limited X-ray machine operators) and **BR 334** (An act relating to the Licensed Professional Counseling Compact) to **Licensing, Occupations, and Administrative Regulations**; **BR 430** (An act relating to death benefits for first responders, making an appropriation therefor, and declaring an emergency) to **Local Government**; **BR 192** (An act relating to resource recovery) and **BR 243** (An act relating to radon safety) to **Natural Resources and Energy**; **BR 40** (An act relating to changes in pension payments due to overtime worked during a local emergency and declaring an emergency), **BR 211** (An act relating to religion), **BR 306** (An act relating to elections), **BR 307** (An act relating to elections) and **BR 341** (An act relating to actuarial investigations) to **State Government**; **BR 209** (An act to transportation), **BR 287** (An act relating to motor vehicle taxes), **BR 348** (An act relating to the operation of a vehicle using a bioptic device) and **BR 482** (An joint resolution designating a portion of Kentucky Route 8 in Boone County in honor and memory of Specialist Five Edward A. Barlow) to **Transportation**; and **BR 215** (An act relating to mental health) to **Veterans, Military Affairs, and Public Protection**.

From Jay D. Hartz: Memorandum requesting approval of the 2022 Regular Session calendar.

From Jay D. Hartz: Memorandum requesting approval of prefilng deadlines for the 2022 Regular Session.

From Senator Jimmy Higdon and Representative Jim DuPlessis, Co-chairs of the Public Pension Oversight Board: Memorandum requesting authorization to expend funds to conduct an actuarial audit under KRS 7A.250.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Will Hodges and Robbie Fletcher to the Local Superintendents Advisory Council.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Arnold Simpson to the Legislative Ethics Commission.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum offering the Commonwealth of Kentucky and the city of Louisville as the host state and city for the 2024 Legislative Summit of the National Conference of State Legislatures.

From Senator Ralph Alvarado and Representative Kimberly Poore Moser, Co-chairs of the Interim Joint Committee on Health, Welfare, and Family Services: Memorandum requesting approval to meet outside the interim on December 15, 2021, at 1:00 p.m. to hear task force updates and to review possible legislation for the 2022 Regular Session. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Representative Derrick Graham to the Budget Review

Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum authorizing the formation of the Kentucky Taiwan Caucus.

From Senator Jared Carpenter and Representative Bart Rowland, Co-chairs of the Interim Joint Committee on Banking and Insurance: Memorandum requesting approval to meet on December 1, 2021, at 11:00 a.m. to receive testimony on pending federal legislation. There are no apparent conflicts.

## COMMUNICATIONS

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 1, 2, and 3 and year-to-date activity for the period of July 1, 2021, through September 30, 2021.

From the Office of the Attorney General: Constitutional Challenge Reports for the months of July, August, September, October, November, and December 2020, and January, February, and March 2021.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending September 30, 2021.

From the Justice and Public Safety Cabinet, Department of Corrections: FY 21 County Jail Incentive Program, 4th Quarter Report.

From the Justice and Public Safety Cabinet, Department of Corrections: FY 21 Population Management Reporting, 4th Quarter Report.

From the Justice and Public Safety Cabinet, Department of Corrections: FY 21 Substance Abuse Treatment and Job Training Pilot, 4th Quarter Report.

From the Justice and Public Safety Cabinet, Department of Corrections: KRS 196.031 Annual Report.

From the Justice and Public Safety Cabinet, Department of Corrections: Lee Adjustment Center Annual Report.

From the Justice and Public Safety Cabinet: 2020 Overdose Fatality Report.

From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center Quarterly Reports for the periods April 1 through September 30, 2021.

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

From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement for the period ending June 30, 2021.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of June 30, 2021.

From the Finance and Administration Cabinet: 2021 Kentucky Licensed Property Insurance Premiums Surcharge.

From the Department of Military Affairs: 2020 Military Family Assistance Trust Fund Annual Report.

From the Tourism, Arts and Heritage Cabinet: FY 21 1% Statewide Lodging Tax Progress Report.

From the Cabinet for Health and Family Services: 2021 Child Abuse and Neglect Annual Report of Child Fatalities and Near Fatalities.

From the Cabinet for Health and Family Services: Efficiencies Identified in Kentucky's Child Welfare System during the COVID-19 Pandemic.

From the State Interagency Council: 2021 Recommendations regarding the system of care for children and transition-age youth with or at risk of behavioral health needs.

From the Justice and Public Safety Cabinet, Department of Corrections: 2021 Prison Industries Enhancement Certification Program Annual Report.

From the Justice and Public Safety Cabinet, State Corrections Commission: 2021 Kentucky State Corrections Commission Annual Report.

From the Cabinet for Health and Family Services: 2021 HIV/AIDS Planning and Advisory Council Annual Report.

From the Office of the Attorney General: 2020 County Attorney Traffic Safety Programs Annual Report.

From the Auditor of Public Accounts: FY 21 Report of the Audit of the Kentucky Department of Veterans' Affairs I Support Veterans License Plate.

From the Auditor of Public Accounts: FY 21 Report of the Audit of the Kentucky Heritage Land Conservation Nature License Plate Fund.

From the Auditor of Public Accounts: FY 21 Report of the Audit of the Cabinet for Health and Family Services' Breast Cancer Research and Education Trust Fund.

From the Auditor of Public Accounts: 2018-2020 Commonwealth of Kentucky Public Protection Cabinet, Department of Insurance, Report on the Payment Practices of Insurers.

From the Teachers' Retirement System: FY 21 Teachers' Retirement Annual Report.

From the Teachers' Retirement System: FY 21 In-State Investments Report.

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

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

From the Cabinet for Health and Family Services: 2021 Department for Community Based Services Response to Citizen Review Panel Annual Report.

From the Cabinet for Health and Family Services: 2021 Report on Relative and Fictive Kin Caregiver Services.

From the Cabinet for Health and Family Services: 2021 Biennial Report of the Kentucky Advisory Council on Autism.

From the Kentucky Employers' Mutual Insurance: 2022 Administrative Budget.

From the Commonwealth Office of Technology: 2021 Personal Information Security and Breach Notification Annual Report.

From the Finance and Administration Cabinet: FY 21 Report on Use of Energy-Efficiency Measures in State Government.

From the Public Protection Cabinet, Department of Insurance: 2021 Kentucky Long-Term Care Partnership Report.

From the Personnel Cabinet: 2020 Annual Turnover Report of 15% and Greater.

From the Kentucky Higher Education Assistance Authority: FY 21 Actuarial Valuation for Kentucky's Affordable Prepaid Tuition (KAPT).  
 From the Kentucky Judicial Retirement System: 2021 Judicial Retirement Plan.  
 From the Kentucky Legislators' Retirement System: 2021 Legislators' Retirement Plan.  
 From the Kentucky Personnel Cabinet: Quarterly Report as of September 30, 2021, which lists the number of all full-time classified (merit) and unclassified (non-merit) employees.  
 From the Kentucky Personnel Cabinet: October 2021 Semi-Annual Report listing all filled positions exempted from classified service.  
 From the Department of Education: 2020-2021 Physical Activity and Nutrition Report.  
 From the Department of Education: FY 2020-2021 Efficient School Design Annual Report.  
 From the Cabinet for Health and Family Services: FY 21 Kentucky Child Victims of Human Trafficking Annual Report.  
 From the Cabinet for Health and Family Services: 2021 Female Genital Mutilation Annual Report.  
 From the Department of Education: 2021 KDE School District of Enrollment Funding Report.  
 From the Department of Education: 2021 Kentucky Facilities Inventory and Classification System Report.  
 The motion passed unanimously.  
 There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

### Minutes of the 4th Meeting of the 2021 Interim

October 7, 2021

#### Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Agriculture was held on Thursday, October 7, 2021, at 9:00 AM, in Room 154 of the Capitol Annex. Representative Richard Heath, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

**Guests:** Dave Maples, Executive Vice President, Kentucky Cattlemen's Association; Rachel Ross, Vice President of Merchandising, Louisville Branch, The Kroger Company; Katelyn Hawkins, Kentucky Cattlemen's Association; Chris Cooper, President, Kentucky Cattlemen's Association; Nikki Whitaker, Membership Coordinator, Kentucky Cattlemen's Association; Rich Storm, Commissioner, Kentucky Department of Fish and Wildlife; and Gabe Jenkins, Acting Information and Education Division Director

and CWD Response Coordinator, Kentucky Department of Fish and Wildlife; Martin Richards, Executive Director, Community Farm Alliance; Kimmie Ishmael, Policy Campaign Coordinator, Community Farm Alliance; and Kirk Pomper, Ph.D., Director of Land Grant Programs, Dean and Professor College of Agriculture, Community and the Sciences, Kentucky State University.

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

The September 15, 2021, minutes were approved, without objection, upon motion of Representative Brandon Reed and seconded by Representative Daniel Fister.

#### Disruption of Kentucky's Food Supply Chain

Rachel Voss, Vice President of Merchandising, Louisville Branch, The Kroger Company, stated that Kroger's vision is "When I think Food, I think Kroger", their purpose is to feed the human spirit, and Kroger's values are integrity, honesty, respect, safety, diversity, and inclusion. The Louisville Branch operates 103 stores in Kentucky, has donated \$1.7 million to hunger charities, and through the Food Rescue program over 4 million pounds of food have been donated. Kroger employs 19,000 associates along with 700 department leaders, which have served over 129,000,000 customers. Ms. Voss said that Kroger works with local farmers to procure beef, pork, dairy, lamb, cheese, fresh fruits and vegetables, and it also partners with 200 Kentucky Proud producers. Recently, Kroger partnered with Chaney's Dairy Barn to sell its milk products. Ms. Voss said that during the height of the pandemic, Kroger's partnership with local producers was a real advantage. In the future, Ms. Voss said that Kroger plans to advance diverse partnerships from \$3.4 billion to \$10 billion by 2030, as well as continue to increase the number of Kentucky Proud partners, grow more innovative local partnerships, and support efforts to expand and educate customers.

In response to Senator Hornback, Ms. Voss stated that Kroger has been working toward improving language on placards/signage to include more information about local products. However, it can be challenging as there are so many stores in Kentucky and sometimes the next shipment maybe from another source.

In response to Representative Tipton, Ms. Voss said that if Kroger had not had local connections, then there probably would not have been meat on the shelves. Kroger still depends on local producers to help fill in the gaps when necessary.

In response to Senator Howell, Ms. Voss said that Kroger invests in building product assortments and getting the product into the promotion process system.

In response to Representative Rabourn, Ms. Voss said it is important to Kroger to be a part of the community. Based on the size and segmentation of Kroger stores, the assortment of products available in each store is based on the needs of the consumer, but freshness and quality are consistent in all stores. Kroger has a mobile market that travels to different communities in areas that do not have local access to a grocery store.

Dave Maples, Executive Vice President, Kentucky

Cattlemen's Association, stated that the lack of processing plants in Kentucky is a problem. There are only four major processors in the country, two of which are foreign-owned. He said that major black swan events have occurred over the last two years causing a national supply chain disruption. There have been fires in packing plants, cyber-attacks, severe weather events, and the global COVID-19 pandemic. Mr. Maples said that transportation and labor shortages are causing disruptions in the food supply chain.

Katelyn Hawkins, Director of Product Marketing, Kentucky Cattlemen's Association, said that Kentucky Cattlemen's ground beef, the product of the parent company, Beef Solutions LLC, has partnered with 159 Kroger locations across four states and has been served in three large event venues. Kentucky Cattlemen's ground beef comes from 242 Kentucky farm families and has resulted in returning \$2,773,700 million back to those farm families. She stated that Beef Solutions is continuing to focus on the local food supply chain disruption by helping to navigate production inefficiencies, food safety concerns, inclement weather conditions, and labor shortages.

Mr. Maples stated that Kentucky Beef Council representatives recently met with the owners of a processing plant who were interested in building in Kentucky. People in the community were opposed to the location of the plant, and therefore Kentucky not only lost an agricultural economic opportunity but also an opportunity to improve local food security.

Senator West noted that there are four processing plants, two of which, JBS and National Beef are Brazilian-owned. The four plants are located over 500 miles away from Kentucky and they nearly have a monopoly on the beef market.

In response to Senator West, Mr. Maples said that there is a Texas A&M study regarding the lack of processing plants throughout the country and how that has affected the food supply chain. That study is being presented at a hearing in Congress.

Upon motion by Senator Hornback and seconded by Representative Fister, staff is to draft a letter, on behalf of the Interim Joint Committee on Agriculture, to the Governor urging him to contact the owners of the proposed processing plant and start a dialogue about locating in Kentucky. Upon voice vote, motion passed.

In response to Representative McPherson, Ms. Hawkins stated that the fiscal impact of a major processing plant in Kentucky would add value to that community and to the beef producers. Representative McPherson also stated that it would be a great opportunity to build feedlots in Kentucky.

Senator Webb said that there should have been a representative(s) at the community meeting to help with communication and the discussions. It is all about correcting misinformation.

In response to Representative Graham, Mr. Maples said the processing plant would have brought 1,300 jobs openings – a \$300,000 to \$500,000 million investment. The Association talked to the Economic Development Cabinet, but the Cabinet is not allowed to divulge or discuss any information regarding new businesses. Representative Graham noted that because of legal limitations regarding negotiations,

there is very little information that can be shared.

**Cattle Insurance Program**

Nikki Whitaker, Membership Coordinator, Kentucky Cattlemen’s Association explained that the Livestock Risk Protection-Feeder Cattle insurance can only be purchased through a certified livestock insurance agent. She said the program is designed to insure against declining feeder cattle market prices.

Representative Heath asked members to be aware that the Kentucky Department of Revenue is accepting applications from eligible farmers for new agriculture exemption numbers designed to protect the sales and use tax exemptions available. Senator Hornback said the new process simplifies the process for the retailer and the farmer on the tax exempt status.

**Chronic Wasting Disease**

Rich Storm, Commissioner, Kentucky Department of Fish and Wildlife (KDFW), said that Tennessee reported a doe, found approximately eight miles from the Kentucky border, tested positive for Chronic Wasting Disease (CWD). Commissioner Storm explained that CWD is a fatal disease of deer and elk, and so far no cases have been reported in Kentucky. As a precautionary measure, KDFW, has initiated the CWD response plan which includes the counties of Calloway, Fulton, Graves, Hickman, and Marshall.

Gabe Jenkins, acting Information and Education Division Director and CWD Response Coordinator, Kentucky Department of Fish and Wildlife, explained that CWD is caused by an abnormal protein and the most infectious material is the brain, spinal cord, lymph nodes, and saliva. He said that a CWD surveillance zone includes special regulations and extra testing of deer carcasses.

In response to Representative King, Mr. Jenkins said that the Centers for Disease Control and Prevention (CDC) reports that no cases of CWD infection in people have been reported.

In response to Representative Fister, Mr. Jenkins said that the reason the Department does not monitor archery takes is because of the low numbers of samples that could be tested.

In response to Senator Howell, Commissioner Storm said the Department is asking hunters to not put out any grain, salt, or mineral blocks for baiting. He said they are also meeting with local officials to give an update. Mr. Jenkins said the Department has updated the hunting guide, posted it on social media, emailed it to hunters and outfitters, and included the information on the Kentucky Afield television show.

**Discussion on Potential Legislative Issues and Food Insecurity in Kentucky**

Kimmie Ishmael, Policy Campaign Coordinator, Community Farm Alliance (CFA), explained that one in seven Kentuckians and one in five children struggles with hunger. She said that data shows that six Kentucky counties have a food insecurity rate of 24 percent or higher. Kentucky ranks 43rd for diet-related negative health outcomes, and 50th in consumption of fruits and vegetables. She stated that the Kentucky Double Dollars program is a partnership between Community Farm Alliance and Bluegrass Farm-to-Table. The program offers

financial incentives for individuals participating in the Supplemental Nutrition Assistance Program (SNAP), Women, Infants and Children (WIC), and Seniors Farmers Market Nutrition Program (SFMNP). In 2018, Community Farmers Market, Community Farm Alliance, and WellCare Health plans piloted a 21-week fruit and vegetables prescription for Mothers on Medicaid (MOM) -- Fresh RX for MOMs. Based upon the success of the program, CFA filed a successful application to the United States Department of Agriculture (USDA) to expand the program. Ms. Ishmael stated that sustainability, growth, and match requirements are still challenges for the healthy food access programs. Even though healthy food access impacts both agriculture and health, only agriculture funds are supporting the programs. A Healthy Farm and Food Fund would set aside approximately 1.5 percent of the Tobacco Settlement Funds to leverage additional federal dollars.

In response to Representative Graham, Ms. Ishmael said that Kentucky does not use any general fund dollars toward supporting any of the programs. Using general fund dollars would help to secure more federal funds.

**Comments from Kentucky State University**

Kirk Pomper, Ph.D., Director of Land Grant Programs, Dean and Professor College of Agriculture, Community and the Sciences, Kentucky State University (KSU), explained that the mission of the Land Grant Program at KSU is to serve the underserved in rural and urban settings, with a focus on small scale and minority farmers. KSU has programs that are focused on alternative species and production methods, sustainable and organic agriculture, and human health, nutrition, and food safety. Dr. Pomper noted that aquaculture, KSU’s Program of Distinction, is ranked 5th in the United States. He said that KSU was able to secure a \$750,000 Agriculture and Food Research Initiative (AFRI) grant for aquaponics research. KSU received a meat processing grant through the Kentucky Agricultural Development Board to construct a permanent processing facility for poultry. He said that the University of Kentucky and KSU function as one Kentucky Cooperative Extension that works toward Kentucky AgrAbility and has 4-H and STEM summer programs. The Center for Sustainability of Farms and Families helps to provide assistance and mini-grants to small-scale and underserved farmers statewide. The mini-grants include aquaculture, value-added, organics, food insecurity, farmer education, and agroforestry. The funds that KSU receives help to access matching federal dollars that make it possible to support research and expand valuable programs through KSU’s College of Agriculture. Dr. Pomper also noted there are 50 students pursuing a career in agriculture with almost half of those being from Kentucky.

Representative Heath asked Dr. Pomper to inform the legislature when matching funds are needed so no federal matching funds are overlooked.

Representative Graham said that Dr. Jim Tidwell, Chair for School of Aquaculture and Aquaculture Sciences at KSU, is known nationally and internationally for his research and leadership in

aquaculture.

Representative Tipton noted that all the land grant institutions in the United States were formed under two separate federal acts. Dr. Pomper said that the 1890 Morale Act formed additional schools which focused on agriculture, mechanics, arts, and education for African Americans. Kentucky State University focuses on minority farmers and other underserved stakeholders.

Senator Webb asked members to monitor a bill relating to animal cruelty that is in the Judiciary Committee. Most of these type bills are being pushed by organizations who do not support animal agriculture.

Meeting adjourned.

**INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

**Minutes of the 5th Meeting of the 2021 Interim**

October 6, 2021

**Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, October 6, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jason Petrie, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Petrie, Co-Chair; Senators Danny Carroll, David P. Givens, Morgan McGarvey, Stephen Meredith, Michael J. Nemes, and Robin L. Webb; Representatives Lynn Bechler, Danny Bentley, Randy Bridges, Joseph M. Fischer, Ken Fleming, Chris Fugate, Al Gentry, David Hale, Mark Hart, Angie Hatton, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Josie Raymond, Brandon Reed, Steve Riley, Sal Santoro, James Tipton, and Lisa Willner.

Guests: Ryan Quarles, Commissioner of Agriculture; Wayne Hunt, Kentucky Agriculture Development Board; Dave Maples, Executive Vice President, Kentucky Cattlemen’s Association; Becky Thompson, Director, Kentucky Beef Network; Tom Underwood, Executive Director, KY Wholesale Distributors Association; and Michael W. Clark, Director, Center for Business and Economic Research.

LRC Staff: Grant Minix, Jennifer Hays, Cynthia Brown, Sarah Watts, and Chase O’Dell.

**Approval of Minutes**

A motion was made and seconded to approve the minutes from the September 24, 2021, meeting. The motion carried by voice vote.

**Economic Impacts to the Agriculture Industry**

Ryan Quarles, Commissioner of Agriculture, Wayne Hunt, Kentucky Agriculture Development Board, Dave Maples, Executive Vice President, Kentucky Cattlemen’s Association, and Becky Thompson, Director, Kentucky Beef Network, discussed the economic impacts of the COVID-19 pandemic on the



agriculture industry.

Commissioner Quarles testified that farmers are necessary and have risen to the challenge during the pandemic. Over \$170 billion in agriculture goods were exported in the United States in 2020. Kentucky farmers are worn-out and stressed and as a result there is concern of a shut down for two to three weeks. Input costs are increasing. Most notably, fertilizer and parts prices are increasing. Labor shortages are occurring across agriculture.

There will be a net increase in farm income of over \$18 billion nationwide in 2021. This is due to new trade agreements, such as historical purchases from China and Japan, and higher commodity prices. Corn, wheat, and soybean receipts are expected to rise over \$38 billion. Broiler, hog, and cattle receipts are expected to rise \$27 billion over last year. Net farm cash receipts will go up. However, feed costs will rise \$6.2 billion this year. In Kentucky, more than half of farm receipts come from livestock. The increase in expenses is cutting into farm profitability.

There are over 10 million jobs available in America. Inflation is being seen in raw commodity prices and in grocery stores. Supply chain disruptions are leading to products being packaged differently. There have also been shipment issues.

In response to a question from Representative Petrie, Commissioner Quarles stated that printing trillions of dollars has had a macro-economic effect on farmers and the economy as a whole.

Mr. Hunt testified that farmers the last two-to-three years have been the best years they have ever had. There are no 100 horsepower tractors made in the United States. Shipping container prices have increased substantially. There are issues with transportation and labor. There are some parts that cannot be obtained due to shipping issues. Mr. Hunt's company stocked \$22 million of parts. Farmers cannot wait on parts. Inflation is a big worry. The price of equipment has gone up. Mr. Hunt spoke to the potential crisis of not being able to get parts and not being able to get labor to unload shipments.

Commissioner Quarles stated that the consumer price index shows the increase in the cost of food in grocery stores. The agriculture development board has invested six million dollars across 30 different local meat processors. Meat processing capacity in Kentucky has increased from 45,000 to 70,000 head a year.

Mr. Maples testified that Kentucky is the largest beef cattle state east of the Mississippi River. If a cow is sold in Kentucky, it must ride a minimum of 500 miles before it is processed. There are four large meat packing companies in the United States. These companies do 75 to 80 percent of the business.

Mr. Maples stated that Kentucky has not done a good job of recruiting a potential food processing plant to locate to the state. Kentucky has many secondary distributors. Ms. Thompson also spoke to the desire for a beef processing plant in Kentucky.

In response to a question from Representative Petrie, Commissioner Quarles testified that the JBS pork plant in Louisville pushes 10,000 head a day. Chicken manufacturers in Kentucky are also very large. The largest beef processor in Kentucky pushes 100 head a day, which is relatively small.

Representative Tipton spoke to the inefficiency of beef processing in Kentucky. In response to a question from Representative Tipton, Commissioner Quarles testified that H-2A is an administrative burden on the operator. He continued to say that the program should be administered by the United States Department of Agriculture. Commissioner Quarles voiced support for policy changes to allow H-2A workers to work year-round. The H-2B program is also an administrative burden and has not been effectively updated for three decades. The program has a quota allotment which prevents some access to work.

In response to a question from Representative Hale, Mr. Maples stated that he does not believe that Kentucky has lost the potential beef processing plant bid. He continued to say that the company is looking to invest \$350 million to \$500 million.

In response to a question from Representative Petrie, Mr. Maples stated that the Economic Development Cabinet was, and still is, involved in trying to recruit the project. In response to another question, Commissioner Quarles testified that 1,400 jobs would result from the project. The jobs would earn wages much higher than \$10 an hour.

Commissioner Quarles stated that Kentucky would do a better job of recruiting companies if people in Frankfort worked together. The Kentucky Department of Agriculture was not pulled into the recruitment until late.

Senator Webb expressed her belief that the Department of Agriculture should have been involved in the discussions earlier. Senator Webb continued to express her support for the potential project.

Representative Petrie stated that there would be multiple suitable locations for the potential processing plant. Other committee members expressed a desire for the processing plant to locate within their district. Mr. Hunt testified that the company looking to establish a new beef processing plant wanted to move where there is a good population size.

In response to a question from Representative Fleming, Commissioner Quarles reaffirmed that the payroll from the plant would potentially be around \$55 to \$65 million.

Representative Petrie expressed his hope that the potential project is not dead.

**Economic Impacts to the Wholesale Industry**

Tom Underwood, Executive Director, KY Wholesale Distributors Association, discussed the economic impacts of the COVID-19 pandemic on the wholesale industry.

Mr. Underwood testified that the wholesale industry brings products to retailers. Over the past 12 months, a record number of shipping containers have been lost overboard at sea due to max loading on cargo ships. Longshoremen in ports have been worked to exhaustion. Almost every major harbor in the United States is backed up with ships off shore. Shipping containers are in short supply and warehouse space is running out.

Manufacturers are regularly backordering or suspending product lines. The percentage of orders from retailers which were filled was previously 99 percent. The average fill rate in the industry has fallen to 73 percent. Transportation disruptions are expected to continue into the third quarter of 2022.

American manufacturing is not set-up to completely provide finished products from start-to-finish. Many products made in the United States are suffering from packaging problems. Many major retailers are now chartering their own ships. Mr. Underwood displayed the fill rates on several major brands in the United States.

There are labor shortages across the wholesale industry. Ninety-seven percent of wholesalers are short on labor. A total of 68 percent of wholesalers have reported being unable to make deliveries on time due to labor shortages. Ninety-eight percent of wholesalers reported having employees working overtime and extra shifts.

The industry is dealing with an increase in product and overhead costs. Wages and benefits have increased. The cost of energy has gone up 24.4 percent. The cost of gasoline is up 41.8 percent. There has been cost increases on 40 percent of product lines.

Kentucky's reimbursement rate per pack of cigarette has not changed since the President Eisenhower administration. The industry is requesting that the reimbursement rate be changed to 1.5 cents per pack. This rate would not cover all costs, but it would help.

In response to a question from Representative Petrie, Mr. Underwood recommended that individuals begin shopping for holiday foods and Christmas. As the consumer rush on products begins, it will become more difficult to find desired products.

In response to a question from Senator Meredith, Mr. Underwood testified that wholesale industry employees have been deemed essential workers. Senator Meredith discussed the issue of identifying essential workers during the pandemic, explaining that anyone working during the pandemic is essential.

#### **Current Economic Climate in Kentucky**

Michael W. Clark, Director, Center for Business and Economic Research, discussed the economic climate in Kentucky.

Mr. Clark testified that the economic climate in Kentucky has continued to improve. Employment gains are being seen.

Kentucky's unemployment rate has been going down the last few months. Kentucky's labor force participation is lower than at the national level. More people are getting jobs. Some people are coming back into the labor force. Those individuals are finding jobs.

The initial claims for unemployment insurance have continued to fall and are close to levels seen before the pandemic. Nonfarm employment increased in the state in August. Kentucky had been recovering nonfarm employment faster than the nation for much of the pandemic. Over the last few months, the nation started recovering faster. In Kentucky, total nonfarm employment is still down 3.8 percent from before the pandemic. About 75 percent of the non-farm jobs lost during the pandemic have been recovered.

In response to a question from Representative Petrie, Mr. Clark testified that government jobs in Kentucky included federal, state, and local jobs and that local government jobs included education. He added that most of the government jobs in Kentucky were local school system jobs.

A large part of the recent job growth has come from

the manufacturing sector. Manufacturing employment is close to pre-pandemic levels. The financial activities sector in Kentucky has recovered well. Employment in the leisure and hospitality sector is still down 16.2 percent from pre-pandemic levels.

In response to a question from Representative Petrie, Mr. Clark testified that the information sector deals with news broadcasting and publications and is a relatively small sector in terms of employment. Employment in this sector is falling in Kentucky and is not recovering in pace with the rest of the nation.

Over the last few months, job openings in the United States have increased substantially. Hires are up, but not as much as job openings. Quit rates have risen slightly, but not substantially.

Nationally, there is still a high number of job openings in the manufacturing sector. Quit rates have been rising in the health care and social services sector. The healthcare sector has a high number of job openings relative to the number of hires. The leisure and hospitality sector quit rate is about five percent, which is higher than other sectors. Over the last few months, the number of job openings in this sector has been high relative to the number of new hires.

Wage growth has accelerated over the last quarter in the United States. Sectors seeing particularly high wage growth include the retail sector and the leisure and hospitality sector.

Many national economists believe inflation will be temporary. Many of the issues driving inflation may resolve themselves. Prices rose substantially in June, but they have not continued to rise from that level. Prices are still higher than pre-pandemic levels. The general consensus is that these higher prices are transitory.

In response to a question from Representative Hart, Mr. Clark testified that private school or non-government educators would be included in the education and healthcare employment category.

In response to a question from Representative Hatton, Mr. Clark stated that Kentucky's lower recovery in the mining and logging sector is likely due to the type of mining done in Kentucky versus the rest of the nation.

In response to a question from Representative Fischer, Mr. Clark testified that official labor force statistics consider everyone over the age of 16. He continued to say that retirements contribute to a lower labor force participation rate. Prime age workers consider individuals ages 25 to 55. Kentucky labor force participation rates are lower than nationally, even among prime age workers. As Americans on average get older, the labor force participation rate will decrease.

In response to a question from Representative Petrie, Mr. Clark testified that labor force participation rates among prime age workers will not be impacted by retirements.

In response to a question from Senator Nemes, Mr. Clark stated that initial unemployment insurance claims likely do not include refiled claims.

In response to a question from Representative Tipton, Mr. Clark said that he was unsure when the Federal Reserve may change its policy and raise interest rates.

With no further business before the committee, the meeting was adjourned at 2:40 p.m.

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

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

#### **Minutes of the 4th Meeting of the 2021 Interim**

September 24, 2021

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

The fourth meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Friday, September 24, 2021, at 8:30 AM, in Room 154 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Representative Lynn Bechler, Co-Chair; Senators, Morgan McGarvey, and Wil Schroder; Representatives Nima Kulkarni, Jason Petrie, Bart Rowland, and Russell Webber.

Guests: Mike Hayden, Executive Director, Kentucky Communications Network Authority; Mitch Powers, Chief Operating Officer, Kentucky Communications Network Authority; David Flessas, Chief Executive Office, OpenFiber/Accelcom; John Hicks, State Budget Director, Office of State Budget Director; Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority; Kasey Maier, President and Chief Executive Officer, Waterfront Botanical Gardens.

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

#### **Broadband Deployment Status**

Representatives from Kentucky Communications Network Authority (KCNA) and OpenFiber/Accelcom provided the subcommittee with an update on the status of broadband deployment.

In response to a question from Representative Petrie, Mr. Powers said that construction started on ring one in 2017. He stated that construction on ring four is scheduled to be completed by the end of calendar year 2021.

In response to questions from Chair Bechler, Mr. Powers said that there are 877 agency locations slated to migrate to the network. He said that 670 of the locations are executive branch agencies. Mr. Murphy said that \$407 million has been spent to date on the project. Mr. Powers said that KCNA will provide a summary of the KCNA Advisory Group meeting to the subcommittee members.

In response to a question from Representative Petrie, Mr. Hayden said that KCNA would provide the members with a copy of the final settlement. He answered that KCNA's anticipated budget would be relatively flat for the next two years.

#### **OpenFiber/Accelcom**

In response to questions from Chair Bechler, Mr. Flessas said that the wholesale agreement with the state gives OpenFiber access to the capacity that the state is not using. He added that OpenFiber does enable some last-mile service providers. Mr. Flessas said that healthcare is a great application for the network. He said that Accelcom can build the last-mile connection or lease through a local carrier depending on the location.

In response to a question from Representative Petrie, Mr. Flessas answered that OpenFiber Kentucky is owned by Macquarie Capital and is doing business as Accelcom. He said that they have a wholesale agreement with KCNA. Mr. Flessas said Accelcom does not actively target small or medium businesses. Mr. Hayden agreed to provide the contract between OpenFiber and KCNA to subcommittee members.

#### **Kentucky Infrastructure Authority**

John Hicks, State Budget Director, and Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority, gave the subcommittee an update on the Broadband Deployment Fund. The presentation included federal guidance, the request for proposal (RFP) timeline, and information on how projects will be selected.

In response to a question from Chair Bechler, Mr. Hicks said that unserved and underserved areas will be identified through the RFP process. Mr. Hicks added that Rural Digital Opportunity Funds (RDOF) would not negatively affect the RFP process for Kentucky's Broadband Deployment funds.

In response to a question from Representative Petrie, Mr. Hicks said that the Office of the State Budget Director has been in contact with the Economic Development Cabinet regarding prospective opportunities for new or expanding businesses. Mr. Hicks agreed to provide the RFP to subcommittee members.

#### **Louisville Botanical Gardens Update**

Kasey Maier, President and Chief Executive Officer, gave an update on the Louisville Botanical Gardens. Her presentation included information about the garden's adult education courses, events and programs, and renderings of the Japanese Garden, designed by landscape artist Shiro Nakane.

In response to a question by Chair Bechler, Ms. Maier said that partners from the Department of Agriculture have helped develop Kentucky-centric aspects, such as native plants, at the botanical gardens. Ms. Maier said that admission is currently free. However, there would likely be a ticket price set sometime in the coming years.

In response to a question by Representative Webber, Ms. Maier said Louisville Botanical Gardens just closed on a 4.6 acre lot purchased from the Waterfront Development Corporation. She stated the lot would hold 300 cars, and there are ongoing discussions regarding building a multi-level parking structure on the site.

There being no further business to come before the subcommittee, the meeting adjourned at 10:29 a.m.

# INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE

## Budget Review Subcommittee on Human Resources

### Minutes of the 5th Meeting of the 2021 Interim

October 6, 2021

#### Call to Order and Roll Call

The 5th meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, October 6, 2021, at 11:00 AM, in Room 129 of the Capitol Annex. Representative Danny Bentley, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Julie Raque Adams, Ralph Alvarado, Karen Berg, and Danny Carroll; Representatives Adam Bowling, Deanna Frazier, Melinda Gibbons Prunty, Steve Sheldon, Russell Webber, Susan Westrom, and Lisa Willner.

Guests: Michelle Rose, Manager of Population Health, Norton Infectious Diseases Institute, Norton Healthcare; Danielle Revert, Nurse Practitioner, The Hepatitis C Treatment Center; Dr. John Jones, Medical Director, Primary Care Centers of Eastern Kentucky; Adam Mather, Inspector General, Cabinet for Health and Family Services (CHFS); Dr. Connie White, Deputy Commissioner for Clinical Services, Department for Public Health, CHFS; Dr. Russell Travis, Travis Neurological Consulting; and Van Ingram, Executive Director, Office of Drug Control Policy, Justice and Public Safety Cabinet.

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

#### Approval of Minutes

Senator Meredith made the motion to approve the minutes of the September 24, 2021, meeting of the subcommittee. Senator Alvarado seconded the motion, and the minutes were approved without objection.

#### Funding for Hepatitis C Treatment and Services for Individuals with Substance Use Disorder

Ms. Rose, Ms. Revert, and Dr. Jones each provided a presentation on the importance of testing and early treatment of Hepatitis C, as well as the additional health problems Hepatitis C can cause if left untreated.

In response to a question from Representative Frazier, Ms. Rose stated that a modeling study estimated that roughly forty four thousand people may be Hepatitis C positive in Kentucky. Ms. Revert noted that Hepatitis C populations are generally hard to accurately assess.

In response to questions from Senator Berg, Ms. Revert confirmed that someone cured of Hepatitis C could become reinfected, as humans do not develop immunity to Hepatitis C. Ms. Revert noted that the cost of Hepatitis C treatment has dropped roughly

seventy eight percent in the last few years.

In response to a question from Senator Alvarado, Ms. Rose stated that women typically are introduced to intravenous drug use through their partners. Ms. Rose noted that those in the zero to nine year age range with a dual diagnosis of Hepatitis C and opioid dependency are infants born with neonatal abstinence syndrome.

In response to a question from Representative Webber, Ms. Revert said that there would be high human and financial costs if Kentucky doesn't get more aggressive in combating Hepatitis C.

In response to a question from Senator Berg, Ms. Rose noted that the cost of Hepatitis C screening varies, but that the average is roughly sixty four dollars per test.

#### Update on Funding for the Kentucky All Schedule Prescription Electronic Reporting (KASPER) System and Request for Proposal Process

Mr. Mather, Dr. White, Dr. Travis, and Mr. Ingram provided information regarding the funding for and necessity of the KASPER system.

In response to questions from Senator Berg, Dr. Travis confirmed that KASPER can be used to identify over prescribers. Dr. Travis noted that the Kentucky Board of Medical Licensure has six investigators who work to investigate suspected over prescribers. Dr. Travis noted that the Kentucky Board of Medical Licensure has no oversight of nurse practitioners.

In response to questions from Senator Meredith, Mr. Mather noted that the Cabinet for Health and Family Services cannot speak on requests for proposal that are still in the negotiation phase.

In response to a question from Senator Adams, Mr. Mather noted that the dispensing pharmacist enters the data into KASPER. Dr. Travis stated that prescribing doctors have to report to KASPER within twenty-four hours of prescribing.

In response to a question from Chair Bentley, Mr. Mather noted that Kentucky is one of only five total states that maintain their own prescription drug reporting system. Mr. Mather noted that other states pay an outside vender for the same service.

In response to a question from Representative Sheldon, Mr. Mather noted that there have been roughly one thousand requests from providers to waive the requirement that opioid prescriptions be submitted electronically.

There being no further business before the subcommittee, the meeting was adjourned at 12:32 PM.

# INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE

## Budget Review Subcommittee on Justice and Judiciary

### Minutes of the 5th Meeting of the 2021 Interim

October 6, 2021

#### Call to Order and Roll Call

The 5th meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim

Joint Committee on Appropriations & Revenue was held on Wednesday, October 6, 2021, at 9:00 AM, in Room 129 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Kerry Harvey, Secretary, Justice and Public Safety Cabinet; Cookie Crews, Commissioner, Department of Corrections (DOC); Hilary Dailey, Deputy Commissioner, DOC; Kiernyn Fannin, Director, Division of Population Management, DOC; John Middleton, Kenton County Circuit Court Clerk, Kentucky Association of Circuit Court Clerks; Jennifer Hancock, President and Chief Executive Officer, Volunteers of America; and Libby Mills, Senior Director, Volunteers of America Justice.

LRC Staff: Perry Papka, Zachary Ireland, and Benjamin Thompson.

#### Department of Corrections – Fiscal Impact of Inmate Classification and Commutations

Secretary Harvey, Ms. Crews, Ms. Dailey, and Ms. Fannin provided a brief presentation regarding commutations related to the COVID-19 pandemic as well as the importance of classification for inmates.

In response to questions from Chair Fischer, Ms. Fannin noted that offenders have a right to waive a pre-sentencing investigation (PSI). Ms. Crews stated that the classification process begins within ten working days of the DOC receiving results from a PSI and the judgment for an inmate's offense.

In response to a question from Senator Westerfield, Ms. Fannin confirmed that an inmate would not be classified until a PSI is completed or within 30 days of the waiver of a PSI.

In response to a question from Representative Petrie, Ms. Fannin noted that some inmates are not receiving classification within the statutorily required timeframe.

In response to questions from Chair Fischer, Secretary Harvey stated that a correctional facility has certain fixed costs regardless of inmate population. Ms. Dailey noted that the \$42 million saved from inmate commutations did not go to the department, rather the reduced costs were subtracted from DOC's appropriation.

In response to a question from Representative Nemes, Secretary Harvey stated that no inmates who had sentences commuted were convicted of a violent crime as defined by Kentucky Revised Statute 439.3401.

In response to a question from Senator Carroll, Secretary Harvey confirmed that any reoffenders would have their commutation revoked. Secretary Harvey noted that it is possible for an inmate to earn ten years of good time credit through various programs and educational courses.



### **Circuit Court Clerks Budgetary Concerns**

Mr. Middleton provided an update on the budgetary needs of Circuit Court Clerks.

In response to a question from Representative Massey, Mr. Middleton noted that raises for Deputy Clerks in 2018 brought hourly pay up to \$12.95.

In response to Chair Fischer, Mr. Middleton noted that the Circuit Clerks are working with the Chief Justice and the Administrative Office of the Courts to formulate a specific funding request.

### **Update on Restorative Justice**

Ms. Hancock and Ms. Mills presented regarding the benefits of restorative justice practices.

In response to a question from Chair Fischer, Ms. Mills noted that Volunteers of America had not yet been able to determine recidivism statistics in the South East Kentucky Project because the initiative is so new. Ms. Mills noted that 26 percent of those who completed the long standing Restorative Justice program in Jefferson County reoffended, while those who had not completed the program had recidivism rates over 50 percent.

### **Approval of Minutes**

Representative Massey made the motion to approve the minutes of the September 24, 2021, meeting of the subcommittee. Representative Nemes seconded the motion, and the minutes were approved without objection.

There being no further business before the subcommittee, the meeting was adjourned at 10:52 AM.

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

### **Budget Review Subcommittee on Education**

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

#### **of the 2021 Interim**

October 6, 2021

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

The fifth meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, October 6, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

**Members:** Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senators Alice Forgry Kerr, Dennis Parrett, and Max Wise; Representatives Kim Banta, Tina Bojanowski, Randy Bridges, Ken Fleming, Kelly Flood, Regina Huff, Bobby McCool, and Charles Miller.

**Guests:** Dr. Aaron Thompson, President, Council on Postsecondary Education; Dr. David McFaddin, President, Eastern Kentucky University; Clara Ross Stamps, Acting President, Kentucky State University; Greg Rush, Vice President for Finance and Administration, Kentucky State University; Stephanie Devine, Executive Director, Teach for America

Appalachia; Jason Wheeler, MD, Appalachian Education Initiatives, Teach for America Appalachia; Brittany Curry, Mathematics Teacher, Letcher County Central High School; Gavin Pielow, Law and Justice Teacher, Knott County Central High School; Ashley Morrow, College Success Coach, Knox County Central High School

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

### **Council on Postsecondary Education**

Dr. Aaron Thompson and Dr. David McFaddin spoke to the committee about cost-saving measures for universities. The presentation included a postsecondary education update and proposed regulatory relief measures.

In response to a question from Chair Tipton, Dr. McFaddin said that 2020 Regular Session Senate Bill 5 did not include liability protection that would cover universities in class action lawsuits. He said that the issue is the delivery of services and not the health and safety of those consuming the services. Dr. McFaddin said the university's request that federal and state aid be applied before university dollars when providing tuition waivers.

In response to a question from Representative Miller, Dr. McFaddin said that universities are asking to be exempt from KRS 57.091, which requires the Governor's approval of all state printing contracts.

In response to a question from Representative Fleming, Dr. McFaddin said that the efficacy of service contracts, quality protocols, and financial aid procedures are under constant review to contain costs on campuses. He indicated that universities have done more with less and focus on being good stewards of dollars invested by the students and the state.

### **Kentucky State University**

Clara Ross Stamps, Acting President, Kentucky State University, Greg Rush, Vice President for Finance and Administration, Kentucky State University, along with Dr. Aaron Thompson, President, Council on Postsecondary Education, gave a presentation to the committee regarding student enrollment, tuition, and a CARES Act funding update.

In response to a question from Chair Tipton, Mr. Rush indicated that KSU's total expenditures are roughly \$70 million. He said the university receives \$27 million in state appropriation and that over \$8 million of that is reserved for the land grant match. Mr. Rush said that KSU will be able to submit a final budget request by the statutory deadline.

In response to a question from Representative McCool, Ms. Stamps said that KSU is in communication with the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). Ms. Stamps said that KSU's accreditation is not in any danger of being revoked. Dr. Thompson added that CPE is in communication with SACSCOC as well.

In response to a question from Representative Graham, Mr. Rush noted the importance of budget transparency with the members of the board of regents at KSU.

In response to a question from Representative Fleming, Mr. Rush said that KSU has roughly \$100-150 million in deferred maintenance. He said that the

newest residence hall was built in 2007. He added that there are many ongoing issues with chillers, roofs, and humidity.

In response to a question from Chair Tipton, Mr. Rush said KSU would provide the subcommittee with the number of students that have an unpaid balance. Mr. Rush said that going forward, it is important that students pay down outstanding balances from the fall semester before registering for the spring semester. Mr. Rush said that he is not aware of a severance package with former KSU president Christopher Brown.

### **Teach for America**

Representatives spoke to the committee about Teach for America's impact on the commonwealth, the future of the agency, and a request for an additional allocation from the General Assembly.

In response to a question from Chair Tipton, Ms. Devine indicated that Teach for America is requesting to double its appropriation from the previous biennium to \$2 million.

In response to a question from Representative Bojanowski, Ms. Devine said that Teach for America teachers are trained internally rather than through a traditional state certification process. Ms. Devine said that Teach for America is a national 501(c)(3). Therefore, she cannot speak to corporate donations. Ms. Devine indicated that the Teach for America allocation supports teachers, college coaches, and professional development staff. She added that Teach for America teachers do get the same rank three salaries as other professionals.

In response to a question from Representative McCool, Ms. Devine said that there is little to no cost to local school districts for Teach for America teachers.

There being no further business before the subcommittee, the meeting adjourned at 12:45 p.m.

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

### **Minutes of the 3rd Meeting**

### **of the 2021 Interim**

October 5, 2021

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

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 5, 2021, at 11:00 AM, in Room 154 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 Julie Raque Adams, Ralph Alvarado, Rick Girdler, Jason Howell, Morgan McGarvey, Dennis Parrett, John Schickel, Brandon Smith, and Brandon J. Storm; Representatives Danny Bentley, Joseph M. Fischer, Patrick Flannery, Deanna Frazier, Jim Gooch Jr., Angie Hatton, Norma Kirk-McCormick, Adam Koenig, Nima Kulkarni, Derek Lewis, Matt Lockett, Shawn McPherson, Michael Meredith, Rachel Roberts, Sal Santoro, Tom Smith, Cherlynn Stevenson, and Susan

Westrom.

Guests: Mark Treesh, Insurance Institute of Kentucky; Owen Caster, Progressive Insurance; John Bush, Bush and Osbourn PLLC; Ron Green, Green, Chesnut and Hughes PLLC

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

#### **Approval of September 14, 2021**

Representative Gooch moved to approve the minutes from September 14, 2021. Senator Parrett seconded the motion. The minutes were approved.

#### **PIP Reform**

Mark Treesh of Insurance Institute of Kentucky, provided general information about personal injury protection (PIP) laws in the United States. PIP laws require no-fault medical coverage as part of a person's automobile liability insurance policy. In Kentucky, the policyholder can reject PIP, and it is optional for motorcycles. PIP typically covers medical expenses, lost wages or income, some funeral costs, and replacement services. PIP insureds receive payment for losses without consideration of fault and generally cannot sue an at-fault party for damages until a threshold is met. In states that have PIP laws, there are two kinds of thresholds: a monetary threshold and a verbal threshold. A monetary threshold is a specified dollar amount. In Kentucky, that amount is \$1,000 in medical bills. A verbal threshold is statutory language that requires the presence of serious injury or death prior to initiating a lawsuit for damages. Mr. Treesh discussed states with PIP laws, states that repealed their PIP laws, and differences between states with PIP laws. Most states do not have PIP laws, including all of the states that border Kentucky.

Ron Green of Green, Chestnut, and Hughes PLLC, explained that PIP was a well-intentioned law when it was passed in 1975, but the law was modified to comply with state constitutional requirements, which led to some irregularities, and has conflicting purposes. Initially, Kentucky's \$1,000 threshold was effective, but increasing medical costs and court decisions have resulted in the threshold becoming meaningless. Mr. Green discussed court interpretations of the PIP laws. These interpretations have led to PIP insurers paying the highest prices for medical expense claims and make it very difficult to challenge or investigate the claims, no matter how suspicious they are.

Mr. Green acknowledged that charging high prices to PIP insurers is beneficial for providers because providers are required to accept discounted rates in other areas, such as in Medicare and private health insurance. However, this hurts the injured person because their PIP benefits will not cover as much as they could otherwise cover. Because of this, the PIP statute creates bad incentives for people and that is partially why fraud is an issue, especially in Louisville.

John Bush of Bush and Osbourn PLLC, discussed fraud associated with PIP in Kentucky. Because medical providers can get paid 100 percent of what they bill to PIP insurers, there is a huge incentive to provide medical services to injured PIP insureds. In contrast, medical providers get at most 40 percent of what they bill to private health insurers and even less for what is

billed to Medicare or Medicaid. This incentive creates a catalyst for a few unscrupulous medical providers and personal injury attorneys to abuse the system. The incentive to abuse the system is exacerbated by court decisions that took away the industry's tools to investigate and challenge claims. The only way for the industry to investigate questionable claims at this point is through an independent medical exam process, which is expensive.

Mr. Bush discussed the exportation of PIP fraud from Florida, as Kentucky's statute is similar to the Florida PIP law, which then spread to Kentucky citizens participating in fraud. Unscrupulous personal injury lawyers benefit from the current system because higher medical bills support higher pain and suffering awards. Mr. Bush agreed that even though the PIP statute was well-intended, it has unintentionally created the catalyst for fraud because there is no objective way to address the billing costs and there are no fee schedules. PIP fraud leads to both higher PIP premiums and higher liability coverage premiums.

Owen Caster of Progressive Insurance, discussed whether PIP has outlived its usefulness. He noted that no state has adopted a no-fault PIP scheme for over 30 years. For injured insureds without health insurance, PIP coverage can cover medical bills. It can also help an injured person keep an income stream because the law allows insureds to reserve benefits for the things they need. For providers, the law is useful because they get paid the most from PIP claims and the payments are made promptly. On the other hand, prompt payment at retail prices has led to the PIP system being taken advantage of. PIP coverage doesn't go very far when medical bills are high. PIP insurers can try to negotiate outrageous medical bills down, but the provider has no incentive under the law to do so. One recourse is to file a lawsuit, but that is not an effective way to manage the situation. There is a 12 to 15 percent interest rate requirement for bills that are not paid promptly, which also makes PIP claims difficult to manage. Finally, the PIP laws have resulted in Kentucky insurance rates being a little more expensive than the rates in other states, especially states that do not have PIP. Other coverages exist that can replace PIP coverage, but PIP is mandatory and you have to fill out forms to reject it. Mr. Caster stated that it will be up to Kentucky citizens and the legislature to decide if PIP is still useful.

In response to Senator Alvarado's questions about using a model like surprise billing for PIP or having an all payers database, Mr. Treesh stated that they have offered PIP legislation in the past that would have used the workers' compensation fee schedule, but it was deemed not the best approach by a number of providers. Mr. Caster added that he believes a database would be great for PIP because of its flexibility. Senator Alvarado also explained a model that would force the provider and an insurance company to negotiate a rate for the consumer. In response, Mr. Bush explained that there is nothing in Kentucky's no-fault PIP law that mandates or incentivizes negotiation. He also stated that picking a database or solution that is fair to everyone is important, which may mean that both sides are unhappy.

In response to Representative Gooch's comment regarding lost wages as an important part of PIP, Mr.

Bush explained PIP provides up to \$200 a week in lost wages for basic coverage and even more if the consumer has additional coverage. Mr. Treesh added that claimants have the right to direct which benefits they wish to use their PIP money for, so an insured can save all of his or her PIP coverage for lost wages if they choose to do so. Representative Gooch also stated that the legislature may need to change or eliminate the PIP law, but if that happens he would prefer that the legislature mandate medical payment coverage and maybe even lost wages coverage in automobile insurance policies.

In response to Representative Smith asking if there is a regulation that school buses have a \$20,000 PIP coverage cap and private individuals only have \$10,000, Mr. Green stated that it could possibly be that the school district had \$10,000 of basic PIP coverage and purchased another \$10,000. Mr. Treesh explained that he could get that information for Representative Smith.

In response to Representative Flannery's question regarding whether minimum PIP coverage amounts have changed over the years, Mr. Green and Mr. Bush stated that the minimum PIP coverage requirement in Kentucky has been \$10,000 since it was enacted in 1975. Some states have significantly higher minimums, and some states have lowered their minimums in the past couple of years. Mr. Bush and Mr. Treesh stated that they would not want to raise the minimum coverage amount without tools to manage the current problems.

Chairman Carpenter commented that in 1975, PIP was a great idea and a great tool, but over time, issues have developed that need to be addressed. There are valid arguments on both sides. Hopefully, the legislature can come to a solution that protects consumers, keeps rates affordable, provides quality, and keeps people from abusing the system.

There being no further business, the meeting was adjourned.

## **COUNTY CLERK OFFICE MODERNIZATION TASK FORCE**

### **Minutes of the 5th Meeting of the 2021 Interim**

October 20, 2021

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

The 5th meeting of the County Clerk Office Modernization Task Force was held on Wednesday, October 20, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: James Nelson, Jeff Evans, Audrey Jackson, Russel Dizon, Dori Guest, Chris Cockrell, and Tabatha Clemons.

LRC Staff: Roberta Kiser, Randall Roof, and

Chelsea Fallis.

#### **Approval of the September 22, 2021 Minutes**

Representative Meredith motioned to approve the September 22, 2021, minutes, seconded by Senator Wheeler, and passed by voice vote.

#### **Enterprise**

James Nelson, Group Controller with Enterprise Holdings, stated that Enterprise currently has the largest fleet of approximately 14,000 rental vehicles, and is the largest customer of the county clerk offices.

Jeff Evans, Vehicle Acquisition Manager with Enterprise Holdings, presented information regarding permanent fleet license plates and permanent fleet renewal tags for rental vehicles. He stated that implementing electronic registration in Kentucky would allow for consumers and companies with vehicle fleets to pay property taxes more efficiently.

In response to Representative Meredith, Mr. Nelson stated that creating and increasing the cost of a fleet license plate upon purchase of a vehicle could create potential challenges for license plate manufactures. Also, law enforcement agencies have made rental companies aware that a fleet license plate could endanger undercover officers.

In response to Senator Wheeler, Mr. Evans stated that county clerks receive annual documentation showing which vehicles have been removed from Enterprise's fleet for property tax purposes. Upon purchase of a license plate, Enterprise would pay the annual ad valorem tax for the permanent fleet renewal tag without having to replace the license plate tag annually.

In response to Representative Bridges, Mr. Nelson stated that Enterprise is looking for guidance from the Kentucky General Assembly on permanent fleet tags. Mr. Evans also stated that surrounding states have implemented the permanent fleet renewal tag with success.

In response to Representative Flannery, Mr. Nelson stated that the definition of a fleet vehicle in Kentucky would be established by the Kentucky General Assembly.

#### **Carvana**

Audrey Jackson, Manager of Carvana Government Affairs, presented a slide show regarding the functionality of Carvana. Ms. Jackson stated that consumers utilizing the E-Commerce option have access to a larger scale marketplace and a convenient buying process. In Kentucky, Carvana serves five markets, employs approximately 600 people, and has two locations. In 2020, approximately 3,000 vehicles were sold, and from January 1, 2020 to July 30, 2021, approximately 2,500 vehicles were sold in Kentucky. Licensed dealers in surrounding states have the authority to inspect the vehicle identification number (VIN), improving delays with title and registration. Licensed dealerships also have the ability to apply for title transfers on behalf of a customer purchasing a vehicle, supporting lenders by ensuring their lien is correctly recorded on a title.

In response to Senator Mills, Ms. Jackson stated that if a licensed dealership incorrectly records the

VIN number of a purchased vehicle, the state could still inspect the report.

#### **Kentucky County Clerks Association**

Chris Cockrell, Montgomery County Clerk, and Tabatha Clemons, Grant County Clerk with the Kentucky County Clerk's Association, shared a presentation regarding Ohio's electronic modernization of registration and titling. Ms. Clemons stated that at the Clermont County Clerk's office, the use of electronic printing for titles has eliminated procedures for duplicate titles. The system pre-prints titles in numerical order, assigns a sequencing number, and is printed from the county clerk's office with a bar code, increasing security for the titling system and eliminating the batch system. The Ohio auto dealers who use an electronic system are able to select which vendor best suits their needs. The state also provides a free system for dealers.

Mr. Cockrell urged against the use of the electronic titling and registration model used by the Ohio Department of Motor Vehicles due to the inconvenience it would cause to the constituents of Kentucky.

In response to Senator Howell, Ms. Clemons stated that Kentucky residents are able to request registration from the dealership for the county they reside in. Counties in Ohio that utilize an electronic model are competing for dealerships which they do business with.

In response to Senator Howell, Ms. Clemons stated that in Ohio the sequencing number on stock printed titles are specific to the state until the inventory is discharged to a county. The county would then report the sequencing numbers of the batch that they have received and scan the inventory code that is printed on the title for auditing purposes. Ms. Clemons stated that having an electronic titling model in Kentucky would enhance the ability of a clerk to reject and correct titling mistakes.

Mr. Cockrell stated that 98 percent of county clerks who responded to a recent survey stated that constituents are best served when driver's license and state issued identification cards are issued at a county level.

In response to Senator Howell, Mr. Cockrell stated that counties with smaller populations may have space limitations at their county clerk offices if driver's license issuance were to be combined with the clerk's duties. However, the majority of constituents would be better served if both offices were combined.

In response to Representative Meredith, Ms. Clemons stated that with access to a geographic information mapping system, county clerk's offices would have the ability to correctly locate a person's address for voter registration purposes.

Ms. Clemons stated that the Kentucky County Clerk's Association would like to discuss the Kentucky Automated Vehicle Information System with the Kentucky Transportation Cabinet for electronic title submission, electronic titling, and centralized lien filing.

In response to Senator Wheeler, Mr. Cockrell stated that there is currently no interest in establishing the REAL I.D. program in the county clerk's offices.

In response to Representative Tackett-Laferty,

Ms. Clemons stated that offering driver's license and identification card issuance in the county clerk's offices and regional offices would create greater voter registration issues.

There being no further business, the meeting adjourned at 12:24 p.m.

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

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

October 13, 2021

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

The Child Welfare Oversight and Advisory Committee meeting was held on Wednesday, October 13, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Julie Raque Adams, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative David Meade, Co-Chair; Senators Karen Berg, Denise Harper Angel, and Brandon J. Storm; Representatives Kim Banta, Lynn Bechler, Josie Raymond, and Nancy Tate.

Guest Legislators: Senator Higdon; Representatives Ken Fleming and Kimberly Poore Moser.

Guests: Austin Griffiths, Ph.D., Director, LifeSkills Center for Child Welfare Education, Department of Social Work, Western Kentucky University; Joe Dan Beavers, President, Chief Executive Officer, LifeSkills, Inc.; Abby Drane, President, Chief Executive Officer, David Weathersby, Chief Operating Officer, and Shelby Greer, Client, Seven Counties Services, Bellewood and Brooklawn; Marta Miranda-Straub, Commissioner and Lesa Dennis, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Dr. Jay Miller, Director, Self-Care Lab, Dean, Dorothy A. Miller Research Professor in Social Work Education, College of Social Work, University of Kentucky, Chair, Kentucky Board of Social Work; and Jill Parker, Executive Director and Dr. Diane Lally, Research Assistant, Training Resource Center, Eastern Kentucky University.

LRC Staff: Ben Payne, Lead Staff, Samir Nasir, Becky Lancaster, and Amanda DuFour.

#### **Approval of Minutes**

A motion to approve the minutes of the August 11, 2021, meeting was made by Representative Meade, seconded by Senator Raque Adams, and approved by voice vote.

#### **Legislator Presentation**

Senator Higdon shared concerns for social workers in Kentucky. He discussed a prior meeting with constituents and social workers asking for assistance to provide better service for children in need. He discussed issues with social worker retention, pay, and stress levels.



## **Seven Counties Services Child Welfare Workforce Programs**

Shelby Greer, Client, Seven Counties Services, discussed how Seven Counties Services assisted her in retaining her first apartment. Seven Counties Services helped her, a single mother, to move forward with her life goals. Abby Drane, President, Chief Executive Officer, Seven Counties Services, Bellewood and Brooklawn, discussed the number of clients served in the region and staff providing support to clients. She reviewed Bellewood and Brooklawn services, treatments, and programs offered to children, young adults, and families. She discussed Seven Counties Services' vision to build a system of care that will connect to the Family First Act model to provide the most appropriate services for clients and families. She discussed the age range of clients served by Seven Counties Services, Bellewood and Brooklawn.

David Weathersby, Chief Operating Officer, Seven Counties Services, Bellewood and Brooklawn, discussed funding and support needed for family recovery court programs to reunite children and families. He reviewed the Pathway to Success program for youth aging out of foster care. He discussed the need for an adolescent substance use disorder program and the different issues addressed in this care model.

In response to questions and comments from Representative Tate, Ms. Drane stated that Seven Counties Services and Bellewood and Brooklawn has no plans to make a statement regarding reproductive care.

In response to questions and comments from Representative Moser, Ms. Drane stated that Seven Counties Services and Bellewood and Brooklawn works as a trauma-informed care entity for clients and staff. Seven Counties Services and Bellewood and Brooklawn attends job fair, uses social media, and pay increases to gain and retain staff. Mr. Weathersby stated that Seven Counties Services, Bellewood and Brooklawn is engaging people whenever possible to hire new staff.

In response to questions and comments from Senator Berg, Mr. Weathersby stated that the Department for Medicaid Services needs to work with managed care organizations (MCOs) to have insurance cover good quality inpatient addiction care services for children in Kentucky. Ms. Drane stated that Seven Counties Services, Bellewood and Brooklawn, has a facility ready to provide inpatient addiction care services for children if affordable rates are covered by insurance companies.

In response to questions and comments from Representative Fleming, Ms. Drane stated that long-standing issues with retaining staff are due to the competition with the for-profit industry. She discussed how their reimbursement and payment structure varies from the for-profit competitors' structures. She stated that Seven Counties Services, Bellewood and Brooklawn, are committed to working on and meeting the payment expectations. Mr. Weathersby stated that the community mental health centers provide services to clients that have Medicare, Medicaid, commercial insurance, or no funding source. He discussed that the number of child aged cases per clinician are at a manageable amount however the high number of

adult cases are problematic.

## **Department for Community Based Services Workforce Challenges and Initiatives**

Lesia Dennis, Deputy Commissioner, Department for Community Based Services (DCBS), Cabinet for Health and Family Services (CHFS), reviewed the mission of DCBS to prevent family units from being disrupted and to reduce child and adult maltreatment. She discussed the number of child protective services (CPS) intakes and the number of substantiated findings or services needed reports completed by DCBS social workers. She reviewed the number of children in the custody of or committed to CHFS. She reviewed the focuses of DCBS staff to provide quality services to children and families. She reviewed the rising average number of CPS caseloads for frontline social workers from April 2021 to September 2021. She discussed 2020 statewide and regional DCBS social worker turnover data and the top reasons for separation from DCBS.

Marta Miranda-Straub, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, discussed the plan to infuse primary and secondary prevention initiatives, the three phases of the plan, and the challenges to build a 21st century DCBS. She reviewed the positive and negative impact of COVID-19 on the DCBS workforce. She discussed the vision to review, revise, and modernize all the features and physical conditions in which DCBS work is performed. She reviewed the statewide supports and programs to stabilize and retain DCBS staff. She discussed nine best practice elements that DCBS has adopted.

In response to questions and comments from Senator Raque Adams, Commissioner Miranda-Straub stated that DCBS is working to put items into the budget to work on capacity, create an alternative response expertise team, establish a pay increase, and research pay equity. She stated that DCBS will send budget requests to the CHFS Secretary and the Governor to be included in the 2022 Governor's budget. She stated that DCBS will be requesting to add a Division of Primary and Secondary Prevention to the department.

In response to questions and comments from Representative Meade, Commissioner Miranda-Straub stated that a low-risk situation is when a child is not in danger, there are no potential neglect or abuse issues, or the family is not in immediate crisis. She stated that DCBS staff is increasing in-person staffed offices and staff are able to see people in-person and make home visits. DCBS is able to continue online foster care trainings, evaluations of services and resources, and follow up meetings. DCBS may observe a family that was reported to provide secondary prevention to prevent maltreatment or abuse.

In response to questions and comments from Senator Berg, Commissioner Miranda-Straub stated that DCBS is committed to increasing resources to kinship care, foster care parents, and fictive kin to better care for children. Ms. Dennis stated that DCBS is still learning about impacts from the COVID-19 pandemic to families, children, and DCBS staff. She stated that the expansion of the relative service array will benefit relative and fictive kin caregivers.

In response to questions and comments from

Representative Fleming, Ms. Dennis stated that the \$5 million allocated to DCBS for retention went towards increasing salaries of the frontline social workers and supervisors. She stated that DCBS partnered with agencies to supplement the workforce in Jefferson County to help with completion of past due referrals. She stated that from 2019 to 2021, DCBS has significantly decreased the average caseload in Jefferson County from approximately 60 to 80 cases to approximately 30-45 cases per social worker. She stated that the number of cases has started to increase because of the increase in staff turnover.

In response to questions and comments from Representative Moser, Commissioner Miranda-Straub stated that DCBS must take care of the worker shortage, low pay, and worker trauma while also taking care of families and children. She stated that engaging in prevention to help families will reduce caseloads and trauma for staff.

In response to questions and comments from Representative Bechler, Commissioner Miranda-Straub stated that DCBS reviewed what the non-profit competitors are paying workers including bonuses, where workers are going that are receiving a higher pay, internal pay disparities, and the average cost of a living wage in different areas. She stated that depending on the county, the living wage in Kentucky is between \$15 per hour and \$19 per hour.

## **Western Kentucky University LifeSkills Center for Child Welfare Education and Research**

Austin Griffiths, Ph.D., Director, LifeSkills Center for Child Welfare Education, Department of Social Work, Western Kentucky University, discussed the start of the Center for Child Welfare Education and Research at Western Kentucky University. He reviewed the mission to support the development of child welfare professionals to serve Kentucky's families and children. He discussed the partnership with LifeSkills, Incorporated to increase capacity and resources to enhance the work with community agencies. He discussed the LifeSkills and Pennyroyal Center merger allowing for expansion, the five pillar approach for the center, and the individuals involved in the center. He discussed various ways the center is supporting the DCBS workforce directly to reduce unreasonable expectations. He reviewed the Kentucky Child Welfare Workforce Wellness Initiative and its partnerships that are working together to create a healthier workforce and community.

Joe Dan Beavers, President, Chief Executive Officer, LifeSkills, Incorporated, discussed how well Dr. Griffiths is achieving goals with the center. He discussed some of the challenges and supports needed to maintain the child welfare workforce.

In response to questions and comments from Senator Raque Adams, Dr. Griffiths stated that the center is supported by grants and partnership with LifeSkills and it is open to accept funding from the General Assembly.

Department for Community Based Services Workforce and Secondary Trauma

Dr. Jay Miller, Director, Self-Care Lab, Dean & Dorothy A. Miller Research Professor in Social Work Education, College of Social Work, University of Kentucky, Chair, Kentucky Board of Social Work,

discussed his history as a foster child and then working for DCBS. He discussed the concept of the self-care lab to address burnout among professionals, difference between caseloads and case weight, and how child welfare professionals may be disproportionately impacted by resource restrictions. He discussed how child welfare workplace conditions and associated consequences impact retention, recruitment, morale, and service provisions. He reviewed partnership work completed with DCBS and the College of Social Work at the University of Kentucky to assist social workers. He discussed how worker wellness was measured in Kentucky and the difference shown in each area and then the impact of COVID-19. He discussed the conceptual intervention that was delivered to child welfare to address the burnout problems and the information that was gathered. He discussed what the College of Social Work continues to work on for worker wellness and retention.

In response to questions and comments from Senator Raque Adams, Dr. Miller stated that the College of Social Work has delivered the first wave intervention in every region in Kentucky and is working to make programs more accessible to all social workers.

In response to questions and comments from Representative Bechler, Dr. Miller stated that he attributes his success to reframing foster care as a service for children and families verses the alternative of not having the foster care system. He stated that the differences in the Lake region and the Eastern Mountain region during the COVID-19 pandemic can be attributed to the availability of community resources such as accessibility to family court proceedings.

#### **Social Worker Employment Engagement Survey**

Jill Parker, Executive Director, Training Resource Center (TRC), Eastern Kentucky University (EKU), discussed the ECU contract with DCBS to provide training and to house the training records system for workers and foster parents. She stated that the training needs for new social workers were reviewed during the Stabilization Phase with DCBS. She discussed how the TRC is involved in the administrative, evaluation, and technological support for DCBS initiatives.

Dr. Diane Lally, Research Assistant, Training Resource Center, Eastern Kentucky University, discussed the DCBS Employee Engagement Survey and how the TRC will assist in the development and reporting of the data. She gave statistics regarding the 2018 DCBS employee engagement survey data. She stated that the 2021 DCBS employee engagement survey data to be available in December with more of a focus on employee engagement. She reviewed the number and the most frequently reported separation reasons for DCBS staff separations from 2019 to 2021.

In response to questions and comments from Senator Raque Adams, Ms. Parker stated that the contract with ECU and DCBS should be available to legislatures.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:41 PM.

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

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

#### **of the 2021 Interim**

October 21, 2021

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

The 5th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, October 21, 2021, at 9:00 AM, in Room 154 of the Capitol Annex. Senator Phillip Wheeler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mary Pat Regan, Deputy Secretary, Education and Workforce Development Cabinet; Marty Hammons, Commissioner, Department of Workforce Investment, Education and Workforce Development Cabinet; Heather Dearing, Deputy Chief of Staff, Office of Kentucky Lieutenant Governor; Charles Aull, Senior Policy Analyst, Kentucky Chamber of Commerce; LaKisha Miller, Executive Director, Kentucky Chamber Workforce Center; Bruce Wilcox, President and CEO, Greater Paducah Economic Development; Michael Stoltzner, President and CEO, Blockware Mining; and Jeremy Witten, Executive Vice President of Engineering, Blockware Mining.

LRC Staff: Andrew Manno, Audrey Ernstberger, Kirk Smith, and Sasche Allen.

#### **Approval of Minutes**

A motion to approve the minutes of the September 23, 2021, meeting was made by Senator Mills, seconded by Representative Johnson, and approved by voice vote.

#### **Education and Workforce Development Cabinet**

The Education and Workforce Development Cabinet's goals include expanding opportunities for early childhood education, providing exposure to career opportunities to middle school students, helping high school students gain experience in real world workforce training opportunities, and assisting Kentuckians to gain experience in their chosen career fields following postsecondary education or trainings. To assist in achieving these goals, the Cabinet utilizes offices such as the Kentucky Commission on Proprietary Education, the Kentucky Department of Education, the Kentucky Department of Workforce Investment, and the Kentucky Workforce Innovation Board. The Cabinet and the Governor's Office has focused on diversifying the workforce landscape

and fostering economic growth throughout the Commonwealth. The Governor, Ford Motor Company, and SK Innovation have announced a \$5.8 billion investment that will create 5,000 jobs and is the single largest economic development project in the state's history.

Despite recent growth in the state's economy, there are still many employment challenges throughout the state. A lack of broadband access is one workforce challenge that was heavily highlighted during the COVID-19 pandemic and has become a critical priority for the Cabinet and the Governor's Office. American Rescue Plan Act funds of \$300 million, have been invested to expand broadband to unserved and underserved communities. In an effort to combat other employment challenges, the Cabinet has created several programs including the Work Opportunity Tax Credit Certifications and KY Transformational Employment Program. In addition, the Cabinet has identified sectors such as aviation, information technology, and early childhood education that need skilled workers and created new initiatives, training opportunities, and partnerships that will funnel workers into these areas. Other Cabinet initiatives and programs include Commercial Drivers Licenses Training, Fair Chance Hiring, the Free GED Campaign, the Governor's School for Entrepreneurs, and the Summer Enrichment Program.

Answering a question from Representative Johnson, Marty Hammons, Commissioner of the Department of Workforce Investment, said he would follow up with further information regarding the statewide aviation industry discussion. In response to a follow up question, Commissioner Hammons explained that the Work Opportunity Tax Credit provides employers financial incentives when hiring workers from certain targets groups including qualifying veterans. The tax credit for hiring a veteran that has been unemployed for four weeks is \$2,400, and the tax credit for hiring a disabled veteran that has been unemployed for six months is \$9,600. There is also a program within the Labor Cabinet that is specific to veterans. Answering another follow up question, Deputy Secretary of the Education and Workforce Development Cabinet, Mary Pat Regan, stated that the Excel Center is a new partnership with Goodwill that provides Kentuckians over the age of 18 pathways to obtain high school diplomas and other industry recognized certifications. The Excel Center will open in Louisville but the Cabinet hopes to expand the program to other parts of the state in the future.

Replying to a question from Representative Banta, Deputy Secretary Regan said she would follow up with college completion and job procurement statistics for the Governor's Scholars Program and the Governor's School for Entrepreneurs. Answering a follow up question, the Deputy Secretary stated the Cabinet's intention with the Early Childhood Registered Apprenticeship Program for high school students is to continue providing early childhood education with an employment pipeline. Deputy Chief of Staff to the Lieutenant Governor, Heather Dearing, added that the early childhood apprenticeship programs allows the Cabinet to tap into a different market of potential apprentices due to a majority of apprenticeship programs being in the advanced

manufacturing and construction sectors. Replying to another follow up question, Deputy Secretary Regan explained that the Summer Enrichment Program partnership with the Lieutenant Governor's Office, the Kentucky Department of Education, and the Kentucky Environmental Education Council was a pilot program for 3,000 students.

Representative Lawrence commended the Cabinet for providing opportunities to expand the state's workforce through partnerships with proprietary schools and the Kentucky Community and Technical College System.

Addressing a question from Senator Mills, Ms. Dearing stated Cabinet officials did not testify in person due to safety concerns related to COVID-19 and would follow up with more information regarding appearances at committee meetings.

### **Kentucky Chamber of Commerce Workforce Report**

The Kentucky Chamber of Commerce's workforce report, *20 Years in the Making: Kentucky's Workforce Crisis*, addresses the need to reframe the conversation surrounding the Commonwealth's workforce. The report is a data driven analysis of the state's workforce challenges and includes an overview of root causes and possible state policy solutions. Although workforce participation rates across the country decreased after the COVID-19 pandemic began, Kentucky has not recovered as quickly as other states. The state has about 90,000 less individuals in the workforce compared to the number of workers, in the workforce, prior to the start of the pandemic. Moreover, the Commonwealth has fallen well below the national average of workforce participation for over 20 years and ranks 48th in the nation in workforce participation. Root causes of the declining workforce participation include retirement rates of the baby boomer generation; skills gaps; lack of access to childcare; health and substance use disorders; infrastructure, transportation, and broadband; incarceration, re-entry, and criminal records; benefit cliffs and social safety net programs; and slow population growth.

Recommended solutions for the workforce crisis include analyzing workforce programming and spending, making the Free Application for Federal Student Aid (FAFSA) a high school graduation requirement, removing barriers to education and employment for individuals with criminal records, improving the competitiveness of the tax code, optimizing the unemployment insurance system for rapid reemployment, expanding the Child Care Assistance Program, and reducing smoking rates. Some private sector actions and public-private partnerships include the Kentucky Chamber Foundation's Workforce Center, the Kentucky Transformational Employment Program, and Talent Pipeline Management.

Responding to comments made by Senator Wheeler, Charles Aull, Senior Policy Analyst for the Kentucky Chamber of Commerce, explained that after studying macroeconomic data, the concept of outsourcing has been widely overstated and has been offset by insourcing. The country's economy has changed tremendously over the last three decades partially due

to free trade agreements, but industrialization would have occurred through advancements in automation and technology. There has been a shift to a more service sector economy which is why the Chamber is strongly advocating for postsecondary attainment.

Answering questions from Representative Bojanowski regarding the increasing number of children with disabilities in districts with the lowest property values, Mr. Aull said he would prefer to read the Office of Education Accountability's report, *Funding Kentucky Education: An Analysis of Education Funding Through the SEEK Formula*, which was presented to the School Funding Task Force, before commenting. Responding to a follow up question, Mr. Aull stated the Chamber encourages the General Assembly to closely monitor proposed legislation that would be a deterrent to individuals considering relocating to the Commonwealth. He discussed tax reform being a possible solution to make the state more attractive and competitive.

Replying to Representative King, Mr. Aull stated more time is needed to assess the effects of the extended federal unemployment insurance benefits on employment.

Addressing Representative Baker, Mr. Aull said that the state ranks amongst the highest in the country for government transfer payments, and there is a clear connection between low workforce participation and the structure of social welfare programs.

Responding to Representative Hart, Mr. Aull stated survey data shows that unvaccinated employees expressed they would consider leaving their place of employment if mandated by the employer to receive the COVID-19 vaccine but estimates potential vaccine mandates would not have a large scale impact on workforce participation.

Answering a question from Senator Southworth, Mr. Aull said he would predict that people leaving their place of employment due to a vaccine mandate would not exit the workforce but would find a new place of employment therefore making vaccine mandates an insignificant factor when considering overall workforce participation. In response to a follow up question, Mr. Aull explained that Pell Grants are federal funds that do not increase student loan debt.

### **Cryptocurrency Mining**

Affordable power rates and recent legislation that abated the sales and utility gross receipt tax on electric bills created new opportunities for data centers and data mining in the western part of the state. Western Kentucky is located in the center of the MISO Grid and intersecting transmission lines which makes the area particularly attractive to cryptocurrency mining companies and large consumers of electricity.

Greater Paducah Economic Development secured two cryptocurrency projects, both will have a major impact on the area's economy and create jobs. The first project is a secured partnership with Blockware involving a 30 megawatt \$50 million project that will require 20 full-time employees. The second is an unofficial \$15 million multi-location project and includes a 15 megawatt facility that will require five employees. Companies in the cryptocurrency industry continue to express interest in the Paducah area for

future projects. Expansion of the industry in the area can lead to new opportunities for both consumers and power companies and generate funds for future improvements to utility infrastructure. The estimated economic impact with these partnerships is \$3 million a year.

Responding to Senator Schroder, Bruce Wilcox, President and CEO of Greater Paducah Economic Development, explained that the risks to investors and utility companies are fairly low because the partnerships are cash collateralized. The partnership agreements can vary in a way that is beneficial and simple for both the investors and utility companies. Michael Stoltzner, President and CEO of Blockware Mining, added that cryptocurrency mining utilizes one tenth of one percent of national disposable energy.

Answering a question from Senator Mills, Mr. Stoltzner said that each company recognizes profits differently, but Blockware's profits shifted to USD in 2019. The purpose for this is so the company can use the generated income for reinvestment. Responding to a follow up question, Mr. Wilcox stated the recently passed legislation that abated the sales and utility gross receipt tax on electric bills makes the Paducah area more attractive to investors worldwide and is helpful for large and small scale cryptocurrency companies. Answering a follow up question, Mr. Stoltzner explained that in response to the ban on cryptocurrency mining in China, Chinese cryptocurrency companies predominately moved equipment to other parts of Asia and parts of Eastern Europe. Those that relocated to the U.S. purchased new equipment.

Replying to Representative Banta, Mr. Stoltzner stated laundering money or conducting other illegal activities through cryptocurrency mining would be difficult to accomplish because the transactions are recorded in a log that is publicly accessible and permanent.

Addressing Representative Lockett, Mr. Stoltzner said in the last 30 to 60 days large corporations have begun offering Bitcoin to their clients. Bitcoin and other forms of cryptocurrency will continue to evolve and progress, and future regulation will strengthen the industry.

Responding to Senator Schroder, Mr. Stoltzner explained that Blockware experienced obstacles during the Public Services Commission's approval process and said the state may be more attractive to other industry investors if the process was amended.

There being no further business before the committee, the meeting adjourned at 11:02 a.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 5th Meeting of the 2021 Interim**

October 5, 2021

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

The 5th meeting of the Interim Joint Committee on Education was held on Tuesday, October 5, 2021, at 11:00 a.m., in Room 149 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 Danny Carroll, David P. Givens, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Gerald A. Neal, Adrienne Southworth, Robert Stivers, Reginald Thomas, Stephen West, and Mike Wilson; Representatives Shane Baker, Kim Banta, Tina Bojanowski, Jennifer Decker, Jeffery Donohue, Myron Dossett, Mark Hart, Adam Koenig, Scott Lewis, C. Ed Massey, Bobby McCool, Charles Miller, Melinda Gibbons Prunty, Felicia Rabourn, Steve Riley, Attica Scott, Killian Timoney, James Tipton, Russell Webber, Richard White, and Lisa Willner.

Guests: Kyle Wilson, CEO, Boom Beans; and Nick Such, Executive Director, Awesome Inc.

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

### **Approval of Minutes**

Senator Wilson made a motion to approve the minutes of the August 3, 2021, and September 1, 2021, meetings. The motion was seconded by Representative Massey and passed by voice vote.

### **Impact of COVID-19 on Student Mental Health**

Linda Tyree, consultant, Kentucky Center for School Safety, and Crisis Response Director, GRREC; Amy Riley, school counselor, Mercer County Middle School, and Chairperson, Kentucky Center for School Safety Board of Directors; and Marsha Duncan, Transition Readiness/SEL Specialist, LaRue County Schools discussed the many impacts on student mental health caused by the COVID-19 pandemic. Ms. Tyree said the crisis response teams many schools formed, thanks to prompting from school safety legislation, were designed for short term critical events, but these teams are now being brought in to help students with increased anxiety, depression, and suicidal ideation related to the pandemic. Many students struggled when transitioning to virtual learning, either from increased exposure to trauma in the home, stress from parents' job loss or illness, and exposure to pornography or other problematic content due to extended time online.

Ms. Riley shared her personal experiences in the school. She also reported that the CDC had polled students and found approximately 25 percent of respondents had contemplated suicide. She wanted to impress upon the committee that these were not just statistics because each number represents a student in crisis. Prior to the pandemic, students had mental health concerns, and there was not sufficient support for them. Now the number of those with anxiety, depression, and suicidal ideation has skyrocketed. This is also not limited only to high schoolers as she works primarily with eight- to ten-year-old children and has seen the dramatic increase in severe mental health concerns among them as well. Diverse concerns led to this increase in suicidal ideation including increased isolation which led to increased stress. Ms. Riley also noted that the loss of in-person instruction also led to a loss of access to student health supports and a decrease in the ability of teachers and staff to monitor for early warning signs of mental health distress. She

said increased legislative support for mental health professionals in school was appreciated, but there was still inadequacy because of the pressure of the pandemic. She urged for an even more increased effort toward supporting the mental health of students in the months ahead.

Ms. Duncan said she has spent over 25 years in education, most recently having transitioned to support for student mental health. She said the switch to remote learning made it impossible to meet the mental health needs of students, and students cannot learn when their mental health needs are not met. She echoed the sharp increase in student anxiety, depression, and suicidal ideation she witnessed among students in the wake of the pandemic. She also noted the strain on school staff from an ever increasing caseload. She noted that students as young as 3rd grade are exhibiting symptoms of grief as a result of the trauma and stress over the last year. They are grieving the loss of normal activities, fun at school, consistent routines, as well as the loss of loved ones to the virus itself. Dramatic changes to school are also impacting staff, creating a sense of grief among the adults, which also bleeds over into the student population who can sense losses suffered by the school community. Students also have fears about school safety and what the future will bring. Teachers and staff are overwhelmed and ill-equipped to support students because COVID-19 has left many in consistent emotional turmoil. Each student and staffer needs the skills and support to not just survive this school year but thrive and have the resiliency to rebound. She said mental health professionals in schools value the legislature's willingness to acknowledge this crisis and take steps necessary to support this critical effort towards wellness for students and staff.

Responding to questions from Representative Bojanowski, Ms. Tyree said the impact of the opioid crisis and negative aspects of social media have been significant in schools over the last several years, and they are clearly continuing to fuel the explosion of mental health concerns witnessed in the wake of COVID-19. Representative Bojanowski said she would support efforts to assist mental health professionals in the schools to address all the challenges facing students and staff today.

In response to a question from Representative Massey, Ms. Tyree said there is no data yet on the increased use of mental health resources, but nationwide there has been reported an increase in demand for mental health services of about 300 percent.

Chair Huff stated that there has been a reported increase in student suicides attributed to COVID-19 and that just because they are children, it does not mean they do not suffer mental health crises. Ms. Tyree agreed, adding that there has been an increase in suicide attempts by approximately 57 percent in just the last year, with children as young as 11 taking their own lives. She also noted that these figures only illustrate the increase in demand for those who have reached out. Students without opportunity to reach out, and those who suffer in silence, are not recorded in those statistics. The actual number of students needing help with suicidal ideation is likely much

higher.

Responding to a question from Representative Tipton, Ms. Duncan said her school district has contracted with outside agencies to get more staff, but the sheer scale of the problem is brutal on counselors. Many are leaving the field due to burnout and it is taking a long time to fill vacancies. Also, she noted that students rarely reach out to an adult. Instead, they communicate with friends via email and text messages, so it is harder to identify those that need crisis intervention. Even when they have been identified, though, there are not enough spaces in crisis units because of the scale of the problem and the lack of clinicians.

Representative Baker said it seems it would be easier to build strong children than repair broken men, asking what can parents and educators can do to help build students up and keep them from being fearful. Ms. Riley said she encourages parents to get involved in the social/emotional learning (SEL) going on in schools. While the legislature may not hear as much about preventative measures being taken in schools, she and others advocate for strong Tier 1 SEL curriculum to be adopted in schools. These courses teach resiliency and how to bounce back from adverse situations. Teachers can be equipped to teach this curriculum. Ms. Tyree added that an emphasis on adopting SEL curriculum was part of the school safety legislation and, when combined with a social/emotional health assessment tool, is a vital step toward making students feel safe in school and a proactive approach toward lifelong improved mental health. She agreed that intervention and education through teaching students to articulate their emotions and practice social regulation before there is any display of at-risk behavior is the goal.

In response to questions from Representative Willner, Ms. Riley said the inclusion of trauma-informed care and the creation of trauma response teams in the school safety legislation displayed amazing foresight because several schools were able to activate those teams to address COVID-19 related stress and grief in schools. Teams are having a very positive impact in schools and are meeting regularly to develop individualized plans for at-risk students. Students going through the pandemic are experiencing trauma, and the teams are ready to help address their needs. Representative Willner said she would like to hear more from the trauma response teams in future meetings.

Responding to questions from Senator Givens, Ms. Tyree said school counselors have been working toward embedding mental health resiliency into school curriculum, but it has not been fully incorporated in many schools at this time. Senator Givens said he understands the school day is limited, but including these skills in the curriculum would be very timely and appropriate. Ms. Tyree said there are many programs that embed SEL into classes, but it has been shown to be more effective in elementary schools as a stand-alone class or segment of daily instruction. Unfortunately, that also makes SEL much more difficult to effectively implement during remote instruction. It is also harder for teachers to recognize those that might be struggling during remote instruction, because they do not get the in-person



social/emotional feedback from students.

Ms. Riley added that it is hard to incorporate SEL when competing with other courses. Ms. Duncan said using a stand-alone model and performing individual SEL evaluations on every student was a model they are attempting in her school. She looks forward to using the information from the evaluations to increase efforts to support every child. She has also been reaching out to teachers to give them the training necessary to address student mental health through professional development courses. Responding to another question from Senator Givens, Ms. Tyree said there are currently grant funds to assist districts in paying for mental health professional development courses for teachers, but she does not know how much longer those funds will be available. Ms. Duncan encouraged all districts to consider incorporating the training because when you experience a student death by suicide as an educator, you wish you had the training necessary to speak up and the skills to stop future tragedies from occurring.

Chair Huff said the legislature did pass a bill she had sponsored to add an hour of professional development on suicide prevention but that it may be timely to look at increasing that requirement or assisting districts in completing it.

Representative Banta said she has taken the course as an educator and found it very enjoyable. It was a helpful way to learn how to talk to students about feelings and emotions. She suggested the legislature reach out to the Kentucky School Boards Association to see which schools are doing this professional development course and see what could be done to assist all school districts in incorporating this training.

Responding to questions from Senator Southworth, Ms. Duncan said they use an SEL assessment tool from Panorama Ed, a third-party organization. The company provides a model assessment that can be customized to the needs of the school. Questions on the assessment are the same throughout the year and changes can be noted over time in the mental health of individual students. Using a standardized set of questions also allows for comparison between schools and across the country. Ms. Riley said her school uses a tool from SRSS, and it is used to assign needed interventions. Ms. Tyree noted, however, that the universal screeners are impossible to perform during remote learning as many questions use teacher perceptions based on student observation. Without having their eyes on students, those perceptions cannot be formed and gathered.

#### **Leadership Institute for School Principals**

Kate Shanks, Senior Vice President, Public Affairs, Kentucky Chamber of Commerce; and Houston Barber, Superintendent, Frankfort Independent Schools, were present to inform the committee on the value of the Leadership Institute for School Principals. Ms. Shanks said the program is very important for local business communities and is funded through the Kentucky Chamber Foundation. The goal of the program is to make principals the CEOs of their schools with similar leadership skills as those used by successful business CEOs. The program consists of a three-day training retreat at the Truist Leadership Institute, followed by several one-

day sessions in Kentucky. These continuing learning opportunities include virtual sessions, coaching, and peer-to-peer assessments. Principals attend for free through a partnership with the Truist Leadership Institute and donations from Kentucky's business community. To date, the Chamber Foundation has raised over \$3 million to allow principals to participate in this valuable training opportunity. She used a map of Kentucky to illustrate which counties have taken advantage of the program, highlighting the need to reach out to those that have not participated yet. She encouraged members to reach out to their schools to encourage participants to apply soon for the spring class. Applicants are considered based on years of service, percentage of students receiving free/reduced-price lunch, achievement gaps, and recommendations from superintendents. She said the Chamber looks forward to continuing this program, which has already been in place for 10 years, for many years to come.

Mr. Barber presented his testimony as a graduate of the program. He said it was a life-changing experience. Being a principal is challenging on a daily basis and a key take-away for him was the ability to change the game. It helped him better understand the dynamics of being a leader in the school and in the community and becoming a moral leader for students. He stated that the businesses in communities get involved because it helps change the workforce as well because principals as CEOs approach students as future employees. It leads to principals actively encouraging student growth as well. He hopes to someday see every county represented in this program and also encouraged members to reach out to their communities to get involved. One particularly useful aspect was the executive coaching sessions, which gave him a mentor to lean on in times of making difficult decisions. He worked as a principal in a JCPS school, which was often stressful, and he appreciated having the assistance of mentor.

Responding to a question from Representative Bojanowski, Mr. Barber said the primary difference between a principal and being a 'principal as CEO' was noting how much he did not understand about being a leader until he was a principal. The program helped him determine what kind of leader he was, identifying his own strengths as well as those of his staff, and how to use those strengths to benefit the school as a whole. He said those skills are not always highlighted in standard principal training.

In response to a question from Representative Gibbons Prunty, Ms. Shanks said they are looking to expand the Board of Managers for the program to increase diversity in many ways, including regionally.

Responding to a question from Representative Baker, Ms. Shanks said she does not believe that the curriculum for the program speaks to increasing equity among marginalized communities. Mr. Barber said the curriculum is more about personal growth and understanding oneself as a leader. The goal is to train principals in leadership skills they can take back to their schools.

Senator Higdon commented that strong leadership is important in every organization and encouraged principals to get all the leadership training they could to be most effective in their schools.

In response to a question from Representative Decker, Ms. Shanks said she would follow up to provide her with a copy of the curriculum from the Truist Leadership Institute.

#### **Creating a Foundation for Change: Youth Entrepreneurship in Appalachia**

Kyle Wilson, CEO, Boom Beans and Nick Such, Executive Director, Awesome Inc., gave testimony on their innovative approach to teaching entrepreneurship to students in Appalachia. Mr. Wilson said he has worked with various start-ups and industries that are innovating, including Awesome Inc. in Lexington, and wanted to duplicate that success in the Appalachian region. He wanted to provide opportunities for students to take charge and change the trajectory of their region. He did that by providing seed funding for start-ups led by high school students. Additionally, he teaches them about start-up creation and management through his already established brand, Boom Beans. Boom Beans is a coffee brand, inspired by a high school student, which is easily relatable to everyone and accessible by students. By helping to run Boom Beans, students learn how to run an established brand, and through his courses on entrepreneurship, students brainstorm ideas for their own start-up companies.

Mr. Wilson said his class is live every day in classrooms and virtually. He helps students create and launch a product, service, or software by the end of the year and forms a lifetime partnership to assist in the continued success of that product, service, or software. In collaboration with Awesome Inc., they have also created a proprietary social platform to provide students an opportunity to network with other students and create regional partnerships. He said this has played a major role in keeping students connected after graduation. Students who do not want to create or run a business may stay involved after college by bringing their skills to work for other student run businesses in eastern Kentucky because of the connections made and maintained on the social networking platform. The platform also provides investors with a way to view the start-ups and contribute seed money.

Mr. Such spoke to the many ways in which technology is an enabler in our society. His company, Awesome Inc., brings technology assistance to the start-ups in Mr. Wilson's entrepreneurship classes. Awesome Inc. has held many classes and camps to increase the number of students and adults with the expertise in coding and software development needed in today's technology driven markets. Mr. Wilson said they discovered it was necessary to first create a technology ecosystem for the project to be successful because not many schools have the resources to teach coding and software development. In working with students, he saw many great ideas but no guidance to bring them to life. For example, an individual came to him with an idea to connect her community via a phone app, but needed the skills taught in his course to develop and launch it. So many students are like her, only needing the guidance to bring great ideas to fruition. As someone with experience launching many different brands, he wants to bring that expertise to support the youth of Kentucky. Awesome Inc., and other organizations like it, have created a foundation

of coding and technology that can be capitalized on with further training in entrepreneurship.

Part of what makes the program successful has also been the emphasis on creating revenue with these start-ups so they continue to succeed after their initial seed money is invested. His course teaches students to think about what the expectations are for a business, how to address market competition, and how to face fears. The initial seed money is also budgeted to include marketing expenses to get the start-ups out into the world and generating revenue. These are skills that students can apply at any company, not just their own start-up, and will stop the ‘brain drain’ of bright individuals leaving the state. Mr. Wilson said his goal is to build a better future here in Kentucky with Boom Beans and his entrepreneurship course. The company is largely a non-profit, with 55 percent of revenue generated turned back into seed money for other launches. However, there is also a set cost to districts wishing to participate of \$30,000. This cost is to provide necessary training for teachers and purchase of equipment/software for skills training. Boom Beans then wraps operations teams around the start-ups to make them safe investments for other investors and extend their success. The whole process builds personal relationships with students.

Mr. Wilson said his primary goal coming before the committee is to advocate for state funding of the project. Currently, they are looking to onboard 15 more schools, primarily focusing on middle schools, and are seeking \$400,000 for educator training, coding training, and an entrepreneur showcase. In addition to seeking state funds, they will also be going to regional groups to solicit funding and support. Mr. Such said that working with the Governor’s School for Entrepreneurs as a technology training partner has been rewarding, and partnering with Boom Beans has led to shared stories of student success. He added it is a misconception that students already know everything about technology. He looks to continue to build opportunities by utilizing this moment coming out of the pandemic, combining enhanced broadband support and the ability to connect virtually through Zoom, to propel Kentucky into the future.

Responding to a question from Representative Bojanowski, Mr. Wilson said he had worked with the Governor’s School for Entrepreneurs, and agrees it is an excellent program. He envisions his program fitting in with their program as his occurs during the school-year and the Governor’s School for Entrepreneurs occurs during the summer.

Responding to questions from Senator Thomas, Mr. Wilson said one of the biggest things the legislature can do to support his program in eastern Kentucky is to help offset the cost to schools to implement the program.

Senator Southworth commented that roughly a third of jobs require a college degree, and she appreciates organizations that set students on a pathway to success apart from college. Mr. Wilson agreed that students are a great source for innovative ideas and that his program seeks to teach them how to validate there is a market for their idea or launch a successful adaptation to an existing idea. In response to further questions from Senator Southworth, Mr. Wilson said increased funding support will allow the program to expand

beyond current high schools and ATCs. Many schools want to participate, but there is not funding for all of them. Currently, the program is only available in districts that have acquired funds on their own to pay for technology upgrades and staff training.

Responding to statements from Senator Givens, Mr. Wilson agreed that failure is not a problem because it is part of the entrepreneurial spirit. They start the course with that lesson and continue on to teach that students have to keep working through the process to find success.

In response to a question from Representative Banta, Mr. Wilson clarified that the 55 percent does not go to schools, but rather goes to seed-funding for additional start-ups. The course instruction is paid through the school and students pitch their ideas to the Boom Beans operations team in the hopes of receiving seed money to launch their ideas. The Boom Beans organization distributes seed money grants of \$25,000 to 41 pitches at this time.

Senator Meredith commented that rural western Kentucky also is neglected and to date has not received the same kind of investment support as eastern Kentucky. He asked what kind of guarantee the program could give that it would be successful over the long term. Mr. Such answered that an income agreement is currently part of their model for their adult coding program, in that they guarantee graduates will earn a minimum salary upon completion of the program. He felt the idea of a forgivable loan would be satisfactory to all parties. Mr. Wilson said many in eastern Kentucky do not feel heard in Frankfort, and as a non-profit organization, it would be difficult for Boom Beans to take on a loan arrangement. Mr. Such added that the goal of the program is to change the dynamic of economic investment so that students and citizens of Kentucky would be building and working inside plants with their name on the outside, not that of an individual from outside the state. A system like that also means that more of the profits stay in state. Mr. Wilson said nothing is guaranteed in the world of start-ups, but this program has shown in its pilot that with good supports, these student entrepreneurship can have staying power. Senator Meredith just cautioned that there are a lot of groups asking for funding right now, and there is not enough to go around. The legislature will need to be judicious in appropriations to guarantee sufficient returns to justify the investments.

Chair Huff thanked everyone for their testimony and announced the next meeting of the committee will be Monday, November 15, at 11:00 a.m. With no further business to come before the committee, the meeting adjourned at 12:45 pm.

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

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

#### **of the 2021 Interim**

October 20, 2021

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

The 6th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on

Wednesday, October 20, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

**Members:** Representative Kimberly Poore Moser, Co-Chair; Senators Karen Berg, David P. Givens, Denise Harper Angel, Jason Howell, Stephen Meredith, and Michael J. Nemes; Representatives Danny Bentley, Josh Bray, Tom Burch, Daniel Elliott, Ken Fleming, Deanna Frazier, Mary Lou Marzian, Melinda Gibbons Prunty, Felicia Rabourn, Josie Raymond, Steve Riley, Steve Sheldon, Nancy Tate, Russell Webber, Susan Westrom, and Lisa Willner.

**Guests:** Mary Lynn Spalding, President, Chief Executive Officer, Christian Care Communities; Tim Veno, President, LeadingAge Kentucky; Betsy Johnson, President, Kentucky Association of Health Care Facilities, Kentucky Center for Assisted Living; Bob White, Executive Director, Kentucky Senior Living Association; Mark Lee, President, Paragon Development; Mackenzie Longoria, Public Policy Director, Alzheimer’s Association, Greater Kentucky Chapter; Mary Lloyd Moore, Ed.D., CCC-SLP, Executive Director, Suzanne Vitale Clinical Education Complex, Western Kentucky University; David Wheeler, Director, LifeWorks, Western Kentucky University; John Kelly, Founder, Kelly Autism Program, Western Kentucky University

**LRC Staff:** DeeAnn Wenk, Ben Payne, Chris Joffrin, Samir Nasir, Becky Lancaster, and Amanda DuFour.

#### **Approval of Minutes**

A motion to approve the minutes of the August 26, 2021, and the September 2, 2021, meetings was made by Representative Fleming, seconded by Representative Tate, and approved by voice vote.

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

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 002:270 Proposed** - Expungement; **201 KAR 002:360 Proposed** - Naloxone dispensing; **201 KAR 002:420 Proposed** - Administration of vaccines; **201 KAR 009:270 Proposed** - Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone; **201 KAR 009:290 Proposed** - Athletic trainers; interpretation and application of KRS 311.901(1) and 311.903(2) (Deferred from the September 22, 2021 meeting); **907 KAR 003:005 Proposed** - Coverage of physicians’ services; **907 KAR 003:010 Proposed** -Reimbursement for physicians’ services; **907 KAR 003:060 Proposed** - Ambulance provider assessment program; **921 KAR 001:020 Proposed** - Child Support Enforcement Program: confidentiality, program administration contracts, and agreements; **921 KAR 001:390 Proposed** - Child Support Enforcement Program paternity establishment; **921 KAR 001:400 Emergency** - Establishment, review, and modification of child support and medical support orders; **921 KAR 002:015 Emergency** - Supplemental programs for persons who are aged, blind, or have a

disability; **921 KAR 003:027 Proposed** - Technical requirements; and **921 KAR 004:116 Emergency** - Low Income Home Energy Assistance Program or "LIHEAP". The administrative regulations were reviewed.

### **Assisted Living and Long-Term Care Update and Priorities**

Betsy Johnson, President, Kentucky Association of Health Care Facilities, Kentucky Center for Assisted Living, discussed the various levels of long-term care (LTC) in Kentucky. She discussed that 2022 Regular Session Bill Request (BR) 137 will not address reimbursements for LTC services, but it will modernize the service delivery to make LTC more consumer friendly.

Tim Veno, President, LeadingAge Kentucky, reviewed the LeadingAge services provided by nonprofit members and stated support for BR 137. He discussed various goals of BR 137 that will enhance the LTC model, differentiate personal care homes from assisted living homes, and allow assisted living homes to provide more services.

Mary Lynn Spalding, President, Chief Executive Officer, Christian Care Communities, discussed how BR 137 will affect LTC residents, define how LTC workers' roles vary from social to medical models of service, and allow for more training and resources for LTC workers.

Mark Lee, President, Paragon Development, discussed the various stake holders gathered for input on BR 137 and recommendations made to him by the Alzheimer's Association. He discussed how BR 137 will allow delivery of basic health services, merge private pay personal care with private pay assisted living, allow resident care in apartments to meet the resident's needs without having to move to a licensed area. He clarified that an assisted living community with memory units would have a different license with standards specific to dementia care. Assisted living will remain a private pay, consumer-driven, and noninstitutionalized model.

Bob White, Executive Director, Kentucky Senior Living Association, discussed a letter of support for BR 137. He reiterated that any community that is certified as assisted living may continue to operate as a social model as specified in BR 137.

In response to questions and comments from Representative Moser, Mr. Lee stated that BR 137 works to raise the bar relating to training requirements in dementia care units. Assuming a provider decides to embrace the opportunity to provide more services, the cost range would be close to personal care living on a private pay basis.

In response to questions and comments from Senator Berg, Mr. Lee stated there is a need for people in assisted living to have basic, not skilled, health services provided by nursing staff. He stated that the BR 137 does not change the requirement for employees who do not work with dementia patients.

In response to questions and comments from Senator Meredith, Mr. Lee stated that every healthcare provider has an obligation to fairly and completely disclose their services provided and the charges for its services. Ms. Johnson stated that 48 percent of

the states have assisted living as a certified Medicaid provider and more allow for waiver type services in assisted living. Moving the licensure categories to align with the services being provided would have a significant impact on the Medicaid budget.

In response to questions and comments from Representative Marzian, Mr. Lee stated that it is tough to do everything needed at one time. Mr. White stated that in a smaller market, assisted living is approximately \$3,000 to \$3,600 per month and personal care living is approximately \$4,500 to \$5,000 per month and a memory care unit is higher than personal care living. The average skilled nursing unit is approximately \$6,000 per month. Ms. Johnson stated that skilled nursing facilities are typically reimbursed by Medicaid per day based on acuity of the patient and are not private pay.

In response to questions and comments from Representative Moser, Mr. Lee stated that assuming a provider decides to embrace the opportunity to provide more services, the cost of new assisted living units would be close to personal care living on a private pay basis.

In response to questions and comments from Senator Givens, Ms. Johnson stated that BR 137 does dissolve the personal care category into assisted living communities. Mr. Lee stated that licensed personal care homes have a connection to the Ombudsman's office and assisted living facilities do not.

In response to questions and comments from Representative Elliott, Mr. Lee stated that there is nothing in BR 137 related to tort reform.

In response to questions and comments from Representative Sheldon, Mr. Lee stated that a personal care, apartment style, private pay facility that would become an assisted living with BR 137 would already be delivering the level of care that is referred to as basic health services. He stated that BR 137 would preserve the provider's right to remain a social model.

In response to questions and comments from Representative Burch, Mr. Lee stated his team has continued to engage in conversations with CHFS regarding BR 137 and that he does not know of anything specifically that CHFS disagrees with in BR 137.

In response to questions and comments from Representative Westrom, Mr. Lee stated that the number of seniors will continue to rise until 2050.

### **Alzheimer's Association Priorities and Goals**

Mackenzie Longoria, Public Policy Director, Alzheimer's Association, Greater Kentucky Chapter, discussed the number of adults over 65 years of age and projections in the future. She discussed the Alzheimer's Association's priorities and goals for the 2022 legislative session including training for APS workers, funding for the Office of Dementia Services, and changes to BR 137. The Alzheimer's Association does not support BR 137 as written at this time. She recognized the consumer confusion regarding LTC and discussed creating a different model using input from all stakeholders. She reviewed background details in the process of creating BR 137 with relation to the Alzheimer's Association's participation. She addressed various areas of concern with language removed from BR 137. She discussed the statute KRS

194A.179 regarding training of staff and management for assisted living facilities. She testified that the coalition groups and the Department for Aging and Independent Living plan to meet regarding BR 137.

In response to questions and comments from Representative Moser, Ms. Longoria stated that the cost of training varies according to the size of the facility, the amount of training needed, and online versus in-person training. The specific training for dementia care licensure in BR 137 is good and represents many best practices from the Alzheimer's Association.

In response to questions and comments from Representative Gibbons Prunty, Ms. Longoria stated that the American Association of Retired Persons (AARP), The Bluegrass Area Agency on Aging and Independent Living, Disabled Veterans, and Veterans of America, should be consulted for input regarding BR 137.

### **LifeWorks Program: Transition to Work and Independent Living**

Mary Lloyd Moore, Ed.D., CCC-SLP, Executive Director, Suzanne Vitale Clinical Education Complex, Western Kentucky University (WKU), discussed the Suzanne Vitale Clinical Education Complex and its purpose support individuals and families with autism. She reviewed other programs such as the Family Resource Program, Communication Disorders Clinic, Renshaw Early Childhood Center, and Kelly Autism Program. She gave a personal account of how a client benefited from the services provided by the Suzanne Vitale Clinical Education Complex throughout his life. She discussed LifeWorks at WKU, Kentucky's only living and learning transition program for young adults with autism.

David Wheeler, Director, LifeWorks, Western Kentucky University, discussed the LifeWorks program's goal for individuals with autism to develop skills necessary to live on their own, and to gain and maintain employment. He shared the typical participant profile, the number of participants in the program, and critical areas of focus in the program. He reviewed the LifeWorks Bridge Program that offers classroom instruction only.

Dr. Lloyd Moore discussed the number of college graduates affected by autism who are unemployed and the average annual cost of the Home and Community Based Services (HCBS) waiver services. She requested for funding to support and expand the LifeWorks program. John Kelly, Founder, Kelly Autism Program, Western Kentucky University, discussed the necessity for the LifeWorks program to exist and expand in Kentucky.

In response to questions and comments from Representative Moser, Dr. Lloyd Moore stated that LifeWorks has the capacity to serve 28 individuals with 3 apartment buildings for the two-year program and where. Mr. Kelly stated that the LifeWorks Bridge Program is a daytime program with capacity for more participants.

In response to questions and comments from Senator Nemes, Dr. Lloyd Moore stated that LifeWorks provides a person centered plan for everyone in the program. She stated that LifeWorks trains and supports the businesses that hire program participants.

Mr. Wheeler stated that LifeWorks is a vendor with the Office of Vocational Rehabilitation and provides support employment and pre-employment transition services.

In response to questions and comments from Senator Berg, Dr. Lloyd Moore stated that 75 percent of people with autism in Kentucky, in the 18 to 64 age range, would be eligible for the LifeWorks program if available in their area. Ms. Lloyd Moore stated that LifeWorks at WKU is in its second year of operation.

In response to questions and comments from Representative Burch, Dr. Lloyd Moore stated that LifeWorks works with the businesses to help them understand and best respond to the program participants.

In response to questions and comments from Representative Moser, Dr. Lloyd Moore stated that the LifeWorks program at WKU does not receive any funding from WKU. She stated that the program would welcome partnerships from other universities across Kentucky to expand the program.

### **Adjournment**

There being no further business, the meeting was adjourned at 3:28 PM.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

### **Minutes of the 5th Meeting of the 2021 Interim**

October 7, 2021

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

The 5th meeting of the Interim Joint Committee on Judiciary was held on Thursday, October 7, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Representative C. Ed Massey, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative C. Ed Massey, Co-Chair; Senators Karen Berg, Danny Carroll, Alice Forgy Kerr, John Schickel, Wil Schroder, Robert Stivers, Johnnie Turner, Stephen West, and Phillip Wheeler; Representatives Kim Banta, Kevin D. Bratcher, McKenzie Cantrell, Daniel Elliott, Joseph M. Fischer, Samara Heavrin, Nima Kulkarni, Derek Lewis, Savannah Maddox, Patti Minter, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Attica Scott, and Pamela Stevenson.

Guests: Kerry Harvey Secretary of the Justice and Public Safety Cabinet, Vicki Reed Commissioner of the Department of Juvenile Justice, Dr. Shanna Babalonis, University of Kentucky, Eric Crawford, and Representative Cherlynn Stevenson.

LRC Staff: Roberta Kiser, Matt Trebelhorn, Randall Roof, and Chelsea Fallis.

#### **Approval of the September 17, 2021 Minutes**

Representative Massey made a motion to approve the September 17, 2021, minutes, seconded by Senator Westerfield, and passed by voice vote.

#### **Animal Cruelty Cost-of-Care**

Representative Banta presented information regarding House Bill 100 from the 2021 Regular

Session relating to animal cruelty. She stated that the proposed legislation creates an expedited civil hearing 10 to 15 days after seizure of an animal, separate from the criminal trial, in which the court can determine whether the seizure was lawful, and whether the projected cost of care proposed by the agency is reasonable. If a court finds that an agency has met its burden, the owner must post bond for the cost of care for the animals that were seized, removing the burden from the taxpayers. If animals are not forfeited to an agency, the bond renews every 30 days or until the criminal proceeding is concluded.

In response to Senator Wheeler, Representative Cherlynn Stevenson stated that reimbursement for a person subsequently cleared of animal cruelty charges is currently in discussion as an addition to House Bill 100. In response to Senator Wheeler, Representative Banta added no lien against property has been proposed, and animals may be voluntarily relinquished and adopted if an owner does not wish to continue ownership or cannot maintain costs of the animal. Representative Stevenson reiterated that owners receive an expedited cost of care hearing by the court, allowing owners to release ownership if they wish to do so.

In response to Representative Cantrell, Representative Stevenson gave examples of protection layers that House Bill 100 would create for the animals and defendant.

In Response to Senator Wheeler, Representative Nemes referenced section three of House Bill 100 stating that the cost to a defendant who cannot afford reimbursement would be the cost of the bond, and if the defendant is found not guilty the bond is returned.

#### **Juvenile Detention Centers**

Kerry Harvey, Secretary of the Justice and Public Safety Cabinet, stated that the safety, security, and well-being of the adolescents and adults entrusted to the Department of Juvenile Justice (DJJ) is priority, including staff. Evidence-based training is provided annually to staff members providing advanced safety measures within the juvenile facilities. COVID-19 presented significant staffing challenges in 2020 and 2021 resulting in further need of investments for staffing resources.

Vicki Reed, Commissioner of the Department of Juvenile Justice, stated that implementing education and work force development skills will allow for greater community involvement in the juvenile justice system. The Department of Juvenile Justice is serving approximately 239 youth ranging between 10 to 21 years old, and operating 18 treatment facilities to provide education and counseling for adolescents who remain in the community. Commissioner Reed stated that DJJ is a place of employment for people who want to make a difference in the life of a child. Employees are obligated to report corrupt or unethical behavior or policy violations that may affect the youth or the integrity of the Department of Juvenile Justice.

Representative Massey voiced his concern about abuse reports that took place within the juvenile facilities that caught media coverage before an internal report was provided to the Kentucky General Assembly from the Department of Juvenile Justice.

In response to a question from Senator Westerfield,

Commissioner Reed stated the number of instances permissible for use of excessive force before an employee is terminated depends on the circumstance, with no set number in policy.

In response to Senator Westerfield, Secretary Harvey stated that there is not a policy that differentiates between substantiated and unsubstantiated disciplinary response, the disciplinary action being situational.

In response to Senator Westerfield, Commissioner Reed stated when isolation is necessary, facility policy and procedures are implemented. If isolation exceeds the two-hour minimum, supervisor approval is needed and with each extension the chain of command is notified for approval or dismissal.

In response to Senator Westerfield, Secretary Harvey stated that the Internal Investigations Branch is primarily responsible for investigations regarding the Department of Juvenile Justice. Senator Westerfield requested an annual analysis on the number of reviews and restraint reports received by the Internal Investigations Branch.

In response to Senator Westerfield, Commissioner Reed stated that employees are trained on riot and hostage situations and are not permitted to abandon their posts during such events. Secretary Harvey added that if an agency is needed to gain control during an emergency situation, there is not a designated agency in policy to be notified.

In response to Senator Wheeler, Secretary Harvey stated that staff are to adhere to their training during situations when excessive force is required.

In response to Senator Schickel, Commissioner Reed stated that if a staff member is injured by a juvenile while on duty, criminal charges can ensue.

In response to Representative Bratcher, Commissioner Reed stated that there is video coverage in all of the juvenile facilities. The Internal Investigations Branch is the only outside entity able to view facility footage.

Senator Turner requested statistical documentation on the number of incidents that physically affect the employees and Senator Berg requested to view the excessive force policy.

#### **Medicinal Cannabis**

Dr. Shanna Babalonis, Assistant Professor at the University of Kentucky and a medicinal cannabis researcher, stated that in Kentucky there is not enough scientific research on which conditions to treat with medicinal cannabis for physicians to adequately prescribe a specific dosage or strain.

In response to Senator Berg, Dr. Babalonis stated that due to Kentucky's opioid crisis there needs to be additional research and clinical trials on how medicinal cannabis affects opioid users and opioid overdoses. Dr. Babalonis stated that the University of Kentucky's medicinal cannabis research is funded by the National Institutes of Health and the National Institutes of Drug Abuse. Kentucky is currently conducting controlled studies on the effects of driving behavior while under the influence of cannabis in comparison to alcohol.

In response to Senator West, Dr. Babalonis stated that in states where cannabis is legalized, toxicology analyses were not performed to show that any



decrease of opioid deaths was related to cannabis use. The National Academy of Science released additional statistics showing in states that have legalized medical cannabis, the overdoses by opioids have increased 25 percent.

In response to Representative Moser, Dr. Babalonis stated that having a center specific to medicinal cannabis research would be beneficial in expediting clinical trials and U.S. Food and Drug Administration (FDA) processes.

Representative Nemes introduced Eric Crawford who spoke on his transformative experience with medicinal cannabis as a pain alleviative for physical disabilities and injuries he sustained in an accident. Mr. Crawford gave statistics on opioid overdoses, adding that there are no known deaths from medicinal cannabis use.

Due to time restraints, Representative Nemes gave a synopsis on changes made to House Bill 136 from the 2021 Regular Session relating to the legalization of medicinal cannabis.

In response to Representative Moser, Representative Nemes stated that the research component is covered in section 31 of the draft for the 2022 Regular Session and that the draft does not cover recreational use of cannabis.

In response to Representative Banta, Representative Nemes stated all medicinal cannabis would be manufactured in Kentucky.

There being no further business the meeting adjourned at 1:36 P.M.

## **INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS**

### **Minutes of the 5th Meeting of the 2021 Interim**

October 21, 2021

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

The 5th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Thursday, October 21, 2021, at 11:00 AM, in Room 131 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Jimmy Higdon, Jason Howell, Gerald A. Neal, Michael J. Nemes, and Damon Thayer; Representatives Kim Banta, Kevin D. Bratcher, Tom Burch, Patrick Flannery, Al Gentry, Thomas Huff, Matthew Koch, C. Ed Massey, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, Killian Timoney, and Susan Westrom.

Guests: Representative Bobby McCool, Senator Phillip Wheeler, William Woodward, President, Ironworkers Southern Ohio & Vicinity District Council; Derek Clemons, Vice President & General Manager, Stupp Bridge Company; Brian Miller, Executive Vice President, Shad Sletto, Member, Building Industry Association of Northern Kentucky; Eric Gregory, President, Kentucky Distillers

Association, Sara Osborne and Chris Nolan, Government Relations, MML&K and Kentucky Distillers Association; and Rick Rand, Commissioner, Max Fuller, Deputy Commissioner, Benjamin Siegel, General Counsel, Department of Housing, Buildings, & Construction.

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

#### **Approval of Minutes from September 23, 2021, Meeting**

Senator Adams motioned to approve the minutes from the September 23, 2021, meeting and Representative Timoney seconded the motion. The minutes were approved by voice vote. Chairman Schickel asked for a moment of silence in honor of the passing of Bryce Amburgey's father.

Senator Schickel recognized Senator Neal to introduce special guests visiting the Capitol and attending the committee meeting.

#### **Department of Housing, Buildings, & Construction Update**

Rick Rand, Commissioner, Department of Housing, Buildings, and Construction (DHBC) is proposing the reinstatement of industry-specific advisory committees that provide a targeted perspective on trade and industry-specific issues to advise the department on regulatory matters. Specifically, the department would propose a reorganization to establish the following: the Plumbing Advisory Committee – 11 voting members; the Electrical Advisory Committee – 11 voting members; the Heating, Ventilation, and Air Conditioning Advisory Committee – 9 members; the Elevator Advisory Committee – 9 voting members; the Manufactured Housing Advisory Committee – 5 voting members; and the Uniform State Building Code Advisory Committee – 13 or 14 members. He said the department would be introducing a reorganization bill to enact this in the 2022 Regular Session.

The proposal is in response to requests from industry stakeholders. Industry leaders say the current single committee structure has not fostered a productive environment. The DHBC advisory committee, codified at KRS 1989B.032, is overly broad in scope and lacks the industry-specific expertise needed to advise the department in all matters.

Each committee would, at a minimum, meet quarterly. The DHBC must provide 30 days for the committee to review and provide comments on administrative regulations, except for emergency regulations. Committees may provide the DHBC with a formal recommendation regarding a proposed administrative regulation at the first meeting following the close of the 30 day period, but if one is not provided the DHBC may promulgate at its discretion.

Responding to a question from Chairman Koenig regarding why advisory boards need to be created, Commissioner Rand said it makes the process more formal, and the feedback is better as the boards meet quarterly. This input is vital to help shape regulations for the industries they work in. Chairman Koenig looks forward to hearing from the industries.

Responding to a question from Senator Higdon, Commissioner Rand said the trade advisory boards are appealing because they include the people that are

interested in a particular regulation, they also provide an opportunity to vet regulations and build consensus. Senator Higdon warned against over regulating the building industry.

Responding to Representative Meredith regarding increased expenses, Commissioner Rand said currently, the advisory board members get a \$50 per meeting per diem, plus expenses. With the creation of the new board structure, there will be an additional cost of \$6,000 – 7,000, but the cost will be sustained through the regular budget. The DHBC brings in almost all its revenue through fees, there is very limited general fund dollars. Commissioner Rand also said that he is happy to field calls about projects in districts throughout the state. He always welcomes phone calls and is glad to help where he can.

Representative Palumbo said she was looking forward to working with Commissioner Rand and his staff during the upcoming 2022 Regular Session of the General Assembly.

Responding to Representative Santoro, Commissioner Rand said many state agencies lost personnel to attrition and they have not been replaced. He said more people will need to be hired in certain areas to maintain levels of services that industries expect. Representative Santoro said to hire the personnel needed for the upcoming Ford project in Hardin County.

#### **AN ACT relating to welding safety**

Representative Bobby McCool, bill sponsor, said this legislation is about following the code book, and leveling the playing field for contractors. It is a simple, but serious bill. It is simple in that it is asking contractors to follow what the design engineer puts forth. The D1.1 code book from the American Welding Society is designed with safety in mind. It only applies to buildings and bridges when recommended by the engineers, and does not apply to all welding applications. He said safety is compromised when code is not followed. This bill would keep welding standards systematic across the board and increase safety.

Mr. Bill Woodward, President, Ironworkers Southern Ohio & Vicinity District Council, said this legislation does not affect training facilities where certifications are received. The employees do not have travel anywhere to take the test, as a welding inspector will come to them. Certifications always stay with the welder. This is a safety issue, and not a union issue. He discussed the collapse of a Paducah school due to poor welding, and noted tax payer money would not be wasted with this legislation in place as it ensures that projects are completed responsibly and efficiently.

Senator Phillip Wheeler said there is a cost to society for following the rules. However, that cost cannot compare to the worth of student lives over implementation of safety issues. This bill simply requires that employers and welders follow the rules put into place by the engineer to help prevent accidents and injuries.

Responding to a question from Chairman Schickel, Derek Clemons, Vice President & General Manager, Stupp Bridge Company, said these requirements already exist in code, and this bill will not reduce safety accidents. He noted the engineer's document

already makes this a requirement so this legislation is redundant. People can ignore the language in the new bill, just like they break the rules now. This bill is well-intentioned, but unnecessary.

Brian Miller, Executive Vice President, Building Industry Association of Northern Kentucky, representing both residential and commercial industrial building developers throughout a 12-county jurisdiction, is opposed to the bill. The association has also operated The Enzweiller Building Institute since 1967 and has a successful history of educating professionals for over 50 years. Courses taught at the institute include welding, taught by highly experienced welding professionals, and yielding certified and employable welders for employers. He said the bill does not address welding safety, nor will it prevent the false certifications of welders. Good inspections result in qualified structures that hold up and have good performance. Professional inspectors are always used across the region which results in a good work product, not simply being inundated with filing additional paperwork.

Shad Sletto, Member, Building Industry Association of Northern Kentucky, said this bill could make buildings less safe instead of more safe. Certifications do not make welders better qualified, and they often become unaffordable. Notably, some certifications are worthless. Ultimately, the employer is responsible for welder performance and the overall safety of the job.

Representative Meredith said it seems this legislation is investing a great deal in the opinion of the engineer, and not the employer. Responding to him, Representative McCool said the engineer does not have welding skills, but does have vast knowledge of the project and its strengths and weaknesses.

Representative Flannery encouraged the members of the committee to support the bill. He believes it is a safety bill, and reminded the committee it passed the House of Representatives last session 95-0.

Senator Thayer said the two sides need to meet and come up with a compromise. The legislation has passed the House of Representatives for several sessions only to die in the Senate. He recommended including Senator Matt Castlen in the discussions, as he has been an opponent of the bill. Representative McCool said he would love the opportunity for an in-depth conversation with all parties. Mr. Woodward said it is a very simple bill that is trying to eliminate the fake certifications of welders.

#### **Private Selection Distilled Spirits**

Chris Nolan, Government Relations, MML&K, speaking for the Kentucky Distillers Association (KDA), said KDA has 52 members operating 65 distilleries. The mission since 1880 has been to passionately and responsibly promote, protect and elevate Kentucky's signature bourbon and distilled spirits industry.

Sara Osborne, Government Relations, MML&K, said Kentucky supplies 95 percent of the world's bourbon. It is an \$8.6 billion industry, providing 20,100 jobs for Kentucky families. She said the industry has made \$5 billion in capital investment in Kentucky. Additionally, \$300 million in local and state taxes were paid in 2010. \$1.8 billion has been generated in federal excise taxes from Kentucky

bourbon.

Mr. Nolan said bourbon is more popular than ever and it is fueling incredible growth to benefit all of Kentucky. However, Kentucky bourbon is facing unprecedented challenges at home and abroad. These include: exorbitant taxes; trade wars and tariffs; the COVID global pandemic; an unsustainable regulatory environment; and increased competition in other states.

The KDA recognizes change is not without angst and controversy. Recently, the legislature has tackled several significant alcohol bills. Kentucky laws are outdated, and the KDA has to continually adapt if Kentucky is to maintain its distilling dominance. Bourbon feels intrinsically connected to Kentucky, as 95 percent of bourbon on the market is made here, but it does not have to come from Kentucky. With bourbon booming, barriers to entry decreasing, and craft distillers thriving, the 95 percent made in Kentucky is starting to drop, as bourbon distillers pop up nationwide.

Kentucky is falling behind as the number of distilleries in the United States grew 146 percent between 2014 and 2019. Every other state has lower taxes on spirits production than Kentucky. Other states have also adapted quickly in changing laws, adding privileges and reducing fees to attract the next generation of distillers, jobs, and investment. Kentucky cannot afford to lose its distilling monopoly, and must continually adapt to stay at the forefront, otherwise it would cost jobs, capital investment, tourism dollars, and tax revenue. Ten years ago, 43 percent of distilling jobs were located in Kentucky, and today the number is 30 percent.

Ms. Osborne said a need of the bourbon industry is to eliminate the discriminatory barrel tax, or make it refundable and/or transferable. Other needs include: reducing distilling's overall tax burden to keep it competitive with other states; removing regulatory obstacles that restrict growth allowing Kentucky to compete with other states; and providing parity with beer and wine.

In 2014, the General Assembly made the policy decision to refund the discriminatory barrel taxes to the state's growing bourbon industry. House Bill 445 created the Bourbon Barrel Tax Reinvestment Credit. Since the vast majority of barrel taxes are paid at the local level, distillers were offered a non-refundable corporate income tax credit for the amount of ad valorem barrel tax dollars paid in the previous year. Distillers must reinvest the credited dollars into certain capital improvements at their Kentucky facilities.

The KDA strongly urges the elimination of the barrel tax in its entirety, with the state keeping local community revenue whole. An alternative is to allow distilleries to realize the entire credit by making it refundable or transferable. This will incentivize distilleries to continue investment, which helps offset mounting tariff impacts, Kentucky's high spirits tax burden, and competition from other states. Bourbon is Kentucky's signature industry, and its capital investments and employment justifies the use of refundable or transferable credits, similar to film and historic preservation credits.

Bourbon provides a return on investment. Alcohol

tax revenue in Kentucky increased from \$125 million in 2010 to more than \$300 million in 2020, a 140 percent increase. Prohibition ended 88 years ago, but many of its laws and policies are still on the books in Kentucky. It is time to remove regulatory obstacles that restrict growth.

Finally, private barrel selections are the future of the industry because every individual barrel, no matter the mash bill or location in a warehouse, is unique in flavor and one-of-a-kind. Consumer demand is driving the popularity of private barrels, and these distillery programs are growing tremendously. The ABC has reviewed the practice and said Kentucky businesses need statutory authority to continue these events because they could be viewed as violating Tied House Rules. The legislature must codify this practice in statute if the private barrel selection programs are going to continue after April 2022.

Creating parity with small farm wineries and microbreweries is essential. Allow distillers to have off-site tasting rooms with full retail privileges; allow distillers to sell bottles at fairs, festivals and farmers markets; and offer free samples up to 1.75 ounces. Beer and wine producers have these privileges. The bill also allows retail licensees, including distilleries, to create and sell barrel-aged cocktails.

Responding to Senator Adams, Mr. Nolan said there will be a tax and revenue bill that is not in the committee meeting folders that will need to be vetted with leadership and the Appropriations and Revenue Committee. 22 RS BR 104, which has been discussed in detail and included in the meeting packets, includes the private barrel and parity issues, but leaves the tax issue out.

Responding to Representative Bratcher, Eric Gregory, President, KDA, said this bill's objective is attracting new distilleries to Kentucky, as well as retaining current ones. Kentucky needs similar laws in order to compete with other states. Mr. Nolan said the distilleries would get a refundability of tax credits very similar to what Kentucky provided for the film industry. The tax credit would not be indefinite. Barrel taxes are separate from inventory taxes.

Responding to Representative Miller, Mr. Nolan said there would be no statutory limits on restaurants and bars on to how many private barrels they could buy. It is a self-imposed free market limit.

Responding to Senator Thayer, Mr. Gregory said the ABC Board will give private barrel selection programs a grace period until the end of the 2022 Regular Session. The ABC Board is not standing in the way, but rather wants the fixes to be grounded in statute and done legally. Senator Thayer does not like a regulatory agency trying to dictate to the General Assembly what it needs to do, but agrees this needs to be fixed permanently.

Senator Higdon said there are 10 million barrels of bourbon stored in Kentucky, and more than half are stored in his district. Responding to a question from Senator Higdon, Mr. Gregory said the ad valorem tax and the barrel tax are the same thing. Senator Higdon worries about investment if you completely make the tax refundable. Mr. Gregory said \$33 million will immediately go back into facilities, construction, and creating new jobs. He also mentioned the Bourbon Barrel Tax Reinvestment Credit and the explosion

of new barrels created due to this investment. If Kentucky invests even more back into the facilities, it would create more jobs, and could produce up to 12-15 million barrels stored in Kentucky in the near future.

Responding to Representative Gentry, Mr. Gregory said he is worried about the tariffs imposed on exporting Kentucky bourbon into European markets. Kentucky has lost \$200-300 million in exports. The tariffs need to be removed quickly or it could hurt the state for a generation.

With no further business before the committee, the meeting adjourned at 12:25 p.m.

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

### **Minutes of the 6th Meeting of the 2021 Interim**

October 19, 2021

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

The 6th meeting of the Interim Joint Committee on Local Government was held on Tuesday, October 19, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: J.D. Chaney and Bryanna Carroll, Kentucky League of Cities; Mayor Brian Traugott, City of Versailles; Mayor Jim Hamberg, City of Southgate; Tammy Vernon and Bill Pauley, Department for Local Government; Bruce Roberts and Chuck Bonta, Kentucky Fire Commission; Jim Henderson and Shelley Hampton, Kentucky Association of Counties; Carter Hendricks, South Western Kentucky Economic Development Council; Andi Johnson, Commerce Lexington; and Shelby Williams Somervell, Greater Louisville Inc.

LRC Staff: Mark Mitchell, Christopher Jacovitch, and Cheryl Walters.

Upon the motion of Senator Wheeler, seconded by Senator Nemes, the minutes from the September 22, 2021, meeting were approved.

#### **Kentucky League of Cities' Legislative Platform for the Upcoming 2022 Session of the General Assembly**

Mr. J.D. Chaney, Executive Director and CEO of the Kentucky League of Cities (KLC), told the Committee that some of KLC's issues are continued from last year. He then introduced City of Versailles Mayor Brian Traugott, KLC President, and Southgate

Mayor Jim Hamberg, KLC First Vice President, to discuss the League's priorities for 2022.

Mayor Traugott stated that KLC has three principles of advocacy which are home rule; adequate, stable, and flexible resources; and economic prosperity. Kentucky cities are growing. The 2020 U.S. Census showed city residents account for 56 percent of Kentucky's total population. Kentucky cities, collectively, increased their population by 7.1 percent from 2010 to 2020. Cities added over 167,000 people—slightly more than the number of new residents, meaning current Kentuckians also moved into a city.

The League's top priority for 2022 is revenue diversification. Revenue-limited cities must have the ability to generate the funds needed to pay for the services people expect if Kentucky wants to continue to grow and prosper. To do this, Kentucky must modernize its antiquated funding options, equalize revenue tools currently only available to some cities, and amend section 181 of the constitution. This section impedes the legislature's ability to comprehensively reform local government tax policies. Revising it would bring local government revenue collection in line with the 21st century. Cities are currently forced to heavily rely upon revenue largely generated from productivity.

The restaurant tax is only available to former cities of the fourth and fifth class, does not increase taxes on businesses, and is paid by tourists, so entire financial burden is not solely on residents. KLC would like to expand this to all cities but with limits and concessions. Other revenue issues of KLC include local sales tax, protecting crediting provisions of occupational license taxes, and opposing centralized collection of local revenue.

Road funding is another KLC priority for 2022. Kentucky has not updated its gas tax since 2015, and is last among neighboring states for motor fuels revenue. Forty-eight percent of the amount collected is allocated to city, state, and rural roads and is divided using a system known as the "formula of fifths," which the legislature established in 1948 and which favored rural areas without accounting for increasing municipal road miles.

The current road funding modernization proposal includes updating the antiquated funding formulas. Funds over the 2014 high mark of \$825 million would be evenly split between the municipal and county road aid programs at 13 percent each. Cities maintain more than 10,000 miles of public streets. Since 2009, Kentucky cities spent 62 percent more on city streets, while state and federal funding declined more than four percent. Cities spend more than \$340 million a year to maintain and build streets. City streets are currently operating on a 40-year replacement cycle which more than doubles the industry standard.

The American Rescue Plan Act (ARPA) is not the answer. ARPA funds are limited in use and are restricted to COVID recovery. ARPA funds generally cannot be used for transportation funding shortfalls and supporting city services and revenue needs.

Another 2022 priority of the League is economic development. Kentucky cities drive the state's economy. Cumbersome and outdated restrictions can cause roadblocks. The only tax increment financing provision of 2021 SB 162 creates unnecessary

expenses and delays for local governments. The League appreciates legislators' efforts toward ameliorating those expenses and delays.

Law enforcement training is an issue of concern. Police cadets can wait several months for training at the Kentucky Department of Criminal Training delaying the time that a new hiree can begin patrolling up to almost a year.

Regarding the issue of paramedic training and certificate of need, current delays are being caused by a statewide paramedic shortage and a lengthy process to obtain an emergency certificate of need.

Mayor Hamberg told the Committee that KLC supports legislation that addresses the criminal aspects of substance abuse and measures that take a proactive stance on treatment, rehabilitation, training, and workforce reentry. The current COVID-19 pandemic resulted in an increase of up to nearly 50 percent in 2020 of overdose deaths.

Publication requirements costs city taxpayers around \$1.4 million a year. Publicly owned city websites are available free of charge and allow documents to be available longer. 2020 House Bill 195 allows cities in counties that have a population of 80,000 or more to publish documents and advertisements on a website in lieu of publishing in a local newspaper, which is only 145 cities in nine counties. KLC would like to expand this availability to more cities.

Cities are looking to work with PVAs and others to ensure property ownership information is received in a timely manner. KLC would like to streamline the process used for proposing a tax rate when that tax rate would generate more than four percent more revenue than the compensating rate.

Cities are responsible for public safety and employ around 57 percent of Kentucky's full-time law enforcement officers. Cities handle 74 percent of the state's reported violent crime and spend more than \$500 million a year in wages and benefits for police services. KLC would like to address the limitations on number of former officers and firefighters a city may employ, limitations on work schedules and policies, and the unique aspects of jobs within a fire and police department. 2019 House Bill 191 and 2021 SB 80, strengthened Kentucky's police decertification law. The Kentucky Law Enforcement Council needs to be able to terminate officers whose behavior is of concern without a bill of rights hearing if the officer has been decertified.

Regarding the Open Meetings Act, closed sessions of the locally-elected legislative body are sometimes required to protect proprietary information and taxpayer resources. Mandatory public hearings on municipal road aid and Local Government Assistance program funds are often inconvenient for citizens and unattended. KLC seeks to provide city employees and proprietary information the same privacy protections afforded to the state for similar purposes.

Regarding alcohol licensure, 2019 SB 29 allowed cities with a population of less than 20,000 to impose a regulatory license fee to help offset the cost of extra policing and regulation. KLC wants all municipalities to be able to recover those costs.

Untrained constables threaten the safety of citizens and trained law enforcement. KLC advocates eliminating constables' peace officer powers while

maintaining their other powers and uses.

Municipal audit requirements are often cumbersome and costly for cities with no long-term debt and small budgets. KLC seeks to increase the audit exemption amount and lengthen the time to perform the audit before penalties are incurred.

Nonoperative homeowner associations and planned-unit developments can create unfavorable living conditions and lead to concern about maintenance of common areas. KLC seeks solutions to provide these service gaps when homeowner's associations or planned-unit development governing bodies cease operations or the fees derived therefrom are insufficient.

Energy-efficient lighting can save taxpayer resources while ensuring safety. KLC wishes cities to either be able to assume control of streetlights not owned by the city, or otherwise to be able to require electric utilities to install more efficient lights.

KLC seeks the ability of a municipal utility to escrow, rather than lose, funds from a rate increase if the rate increase is appealed to the Public Service Commission.

KLC advocates for adding penalties for private utilities that violate franchise agreements, as there are no present penalties for violating those agreements.

Government offices are subject to natural disasters, such as a floods or fires. Replacing damaged records is often complicated and expensive. KLC supports allowing an affidavit process to stand in lieu of lost or damaged documents to the Department for Local Government can help ensure assets are not frozen.

KLC seeks additional representation on tourism boards. Cities covered by a regional tourism commission need representation from at least the largest city in each county. Cities served by a consolidated local government tourism commission seek representation.

Paramedic and EMS services are vital but costly. Cities often are responsible for covering costs. KLC supports a user fee, like current 911 fees, which could help ensure funding to maintain these life-saving services.

KLC seeks to ensure that cities providing waste collection do not encounter lengthy publication requirements before extending a service agreement to neighboring areas.

KLC supports a legislative change to allow cities that do not collect funds or have elected officials to be dissolved through an administrative process instead of through the court system.

In response to a question from Senator Wheeler, Mr. Chaney stated revenue sharing between counties has been talked about for some time. Section 181 of the Constitution restricts the General Assembly's authority to allow counties to share revenue.

In response to another question from Senator Wheeler, Mr. Chaney said adjusting Section 181 of Kentucky's constitution could help negate competition between cities and counties for revenue options because the legislature would have more latitude to give local governments more revenue producing options. Regarding revenue issues relative to jails and the origin site of the violation, cities support the state increasing its financial assistance to counties regarding jail costs.

Representative Fleming commented that tax reform efforts need to be increased.

In response to a question from Representative Fleming, Mayor Traugott stated that cities need fiscal flexibility to offer incentives such as amenities to attract people from other states.

In response to a question from Senator Mills, Mr. Chaney said the formula for road funding has to be modernized as the tax is adjusted to account for any state changes accounting for the corporate move away from gasoline. Cities and counties will have to share funding. Senator Mills commented that there needs to be forward thinking in the future.

In response to a question from Representative Johnson, Mayor Traugott replied that it is not so much about adding new taxes, but diversifying the sources of revenue. It is not so much about tax increases, but rather a shift away from the burden on productivity. Representative Johnson commented that money is still being taken away from private citizens. Care needs to be taken to not place additional burdens on the citizens, especially at this time.

### **Special Purpose Governmental Entity Reports**

Ms. Tammy Vernon, Cities and Special Districts (CSD) Branch Manager with the Department for Local Government (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 statutory responsibility 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 timeline of the SPGE system consisting of the following phases: Phase I SPGE User Dashboard, Cycle 1: January - December, with a "go live" date of November 19, 2021; Cycle 2: April - March, with a "go live" date of February 15, 2021; Cycle 3: July - June, with a "go live" date of May 15, 2021; and Cycle 4: October - September, with a "go live" date of August 15, 2021. SPGE system features include users being able to assist SPGEs, oversight agencies, and CPAs in submitting requirements under KRS Chapter 65A. SPGE requirement checklists, maintaining account information, maintaining board meeting dates and board members, a message/alert center, specialty forms, data export, registration, budgets, and audits are all included as dashboard administration features. The Phase II SPGE Public Portal first meeting with Commonwealth Office of Technology (COT) was October 13, 2021, in which building process maps and storyboards were discussed with COT business analysts. The estimated "go live date" to be at the end 2022.

As of September 24, 2021, the SPGE Compliance Report showed 3.26 percent out of compliance, and 96.74 percent in compliance with additional compliance expected. The data included fire districts reporting to DLG.

Senator Thayer commented that it was more

effective to testify before a legislative committee in person rather than by Zoom.

Mr. Bruce Roberts, Deputy Director, and Mr. Chuck Bonta, Training Records and Compliance Specialist, Kentucky Fire Commission, discussed fire department compliance reporting. In Fiscal Year (FY) 18, 458 of 460 (99 percent) fire departments complied with reporting; 492 of 499 (98 percent) in FY 19, 470 of 487 (97 percent) in FY 20; and 381 of 487 complied with reporting as of October 13, 2021.

At the time of the submitted report on October 13, 2021, there were 106 of 487 fire departments non-compliant (22 percent) for FY 21 year end actuals. Letters were sent to all non-compliant departments. At reporting time in 2020, non-compliance was at 22 percent. Reasons for high non-compliance numbers included COVID-19 causing delays and meeting cancellations, high loss of volunteer firefighters/administrative changes, and confusion over reporting requirements.

There are 33 Chapter 75 fire departments that report to the Fire Commission. 442 Chapter 273 fire departments report to the Fire Commission. There are 12 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 21 to the Fire Commission. There are 775 total fire departments in the state, compared to 780 in the last reporting period.

Two percent of total fire departments reported over \$500,000 in revenues, 14 percent reported over \$100,000 but less than \$500,000 in revenues, and 84 percent reported less than \$100,000 in revenues.

Changes within the Fire Commission organizational structure to meet the needs of the fire departments in improving compliance in several areas include the addition of a fire commission compliance specialist to staff, and identifying the need to increase communication with agencies. With the addition of a compliance specialist, the Fire Commission will conduct an in-person financial review of departments every 12 to 18 months rather than every four years, as is the present span.

### **Constitutional Amendment relating to Local Taxation**

Representative Meredith told the committee that the issue of local taxation is not a new topic. This effort is necessary to be competitive regionally and nationally, and to have a growing revenue stream for local governments. The effort to amend the Constitution stems from 2019. KLC and KACo have been core partners in the effort and the work has involved other stakeholders and research.

There are 416 cities in Kentucky. Those derive 59.1 percent of their revenues from local occupational and business taxes, 49 percent from payroll deductions, 5.5 percent from net profits, and 1.1 percent from gross receipts. From the 120 counties in Kentucky, 42.6 percent of their revenues come from business and payroll taxes, 39.1 percent come from payroll deductions, and 3.5 percent from net profits taxes. Louisville derives 57.4 percent of its revenues from business and payroll taxes. Lexington derives 66 percent of its revenue from business and payroll taxes.

Thirty-eight states allow for a local sales tax. Only



17 states allow a local income tax. Kentucky is in the top five regarding local government dependence on income and productivity-based taxes.

There has been a half decade's worth of effort at trying to get the state away from productivity based taxes, but to proceed on a local level, Section 181 of Kentucky's constitution needs to be amended to get the flexibility to help local governments transition away from those types of taxes.

Mr. Jim Henderson, Executive Director of the Kentucky Association of Counties (KACo), told the committee taxation has been the subject of discussion for the duration of his career in local government. Amending Section 181 is crucial to actually implementing substantial tax policy changes. The usage of a consumption-based tax in 38 states shows that it is more competitive, advantageous, and sustainable than non-consumption-based taxes. Tennessee's economy has grown even with its relatively high sales tax.

Mr. Chaney stated that Section 181 of the Constitution prohibits the General Assembly from giving local elected officials the ability to make many revenue decisions. The amendment to Section 181 will allow the General Assembly to have the discussions to enact legislation to allow the implementation of tax policy on the local level.

Representative Meredith reminded the committee that it takes a supermajority of the General Assembly to put the measure on the ballot to then be voted on by the public. If the public approves the proposal, then thoughtful discussions on tax policy would begin. The process is lengthy and will not happen immediately.

Mr. Carter Hendricks, Executive Director of the South Western Kentucky Economic Development Council, pointed out that in 1970, Hopkinsville and its neighbor Clarksville, Tennessee, were essentially the same size at roughly 25,000 people. Fifty years later, Hopkinsville's population is around 32,000 people while Clarksville's has grown to over 160,000. From 1980-2020, Tennessee more than doubled Kentucky's population growth during that same time, as did Indiana. Indiana and Tennessee currently are beating Kentucky in population growth with both states approaching seven million while Kentucky has 4.5 million people.

It has become clear that most of Kentucky's 400 plus cities and counties are struggling with the same issues and challenges that prevent population and sustained economic growth. Kentucky's cities and counties are not growing or not growing fast enough to keep up with the necessary improvements and infrastructure needed to create communities that attract new residents and new businesses. Local governments do not have access to revenue measures that allow them to properly invest in themselves, their infrastructure, or economic development initiatives. Additionally, the state's reliance on the income tax system place southern border counties at a distinct disadvantage as neighboring cities in Tennessee are able to boast no income tax and attract large populations as a result.

Kentucky has a great opportunity to reform its tax system which will lead to a positive and lasting impact. If the General Assembly can have the power through the amendment to the Constitution to create a better tax system, local governments and Kentucky

can build on their assets and can grow significantly.

Ms. Andi Johnson, Chief Policy Officer for Commerce Lexington, told the committee that her group is working on a strategic action plan and that the Lexington region continues to be at a competitive disadvantage when it comes to local and state taxation. Lexington's lack of flexibility in local taxing policies impedes competitiveness. A constitutional amendment is a necessity for continued debate about overall modernization of Kentucky's state and local tax systems. Kentucky's constitution imposes a lack of flexibility in establishing tax policy at the local level. These limitations keep local communities from addressing their unique economic and revenue needs.

As the legislature continues its efforts to reform Kentucky's tax system, local governments need to be given the opportunity to make their own choices about taxation that are in the best interest of their community and economic growth. A crucial step to comprehensive tax modernization is removing the constitutional constraints that stop local governments from working collaboratively with state government and the business community to respond to a rapidly changing economy.

Ms. Shelby Williams Somervell, Vice President of Government Affairs and Communications at Greater Louisville Inc. (GLI), stated that its members strongly support a constitutional amendment and appreciates Representative Meredith for his continued leadership on the critical issue.

The outdated tax structure keeps Kentucky cities and counties at a competitive disadvantage with their peer cities because their hands are tied when it comes to new streams of revenue. Kentucky needs to build a more competitive local tax structure to support economic growth, promote business development, and attract and retain talent. Taking this first step in passing a constitutional amendment will give the General Assembly the opportunity to rethink and recreate local taxation in the Commonwealth.

GLI urges the General Assembly to take this first step in giving cities and counties the ability to thrive in today's economy. The business community stands ready to support the next session and looks forward to the robust discussion in sessions to come regarding what that local tax structure looks like.

In response to a question from Senator Wheeler, Representative Meredith replied that there will be no tax on groceries—the local taxes would be the same taxes as collected on the state level to comply with the streamlined sales tax agreement.

Representative Koenig commented that this effort is good policy. There are collection problems with many taxes, but less so with a sales tax. Amending the Constitution would promote flexibility and options for local governments.

In response to a question from Senator Southworth, Representative Meredith said he didn't have an answer as to why Section 181 of the Constitution was written that way, but it was probably a result of the economy of the day.

In response to another question from Senator Southworth, Representative Meredith said changing the Constitution first will remove tax discussions from a hypothetical phase into a practical phase. Nothing in the constitution caps rates—this is done by statute

presently. There could be discussions about caps, floors, and triggers that affect existing taxes. Reports are available for other states' tax profiles.

In response to a question from Representative Fleming, Representative Meredith stated that there can be discussions, but the constitutional amendment is necessary to actually make a significant change for local governments.

Senator Mills announced that the last meeting of the interim would be November 22, 2021.

There being no further business, the meeting was adjourned at 12:00 p.m.

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

### **Minutes of the 5th Meeting of the 2021 Interim**

October 7, 2021

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

The 5th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, October 7, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Bob Berry, CEO, Big Rivers Electric Corporation; Carey Johnson, Director, Division of Water, Energy and Environment Cabinet; and Brian Clark, Deputy Commissioner, Kentucky Department of Fish and Wildlife Resources.

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

The minutes from the meetings of August 5, 2021, and September 15, 2021, were approved by voice vote.

#### **Grid Transmission and Reliability**

Bob Berry stated Big Rivers Electric Corporation (BREC) was founded in 1961 and currently has nearly 400 employees in four locations. BREC is owned by three electric cooperatives that serve approximately 121,000 homes and businesses in 22 western Kentucky counties. The three cooperatives are Jackson Purchase Energy Corporation, Meade County Rural Electric Cooperative Corporation, and Kenergy Corporation. BREC's generation resources include 936 megawatts from coal and natural gas, 178 megawatts from hydroelectric power, and 260 megawatts from solar power.

In 2020, Kentucky's electricity rates were 20 percent lower than the national average. Kentucky relies on coal for almost 70 percent of its electricity,

while coal provides only 20 percent of the nation's electricity supply.

BREC is a member of Midcontinent Independent System Operator (MISO). MISO operates the electricity grid across 15 states and part of Canada, serving 42 million people. MISO relies on coal and has the largest coal fleet of any region with almost 60,000 megawatts, which is one-fourth of the nation's coal fleet.

Mr. Berry testified that the Biden administration's goal of carbon free electricity by 2035 is not attainable. Maintaining grid reliability and resiliency requires dispatchable energy sources to fuel the grid when renewable energy is not being generated. Also, technological advances are still needed in carbon capture and battery storage research to achieve carbon free electricity. Coal and natural gas provide 92 percent of Kentucky's electricity. Customers would be responsible for the cost of new renewable generation and the stranded assets of current coal and gas plants being retired. BREC has reduced its carbon emissions by 71 percent since 2010.

California relies more on solar and wind power than any state. Solar and wind power provide 30 percent of California's electricity. In August 2021, California was forced to impose rolling blackouts on 2 million customers due to a lack of dispatchable electricity to generate power. MISO has expressed concern about the difficulty of operating its grid with 30 percent renewable energy.

By 2030, BREC will generate and access power from a diverse portfolio including: 178 megawatts from hydropower, 260 megawatts from solar, 417 megawatts from coal, and 470 megawatts from natural gas. BREC relies on coal and natural gas, but it is also investing in solar power. BREC supports a gradual transition of the electricity grid.

In response to Representative DuPlessis, Mr. Berry stated solar and hydropower are used to lower BREC's carbon footprint. Also key to reducing emissions has been BREC's success in decreasing its heat rate, which results in greater efficiency in converting fuel to electricity. In the last three years, BREC has decreased its heat rate by six percent. Mr. Berry stated that no more than 30 percent of BREC's portfolio will be renewable energy sources, and dispatchable electricity generation complements solar installations. BREC's current energy portfolio contains 20 percent renewable energy. Electric vehicle charging stations will require more power generation because of the added load.

In response to Representative Gibbons Prunty, Mr. Berry stated the location of the electric vehicle charging station will affect what type of power generation is used. BREC does power electric vehicle charging stations from its grid.

In response to Representative Miles, Mr. Berry stated that reclamation should be required for solar facilities at the end of their useful lives, just as it is required for coal mines.

Representative Gooch cautioned against overdependence on merchant solar and stated baseload generation is crucial to the resiliency and reliability of the electric power grid.

## **KRS Chapter 151 Updates and Dam Safety Program Enhancements**

Carey Johnson stated Kentucky Revised Statutes (KRS) Chapter 151 provides broad authority to the Energy and Environment Cabinet (EEC) to regulate dam safety, floodplain development and management, water supply planning, stream restoration and mitigation, groundwater monitoring, and improvement of public drinking water supplies.

Mr. Johnson proposed changes to KRS Chapter 151, including the following: 1) update the terminology to reflect current technologies, programs, and practices; 2) repeal statutes made obsolete by federal laws and regulations; and 3) require Emergency Action Plans (EAPs) for high and significant hazard dams. Hazard classification is not based on the condition of a dam, but rather the potential damage in the event of a dam failure.

A dam is defined in KRS Chapter 151 as any structure that is 25 feet in height or has a maximum impounding capacity of 50 acre-feet or more. KRS Chapter 151 applies to all dams in Kentucky except the dams owned and operated by federal agencies. There are 970 regulated dams located in 115 counties in Kentucky. Approximately 45,000 Kentuckians are located in potential dam inundation zones.

An EAP is a formal document that identifies potential emergency conditions at a dam and specifies preplanned actions to be followed to minimize property damage and loss of life. The goals of EAPs are to encourage the development of comprehensive and consistent emergency action planning and the participation of emergency management authorities and dam owners in emergency action planning.

Brian Clark provided a brief overview of the Kentucky Department of Fish and Wildlife Resources No Net Loss of Hunting Land Report.

In response to Representative Burch, Mr. Clark stated there has been a long-term decline in hunting licenses since the 1980s. The hunting license fees are increased to make up for the decline in participation. The increased elk population in Kentucky has become more remote, which has caused less damage to agricultural land. The deer population in Kentucky is stable.

There being no further business, the meeting was adjourned.

## **COMMISSION ON RACE & ACCESS TO OPPORTUNITY**

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

#### **of the 2021 Interim**

October 20, 2021

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

The 4th meeting of the Commission on Race & Access to Opportunity was held on Wednesday, October 20, 2021, at 3:00 PM, in Room 149 of the Capitol Annex. Representative Samara Heavrin, Co-Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

**Members:** Senator David P. Givens, Co-Chair; Representative Samara Heavrin, Co-Chair; Senators Karen Berg and Gerald A. Neal; Representatives

Nima Kulkarni and Killian Timoney; Jamir Davis, OJ Oleka, and Erwin Roberts.

**Guests:** Ashli Watts, President and CEO, Kentucky Chamber of Commerce; Ray Daniels, President and CEO, Equity Solutions Group, LLC; Brigitte Blom, CEO, and Chaka Cummings, Manager, Equity & K12 Policy, the Prichard Committee.

**LRC Staff:** Alisha Miller and Elishea Schweickart.

### **Report from the Task Force on Racial Inequality**

Ashli Watts, President & CEO of the Kentucky Chamber of Commerce, and Ray Daniels, President & CEO of Equity Solutions Group, presented before the commission. In 2020, the Kentucky Chamber of Commerce established the Racial Inequality Task Force. The task force was made up of nine members of the community and focused on education, criminal justice, and economic empowerment. In January 2021, the task force released their report *Achieving Equity to Build a Stronger Kentucky*. The task force used data gathered from across Kentucky to create the report and policy suggestions.

Mr. Daniels testified that in the focus on education, there were achievement gaps between white and black students. These gaps exist across grade levels and subject matter. In 2019, just over 31.1 percent of black students scored proficient on elementary school reading tests while 59.3 percent of white students scored at that level. These achievement gaps also exist when it comes to advance placement courses, gifted programs, high school graduation rates, and transition readiness. Mr. Daniels shared educational policy suggestions, which included:

- Collecting better data and sharing it with policy makers and the community often;
- Improved awareness of racial achievement gaps and gaps in opportunity;
- Adding diversity in the teaching workforce;
- Increasing efforts to get underrepresented students in advanced coursework, such as advanced placement courses;
- Expanding dual credit through increased outreach; and
- More financial assistance to families who need it.

The task force also found that school disciplinary measures disproportionately impact black students as well, which harms achievement and performance. Improved policies are needed to reduce racial bias and avoid removing students from the classroom. Policy suggestions from the report include:

- Regularly disseminating information to the public and policymakers about disparities in disciplinary measures at the school, district and state level, tracking year-to-year changes;
- Determining through research and/or the work of a specifically created task force the factors that contribute to the disparities;
- Adopting alternative approaches to disciplinary measures that remove students from the classroom;
- Incorporating a screening process for implicit bias into the recruitment of school resource officers; and
- Developing detailed reforms and implicit bias training requirements for school resource officers.

Mr. Daniels stated that he believed that parents need

to be better informed on the education system as well.

Postsecondary attainment rates for different racial groups in Kentucky were also found to be unequal. Black and Hispanic student population groups were found to be below 30 percent on postsecondary education attainment. This causes many students in Kentucky to be severely disadvantaged, because many high earning jobs require education beyond a high school diploma. Policy suggestions to help postsecondary attainment rates from the report include:

- Collecting and tracking data;
- Making FASFA a requirement for high school graduation; and

- Better tracking employment outcomes to raise awareness of the benefits of postsecondary education.

Ms. Watts discussed criminal justice reform when it comes to racial disparities. The criminal justice system has historically had a disproportionately negative impact on Black Kentuckians. Black Kentuckians have often made up more than 20 percent of the Kentucky prison population, despite only representing about 8.5 percent of Kentucky's overall population. Findings in the report also showed a disproportionately negative impact when it comes to arrests, types of arrests, juvenile justice, and other areas of criminal justice. Ms. Watts thanked the General Assembly for the work they have done over the last several years on criminal justice reform, and suggested that the General Assembly require racial impact statements for legislation that effect the criminal justice system. Additional policy suggestions include reforming Kentucky's bail system, reclassifying minor drug possession charges as misdemeanors, and expanding access to expungement. The Kentucky Chamber of Commerce also supports former inmates using KEES money.

Economic development in Kentucky is also impacted by racial inequities. Over the last several years the unemployment rate for White Kentuckians has stayed about the same, while it has fluctuated for black Kentuckians. Policy suggestions to help economic development include:

- Create a state Black Entrepreneurship Council to guide initiatives in support of the development and growth of Black-owned businesses and the success of Black entrepreneurs, including the creation of a public-private program to provide startup grants;

- Direct Government agencies and postsecondary institutions by regulation or statute, to regularly collect and publish data on the race of public contract holders; and

- Direct the state Finance Cabinet to produce an annual report on the implementation of the small or small minority owned business set aside program to recommend administrative and/or legislative solutions to improve effectiveness.

The Kentucky Chamber foundation is starting a new diversity, equity, and inclusion center to advance racial equity in Kentucky's business community. They have also endorsed the Equality of Opportunity Initiative launched by the U.S. Chamber of Commerce, which includes business focused action items.

Responding to a question from Commissioner Oleka, Ms. Watts stated that it all starts with education. If someone does not have a good experience in their

education, and they are disproportionately disciplined, it affects them for the rest of their life. Mr. Daniels added that it is important to find each child's skill set, and for educators to get creative with teaching models.

Responding to a question from Representative Kulkarni, Ms. Watts stated that creating databases for minority contractors would help improve state contracts and access to capital. Mr. Daniels added that Lexington has over three hundred minority owned companies, so while databases are important, access to opportunities is also important.

Responding to a question from Senator Berg, Ms. Watts stated that the Kentucky Chamber of Commerce has not studied gun violence pertaining to minors, but they would be happy to talk with her more about her concerns.

Responding to a question from Co-Chair Givens, Ms. Watts stated that one of the first things that can be done to give all children equal access to education is by attracting and hiring more black educators. Children connect better when they are represented, which leads to them being more successful. Commissioner Oleka added that teachers who are unfair toward minority students also need to be held accountable. Responding to a follow-up question from Co-Chair Givens, Mr. Daniels stated that superintendents need to be given the power and ability to create and move principals around as needed and create curriculum as needed. Ms. Watts added that collecting data is so important. She also stated that they believe charter schools would also help minority students because of the different services that are more easily accessible.

#### **Racial Equity in Education: A PC Primary Goal**

Brigitte Blom, CEO, and Chaka Cummings, Manager of Equity & K12 Policy, from the Prichard Committee presented before the commission. Since 2008, the Prichard Committee has been measuring Kentucky's educational progress compared to other states. They have chosen 12 key indicators for measuring Kentucky's educational progress. These indicators include:

- Babies with healthy birth weight;
- Children above 200 percent poverty;
- Preschool participation (ages 3-4);
- Fourth grade reading proficiency;
- Eighth grade math proficiency;
- High school graduation;
- Postsecondary Enrollment;
- Graduation from 2-year institutions;
- Graduation from 4-year institutions;
- Associate degree or higher;
- Voter turnout; and
- Median household income.

Access to broadband internet has recently been added as an indicator because of the COVID-19 pandemic.

Since the 1980's, Kentucky has made some progress, though Ms. Blom stated more progress needs to be made to improve the lives of Kentuckians. Currently, Kentucky is ranked 6th from the bottom of the nation in poverty. Education is a big component in improving lives in Kentucky.

The Prichard Committee added equity rankings to each of their 12 key indicators in 2020. By adding these equity rankings, they can see if each indicator

is the same or if interventions are needed. Ms. Blom provided an example that showed that in 2015 Kentucky was 8th in the nation for 4th grade reading, Kentucky is now ranked at 26th in the nation. Not only has the overall 4th grade reading rank dropped, but only 14 percent of Kentucky's black students are meeting the basic proficiency standard compared to 39 percent of Kentucky's white students.

Ms. Blom also provided areas that schools and communities need to focus on. These include:

- Bold leadership at the state and local levels;
- Accountability, including accepting data that is gathered;
- School climate and culture;
- Instruction in the classroom;
- Communities that work together; and
- Sustainability of effective practices.

In 2020, the Prichard Committee hosted a week long webinar titled Black Minds Matter. Blog posts were also shared before that webinar that provided information about failing Kentucky's black students. Reading scores have been stagnant for African American 4th graders, and in 2019 only 11 percent of African American 8th grades were proficient in math. In 2019, only 30 percent scored proficient or above in KPREP reading.

Many believe that family structure and kindergarten readiness are key components of future student success. Mr. Cummings stated data gathered from the Kentucky Department of Education shows that black students come into kindergarten only slightly less ready than their white peers, but by 3rd grade only black students experience a drop in 3rd grade reading proficiency. Other demographic groups see an improvement in 3rd grade literacy when compared to the kindergarten readiness statistics. The National Association of Educational Progress (NAEP) highlights data showing the gap in reading proficiency between white students and black students continues to widen as students' progress in their education. The gap grew from 19 points in 2002 to 25 points in 2019. Mr. Cummings also spoke about the gap in 8th grade math. Middle school math is the prerequisite for higher level high school math courses, which could set students up for better success in higher education. NAEP shows an 8th grade math gap growing from 20 points in 2002 to 21 points in 2019.

Transition readiness data gathered by the Prichard Committee supports the importance of student proficiency data. From 2019 to 2021 black students experienced a drop in college transition readiness in math. Currently, Kentucky is ranked 3rd in the nation in high school graduation rates, which means students who are not ready are graduating anyway. Data shows that black students have experienced an eight percent drop when it comes to continuing to higher education. These inequities ultimately lead to an \$11,000 difference in median household incomes.

Ms. Blom presented several possible solutions to the commission, including:

- Availability to high-quality early childhood education, which reduces achievement gaps;

- Increasing the number of National Board Certified Teachers;

- Establishing a fund for teaching excellence to work toward closing the educational gaps;

Increasing family engagement in their students learning;

Supporting performance-based funding for higher education;

Increasing FAFSA participation by district; and

Increasing postsecondary opportunities.

The Prichard Committee has also released a statement cautioning the General Assembly against legislation that could actually harm equity in Kentucky schools.

Responding to a question from Co-Chair Heavrin, Ms. Blom stated that test score assessment over the last two years is not a value judgment on Kentucky educators, but an assessment of the impact of a global health pandemic on the educational system. Responding to a follow-up question from Co-Chair Heavrin, Ms. Blom stated that many students have been disproportionately impacted because of the pandemic, but there are also some good things happening as well. An example was increasing advanced placement courses among African American students.

Responding to a question from Commissioner Davis, Ms. Blom stated that the Prichard Committee does not have specific data when it comes to Career and Technical Education Programs.

Responding to a question from Commissioner Oleka, Mr. Cummings stated that based on the data they have, elementary school experiences for black students need to be further studied to fully understand why the educational gaps are happening. Responding to a follow-up question from Commissioner Oleka, Ms. Blom stated that performance-based funding is proving to be an accountability model for post-secondary education.

Responding to a comment from Representative Timoney, Mr. Cummings stated that a way to get educators of color in classrooms is to get leaders of color in schools.

Responding to a question from Co-Chair Givens, Ms. Blom stated that Jefferson County is home to 1/7th of the student population in Kentucky and is the most diverse area of Kentucky. To close achievement gaps in Kentucky, achievement gaps in Jefferson County must be closed, and strategies they have discussed could help do that.

Responding to a question from Senator Berg, Ms. Blom stated that we need to be sure the high school diploma is meaningful and students are graduating from high school when they are actually ready.

With there being no further business, the meeting was adjourned at 5:04 PM.

## **UNEMPLOYMENT INSURANCE REFORM TASK FORCE**

### **Minutes of the 5th Meeting of the 2021 Interim**

October 28, 2021

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

The 5th meeting of the Unemployment Insurance Reform Task Force was held on Thursday, October 28, 2021, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Jamie Link, Secretary, Labor Cabinet; Buddy Hoskinson, Executive Director, Office of Unemployment Insurance, Labor Cabinet; Morgan Eaves, Legislative Director, Labor Cabinet; Sam Flynn, General Counsel and Inspector General, Labor Cabinet; Kate Shanks, Senior Vice President of Public Affairs, Kentucky Chamber of Commerce; and Joe Forvath, Senior Fellow, Foundation of Government Accountability.

LRC Staff: Andrew Manno, Audrey Ernstberger, Kirk Smith, and Sasche Allen.

#### **Approval of Minutes**

A motion to approve the minutes of the September 28, 2021, meeting was made by Representative Phillip Pratt, seconded by Senator Mike Nemes, and approved by voice vote.

#### **Unemployment Insurance Policy Recommendations**

From March 2020 to October 17, 2021, a total of 2,437,076 unemployment insurance claims have been received by the Office of Unemployment Insurance. A total of \$6,685,423,672 has been paid to unemployment insurance claimants through all unemployment insurance programs. As of October 22, 2021, a total of 6,170 claims have been processed related to the SB 7 unemployment insurance benefit waiver for an overpayment of benefits, and a total of \$9,388,328.78 in benefits have been waived as a result of overpayment of benefits. From April 15, 2021 to October 20, 2021, Kentucky Career Center staff have assisted with more than 60,000 in-person appointments, and Office of Unemployment Insurance call center staff have taken more than 102,042 calls via the helpline. Of those calls, 37,191 calls were related to claim assistance and 64,851 related to personal identification number assistance.

The Labor Cabinet and Office of Unemployment Insurance have been working to obtain a vendor to build a new system for the Office of Unemployment Insurance. Vendor proposals were due on October 26, 2021. The project is estimated to cost \$47.5 million with \$30 million being taken from restricted funds, \$10 million from bond funds, and \$7.5 million from general funds. After a vendor is secured and a contract is finalized, it will take 18 to 24 months to build and implement the new system.

Responding to Representative Russell Webber, Labor Secretary Jamie Link said multiple vendors requested the deadline for proposal submission be extended by one week, but he did not know the number of vendors that made this request.

Answering a question from Representative Phillip Pratt, Secretary Link explained that a new unemployment insurance system is crucial, and some components date back to the late 1970's. The Labor Cabinet and the Office of Unemployment Insurance will continue to improve the existing system until the new system is implemented. There are no known

existing systems on the market that the Cabinet can procure that would fully address all the needs of the Office of Unemployment Insurance and meet the federal and state requirements.

Senator Mike Nemes gave an explanation about the necessity of a new system to be built from the ground up to replace the current antiquated system. Funds had been allocated during previous administrations to replace the system but the process was delayed.

Replying to Representative Russell Webber, Secretary Link stated he would follow up with the members with the amount of state and federal funds that have been spent on upgrades to the system thus far.

The U.S. Department of Labor has offered resources to the Office of Unemployment Insurance including an eight week Tiger Team. The team is composed of experts across many disciplines such as fraud specialists, equity and customer service specialists, unemployment insurance program specialists, business intelligence analysts, computer systems engineers and architects, and project managers. The goal is to provide technical assistance to reduce claim backlogs, improve program equity, streamline business processes, and enhance the use of fraud prevention and detection tools. The U.S. Department of Labor is interviewing state program and technical staff, performing research, and collecting data. The work of the team will conclude December 20, 2021 and the U.S. Department of Labor will present a final recommendation report and action plan.

Policy recommendations were presented that centered on Short Time Compensation (STC) and overpayment waivers. STC, also known as a work sharing program, helps prevent layoffs by allowing employers to reduce hours of work for some employees rather than laying them off while others continue to work full time. The amount of unemployment insurance benefits paid to individuals filing for STC is a prorated portion of the unemployment insurance benefits they would have received if they were totally unemployed. The process is initiated by the employer and not the employee, and the Secretary would create an application form whereby the employer would submit an STC plan to the Cabinet for approval. A total of 27 other states have STC programs but this is not a program that can be independently implemented and would require a statutory change. To implement STC in the Commonwealth, an amendment to KRS 341.080(3) expanding the definition of partial unemployment compensation would be necessary.

Addressing a question from Representative Phillip Pratt, Buddy Hoskinson, Executive Director of the Office of Unemployment Insurance, explained that Short Time Compensation would be taken from the employers' portion of the Unemployment Insurance Trust Fund. Secretary Link reiterated that the employer would be responsible for initiating the process.

Overpayment waiver reform was also discussed as a policy recommendation. The Commonwealth is one of very few states that does not provide recourse for claimants who incurred an overpayment through an administrative error. The General Assembly passed SB 7 during the 2021 Regular Session that provided a waiver application process for claimants which incurred an overpayment through no fault of their own



and if recovery would be contrary to equity or good conscience. The waiver only applied to overpayments incurred on claims filed between January 27, 2020 and December 31, 2020. Proposed legislation would recite the process and procedure for a waiver but would apply to claims filed from December 31, 2020 and forward. It was noted that SB 7 created issues in the timing for appeals and finality in unemployment insurance adjudications.

Responding to Representative Josh Branscum, Mr. Hoskinson stated the unemployment insurance system was taken offline in April 2021 to reset existing claimants' personal identification numbers. The 64,851 calls made to the unemployment insurance helpline for PIN assistance could stem from the system reset or from new claimants that need PIN assistance. In response to a follow up question regarding unemployment insurance overpayment waivers, Mr. Hoskinson said there are about 700 claimants that did not complete the waiver appropriately, but the Office of Unemployment Insurance is following up with those claimants to ensure the correct action is taken moving forward.

Answering a question from Representative Scott Sharp, Mr. Hoskinson stated the backlog of unemployment insurance claims totals approximately 84,000 with 60,000 being traditional unemployment insurance claims, 3,800 being pandemic emergency unemployment compensation claims, and another 20,000 being pandemic unemployment assistance claims. Addressing a follow up question, Mr. Hoskinson explained that staff are being cross trained to better assist with the backlog of unemployment insurance claims and improvements are being made to the online portal. With the current number of staff members, the Office of Unemployment Insurance can process about 3,000 backlogged claims per week.

Replying to a question from Representative Phillip Pratt, Secretary Link said that due to a reorganization that occurred in August 2020, the Kentucky Career Centers are under the jurisdiction of the Labor Cabinet and because the centers continue to have numerous functions, the Labor Cabinet continues to work closely with the Education and Workforce Development Cabinet to manage those functions. Answering a follow up question, Morgan Eaves, Legislative Director for the Labor Cabinet, explained that in order to obtain any reports or audits of the Office of Unemployment, a request would be made to the agency conducting the report or audit. Replying to another follow up question, Mr. Hoskinson said that federal staffing flexibility ended on September 4, 2021, and any employee that is not classified as either a state merit employee or a federally funded time limited employee can only perform administrative work. Answering a follow up question, Sam Flynn, General Counsel and Inspector General for the Labor Cabinet, clarified that of the 31 state employees that had been identified for possible fraudulent activity relating to unemployment insurance claims, 17 received benefits due to the auto pay feature, one was dismissed from state service because they accessed and altered their own claim, and the remainder of individuals were reviewed for appropriate personnel action. After being given all information regarding the individuals involved, law enforcement agencies chose

not to follow through with a criminal investigation. Replying to another follow up question, Mr. Hoskinson confirmed that the current unemployment insurance work search requirement is one contact per week.

Addressing a question from Representative Scott Sharp, Mr. Flynn clarified that he is the acting Inspector General for the Labor Cabinet as well as the General Counsel for the Cabinet.

#### **Workforce Issues**

The Kentucky Chamber of Commerce has several recommendations for the General Assembly to improve unemployment insurance as it relates to workforce issues across the Commonwealth. The Chamber recommends that additional funding be provided to the Unemployment Insurance Trust Fund to return the balance to the pre-pandemic level. In addition, the Chamber suggests improvements to the unemployment insurance tax structure. Studies show that the state ranks as one of the worst in the country for high tax rates. A partnership has been established between the Chamber and the Tax Foundation to further explore the state's tax code and analyze the unemployment insurance tax structure. Major reform suggestions of the Chamber center on strengthening work search requirements which would include redefining a "job contact" as a broadly defined "work search activity", requiring at least five work search activities per week, updating the statutory requirement that claimants find suitable work, developing a more robust job referral program, updating the Labor Cabinet's online portal for employers to report refusals, and increasing the frequency of the auditing processes to ensure claimants are fulfilling work search requirements.

Responding to Senator David Yates, Kate Shanks, Senior Vice President of Public Affairs for the Kentucky Chamber of Commerce, said strengthening work search requirements is a priority regardless of issues that were created relating to the pandemic, and the Chamber would be willing to analyze the necessary resources needed to increase the frequency of the auditing processes of work searches for those receiving unemployment insurance benefits.

Senator Mike Nemes made comments regarding rebuilding the Unemployment Insurance Trust Fund, strengthening work search requirements, the skills gap across the state, and allocating the necessary resources and staff for increasing the frequency of the auditing processes to ensure claimants are fulfilling work search requirements.

Answering a question from Representative Phillip Pratt, Ms. Shanks clarified that the Chamber's Kentucky Talent Hub was launched by the Kentucky Chamber Foundation and was built on the needs of employers. The Chamber's Kentucky Talent Hub is not connected to the Office of Unemployment Insurance.

#### **Unemployment Insurance Recommendations**

The Foundation for Government Accountability (FGA) recommends three steps to improve the state's unemployment insurance that include benefit reform, emphasizing jobs, and protecting the system. Benefit reform can be achieved by indexing benefits

to the state's unemployment rate. Several states have adopted the indexing process including Florida that has been able to decrease its benefit duration by half, lower spending by 70 percent, and lower taxes by 70 percent. FGA estimates that if the Commonwealth implemented indexing, then the Unemployment Insurance Trust Fund would increase to \$567 million, taxes would decrease by 17 percent, and the average number of weeks of unemployment insurance benefits would decrease to 4.6 weeks. Emphasizing jobs can be accomplished through strengthening work search requirements by collecting proof of work searches from unemployment insurance claimants and requiring the Labor Cabinet to actively verify work searches. Protecting the system can be done by performing weekly crosschecks, recovering overpayments, and reporting to the legislature. This would also include flagging suspicious cases, a multi-factor authentication, and locking out fraudsters.

Responding to Representative Russell Webber, Joe Forvath, Senior Fellow with the Foundation of Government Accountability, said that calculating a state's ideal Unemployment Insurance Trust Fund solvency involves the state's spending over time and the present amount of the trust fund. The Commonwealth has not reached ideal solvency since 1976. Senator Mike Nemes added that prior to the pandemic, the state's Unemployment Insurance Trust Fund was close to reaching ideal solvency.

Answering a question from Senator Ralph Alvarado, Mr. Horvath explained that numerous states have adopted indexing benefits to the state's unemployment rate but each state has chosen to implement the process differently.

Representative Phillip Pratt made comments about how Kentucky's weeks of unemployment insurance benefits and the maximum weekly benefit amount compares to surrounding states.

Responding to Senator Mike Nemes, Mr. Horvath said he would follow up with more information regarding an individual receiving unemployment insurance benefits during job training with the indexing process.

There being no further business before the committee, the meeting adjourned at 11:57 a.m.

## **SCHOOL FUNDING TASK FORCE**

### **Minutes of the 4th Meeting**

#### **of the 2021 Interim**

October 11, 2021

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

The 4th meeting of the School Funding Task Force was held on Monday, October 11, 2021, at 10:00 AM, in Room 149 of the Capitol Annex. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Dr. Bart Liguori, Research Division Manager, Sabrina Cummins, Education Accountability Research Analyst, and Allison Stevens, Education

Accountability Research Analyst, Office of Education Accountability; Chuck Truesdell, Kentucky Department of Education (KDE); Superintendent Mike Borchers, Ludlow; and Davonna Page, Russellville.

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

### Approval of Minutes

On a motion by Senator Wise and a second by Senator Wilson, the minutes of the August 9, 2021, meeting were approved by voice vote.

### Funding Kentucky Public Education: An Analysis of Kentucky Funding Through the SEEK Formula

Allison Stevens, Office of Education Accountability (OEA), said the SEEK funding formula was designed to equalize local revenue with state funds to ensure students living in property-poor districts received the same base funding as students living in property-wealthy districts. In FY 2020, the General Assembly set the SEEK guaranteed base per pupil at \$4,000. The SEEK funding components include a guaranteed base amount per-pupil, SEEK add-on adjustments, required local effort, and Tier 1 and 2 funding. SEEK includes funding for students with additional needs, referred to as add-ons, to the guaranteed base funding formula. The five add-on adjustments for state SEEK funding districts include at-risk students, exceptional children, home and hospital instruction, limited English proficiency (LEP), and transportation.

Ms. Stevens explained that one type of school funding model is resource-based funding, delivering education based on the cost of resources, staff salaries, and course materials. Student-based funding assigns a cost to educating specific categories of students. Hybrid models use a mixture of student-based and resource-based models. Kentucky and three surround states use the student-based model. About one third of the states compared have a higher district local share than Kentucky.

Twenty-one states use average daily membership (ADM) when counting students to fund education. Nine states use a single-count or multiple-count date. Kentucky and six other states used average daily attendance (ADA). The loss of funding through excused and unexcused absences is a disadvantage associated with using ADA. When comparing rural and non-rural districts, OEA determined rural districts experience higher poverty rates; more students requiring special education; and many students failing to meet ACT, reading, and math benchmarks. Rural enrollment has declined over the years and projections indicate a further decline in student enrollment.

All surrounding states have an expected local share for funding education except Indiana. Three states use multiple data points to calculate local share and Kentucky requires \$3 for every \$1,000 in assessed local property wealth. Virginia does not require local effort but districts may impose taxes to generate supplemental revenue.

Kentucky and some states include funding for students qualifying for free lunch and other states include free and reduced lunch, a flat amount, a multiplier of the base funding, or base the funding on the concentration of at-risk students. Kentucky

and Ohio use multiple weights for the exceptional child add-on depending on the severity of the exceptionality. Some states use one multiplier or a flat amount per student regardless of the disability. Some states use the cost of delivering special education and services while others use a hybrid system. Kentucky and all surrounding states provide extra funding for Limited English Proficiency (LEP) students. Various funding methods are used for LEP students by using a multiplier to the base funding, required staffing needs, or a flat allocation per student.

Some districts provide funding for rural, remote, small, or isolated districts through their transportation funding formula; other states provide funding for districts with a set number of students, and the remaining surrounding states do not provide additional funding for student transportation. Kentucky and six surround states, calculate student transportation separately from general education funding. Bus depreciations vary among states.

Responding to a question from Representative Tipton, Ms. Cummins said the \$100 funding deduction for students receiving home and hospital instruction is for the limited amount of time. Responding to follow-up question, Ms. Cummins said schools with virtual settings receive full per pupil allocations. Those students not transported by bus are coded differently in the Infinite Campus tracking system and are not included in the transportation funding. Students with excused absences are not counted in the ADA totals.

Responding to a question from Ms. Page, Ms. Cummins said that in the year 2020, all districts except one, Wolfe County, were above the maximum Tier 1. Districts above 150 percent do not receive Tier 1 funding.

In response to a question from Representative Bojanowski, Dr. Liguori said school funding is prorated for the time students require home and hospital instruction.

Responding to a question from Mr. Truesdell, Ms. Cummins said states using resource-based funding, use projections to determine the cost of providing education including materials, instructional aides, and other associated costs.

Responding to a question by Mr. Borchers, Dr. Liguori said a chart in the OEA's District Data Profiles report provides the state's and individual districts' total student membership and average daily attendance numbers. Representative Tipton indicated that the state averages at about a 95 percent attendance rate.

Ms. Stevens explained that the report divided districts into quintiles to compare low-property-wealth districts with high-property-wealth districts. Districts were ranked by per-pupil property assessments and divided into five groups, each with about one-fifth of the state's student population.

Ms. Stevens provided a review of the analysis within the report of how the quintiles have changed over time, comparing pre-Kentucky Education Reform Act (KERA) and early KERA to the most recent available data. The analysis provided demographic and financial details of the quintiles.

Responding to a question from Senator Thomas, Ms. Stevens said pay equity has kept up with inflation. Senator Thomas requested an analysis of

the 7 contiguous states. Responding to a follow-up question from Representative Tipton, Dr. Liguori said that OEA's District Data Profiles report provides the average salary and the online tool could identify the highest and lowest average pay districts. Representative Tipton said the property wealth per pupil provides an understanding that certain districts have more financial capability than others.

Representative Bojanowski inquired why poverty levels were not included in addition to property values in developing quintiles and how the analysis could be impacted. Ms. Cummins said the method quintile analysis used in the study has been used since the beginning of KERA, when an analysis was done by a firm using the property value assessments. In order to be able to compare with the data from that time, the same method needed to be used for a valid comparison. Representative Bojanowski asked for a comparison between the lowest and highest poverty districts and plugging the differences into to the models to reflect the impact on these groups. Dr. Liguori referenced the appendices of poverty rankings by district. He said OEA could compare the percentage of students receiving free and reduced price lunches as a proxy for poverty but cautioned that the comparisons could be very different.

Responding to a question from Mr. Truesdell, Ms. Stevens said quintiles are calculated by taking the property wealth per pupil and dividing it by the total students to come up with a weighted average. Mr. Truesdell said the change in risk percentages over the last 30 years is a broader complex of both educational and societal issues.

In response to a question from Ms. Page, Dr. Liguori confirmed that districts in Quintile 1 have increased their property tax rates and have also increased the most in need.

Ms. Cummins discussed rural versus non-rural districts and the definitions used to determine which counties are classified as metropolitan, micropolitan, and rural, based on the 2010 census data. Population in rural districts is currently 23 percent of the state's population and is expected to decrease to 18 percent by 2050. Metropolitan districts encompass 58 percent of the total population and projections indicate an increase to 65 percent. Micropolitan districts are projected to gain student population but experience a 2 percent decrease in the total population.

Twenty-eight and a half percent of the rural district populations do not have a high school diploma compared to 22 percent in micropolitan and 14 in metropolitan areas. Additionally, only 11 percent of the people living in rural districts have a bachelor's degree or higher compared to 17 percent in micropolitan and 25 percent in metropolitan areas. The weighted average school attendance rates in rural districts are lower than micropolitan and metropolitan districts. Rural districts also included more special education needs and homeless students. Rural districts have fewer minority students and lower averages in teacher salaries. Rural districts have a much lower rate in meeting ACT, math, and reading benchmarks than the other two. Rural district per-pupil property assessments are near half of metropolitan district

revenues and rural districts fare a little better than micropolitan districts.

Ms. Cummins provided various hypothetical changes to the SEEK funding formula which are detailed in OEA's written report. She also provided analysis on how the hypothetical change would impact equity between the various quintiles. Some changes would increase equity of state and local revenue while others had little to no impact on equity. The presentation and the written report providing detailed information on the hypothetical models can be found on the task force's committee meetings' page, <https://apps.legislature.ky.gov/CommitteeDocuments/351>

Responding to a question by Representative Bojanowski, Ms. Cummins explained the report's model calculations reduced the base SEEK to cover any change in the funding formula. For calculating a model's full funding, the base amount was brought back up to \$4,000 and the adjustment was made.

Mr. Truesdell questioned the methodology used to classify districts as rural versus metropolitan or micropolitan areas. He expressed concern that under a funding add-on for rural districts some districts could lose funding due to being incorrectly classified. Ms. Cummins said the census determination was the only methodology used in this calculation.

In response to a question from Representative Tipton, Ms. Cummins agreed the loss of population in rural counties by 2050 will exasperate the differences between the quintiles.

Responding to a question from Mr. Borchers, Ms. Cummins said the models do not consider possible changes in a district's local tax rate in response to the model.

Representative Tipton said if the SEEK formula is changed to ADM, the new average per pupil is lower in each quintile but with more students being counted, the total dollar amount remains the same. Representative Tipton said if the new model was used and the SEEK amount remained at \$4,000, an additional \$285.5 million would be needed to fund the difference due to counting all students. Responding to Representative Tipton's question, Ms. Cummins said the cost of services to the school does not necessarily decrease when students are quarantined because facility costs and staffing amount to 80-85 percent of a district's budget.

Responding to a question from Representative Bojanowski, Ms. Cummins said the federal dollars are not included in equity analyses because the General Assembly only has control. Ms. Cummins said significant federal funding is provided to districts in Quintile 1. In response to a follow-up question, Ms. Cummins said there are various federal funds available such as Title 1 funding which is divided to districts on the number of students living in poverty. Other funding comes through funding for special education, which is divided into funding specifically for preschool-aged students and another for K-12 students. Representative Bojanowski suggested the funding be included in the analysis of data for special education and at-risk students.

Responding to a question by Mr. Truesdell, Ms. Cummins said the at-risk add-on is only for students who receive free lunch but an analysis in the written report includes reduced lunch students, but it did not increase equity.

Responding to a question from Ms. Page, Ms. Cummins said OEA looked at updating the exceptional child add-on factor but followed the recommendations from the Augenblick and Associates study. Other factors were based on what other states have done or other studies have recommended in the past.

In response to a question by Representative Tipton about increasing the minimum SEEK local effort from 30 cents to 35 cents, Ms. Cummins said the lowest local effort was 42.4 cents per \$100 in 2020. Because of the higher local effort, the state portion of SEEK would be less and the total SEEK base per student would increase.

Responding to a question by Representative Bojanowski, Mr. Liguori said Tier 1 funding is equalized by the state. Tier 1 amounts to 15 percent of the SEEK base plus add-ons and requires a maximized equivalent rate by district. Tier 2 is not equalized. Tier 2 allows for up to 30 percent of SEEK in addition to the 15 percent of Tier 1. Responding to a follow-up question regarding the difference in equalizing local effort, Ms. Stevens said OEA determined that 36 districts exceeded Tier 2 by a total of nearly \$366.6 million. Ms. Cummins said other issues arise when taxes are levied. In the beginning of KERA, a district could determine the mix of taxes to combine to achieve a tax rate. Most districts used a utility tax. Later on, districts not already using the utility tax adopted the tax and received additional funds. Responding to another follow-up question, Ms. Cummins said there are records of funds raised at the local level for public education, but those funds and records are not used in the SEEK funding formula.

Responding to a question by Mr. Truesdell, Ms. Cummins confirmed that most districts would not need to raise their tax rate when moving the minimum local effort from 30 to 35 cents per \$100 property assessment. Responding to a follow-up question, Dr. Liguori said a few districts with low tax rates could lose out on Tier 1 equalization funding if they did not raise the tax rate to 35 cents. Responding to a following up question, Ms. Cummins said the model did not retain the saved money so as to not reduce the SEEK appropriations by the General Assembly, raising the SEEK guaranteed base amount to \$4,219. Ms. Stevens said the amount would be \$170 million less if the funding the SEEK base was kept at \$4,000.

In summary, Ms. Cummins said the models that improved equity among the quintiles included: calculating the exceptional child add-on using percentage of students with an exceptionality in each district; adding rural and micropolitan district add-ons; increasing local effort from 30 cents to 35 cents; increasing the local effort and base adjustments for inflation; and changing student count from ADA to ADM. The remaining models had little or no impact on equity between the quintiles or made equity worse.

Responding to a question by Representative

Bojanowski, Ms. Cummins said many of the changes in the models had little or no impact on Livingston and Lyon counties because they are hold harmless districts, guaranteed to receive the same amount of SEEK funding as when KERA was implemented. In a follow-up comment, Representative Bojanowski said for the model changing the weight of high incidence rates from .24 to 3.88 may be more than needed. Responding to a follow-up question, Dr. Liguori said OEA did not look at projecting the impact if Kentucky had fewer than 171 districts.

Mr. Truesdell said in discussing equity it is important to recognize that if total funding remains the same, these changes move dollars into Quintiles 1 and 2 and take away funds from Quintile 5. His concern is the property-wealthy districts will raise property taxes to replace deductions to keep funding level to meet student needs, which could ultimately hurt businesses. He told the committee that helping property-poor districts improves equity but noted that many disadvantaged students live in larger districts. He said that data shows an alarming increase of students at risk in larger counties.

Mr. Borchers said the possible changes presented, when keeping total funding the same, creates winners and losers. He said the lowest local tax rate is about 42 cents and the highest is 118 cents per \$100 valuation and wondered whether raising the floor in the local amount would help with equity. Dr. Liguori said they discussed raising the floor to 35 cents but nothing above that. Mr. Borchers said that some of the districts that are behind on equity are behind on raising their tax rates. In response, Ms. Cummins said some districts do not take the allowed maximum of 4 percent each year. She said a study done by OEA several years ago looked at districts that raised the 4 percent and those that took the compensating rate, which is calculated to generate the same amount of funds as the previous year. However, OEA did not look at what the impact would be of requiring the districts to take the 4 percent every year since that is decided by local school boards.

Representative Tipton said it is important to remember that if a district takes the compensating rate, large growth in property assessments could actually decrease the rate.

Mr. Fletcher said without additional funds, funding changes can shift burden of educating students back to local districts in the form of increasing tax rates.

Dr. Liguori presented an OEA-created interactive tool allowing the current SEEK formula to be altered by changing certain variables or add-ons and displaying the impact of those changes. The interactive tool can be found at: <https://apps.legislature.ky.gov/lrc/publications/interactive/SEEK2020test.html>

In response to a question by Mr. Fletcher, Dr. Liguori said budget increases or decreases for each situation are shown when entered into the interactive tool.

Dr. Liguori gave a presentation on the current distribution of funding through the SEEK formula. After a thorough analysis and examination of the SEEK formula as currently implemented by KDE, OEA made 16 recommendations. The data used for the analysis was a culmination of several meetings with KDE staff, several pieces of data that districts

submit to KDE, the SAS code, and output used to calculate transportation funding.

Dr. Liguori said the OEA analysis revealed incorrect calculation for square mileage of independent districts within the borders of county districts; failure to audit district transportation codes for students transported more than one mile; and incorrectly cost-grouped districts using only seven instead of nine groups. Additionally, when creating the seven cost groups, KDE did not use an objective methodology of grouping districts but grouped districts by calculated cost per pupil day instead of density groups. KDE also multiplied the number of handicapped students by 2.0 instead of 5.0 as required by statute. Other major findings OEA discovered were annual financial reports with transportation expenses to and from school with no students being transported; no requirements for district activity funds to be recorded in MUNIS; and districts receiving the exceptional child add-on for preschool students. Full-day Kindergarten was added for FY 2021-2022, however the equalization level did not change.

Districts are reimbursed for transporting students to and from school but SEEK transportation does not include transportation for field trips or sports. OEA found a complex formula associated with transportation was not implemented correctly by KDE.

Dr. Liguori said the transportation calculation should have nine density groups in determining the graph-adjusted cost per pupil per day. The KDE calculation included only seven groups and instead of using similar density groups as required by statute, KDE grouped school districts by calculated cost per pupil day. KDE chose to group these districts using subjective professional judgement rather than having an objective methodology. OEA recommends they use an objective methodology in the future.

Statute requires disabled students' ADA be multiplied by 5.0. The handicapped factor was correct on the website but in calculating the graph adjusted costs, KDE erred in multiplying the costs by 2.0 instead of 5.0. OEA reported KDE lacked expertise in the program used to calculate the graph adjustment. Although the error was mitigated in part by the previous KDE error, it had a sizable impact in the Tier 1 funding.

For several years up until 2021, a computer program error computed districts graphs and adjusted costs incorrectly. KDE should consider giving independent districts that were below the threshold for inclusion in the graph calculation the same amount as the independent district with the lowest graph-adjusted cost per pupil day, instead of the highest. Likewise, KDE should consider giving county districts that were above the threshold for inclusion in the graph calculation the same amount as the county district with the highest graph-adjusted cost per pupil day, instead of the lowest.

Dr. Liguori said that regulation 702 KAR 5:020 requires that the net ADA for a county district's pupils transported one mile or more to school shall be determined from the local district's annual statistical report for the district. KDE should consider changing the language in this regulation to more accurately describe which statistical report it is referencing and

KDE should consider posting the data from the report to its website.

During the 2021 Regular Session, the General Assembly passed House Bill 208, allowing school districts to use 2018-2019 attendance data in calculating SEEK, pursuant to Senate Bill 177 of the 2020 Regular Session. While KDE calculated the SEEK attendance correctly, the use of 2018-2019 bus depreciation was not allowed in this bill. KDE should have updated the district vehicle depreciation in calculating transportation costs. OEA also recommends the depreciation of school transportation vehicles for 10 years and at 100 percent instead of 14 years at 124 percent.

Other issues in recording transportation costs include systemic issues in data collection. KRS 158.115 allows county governments to spend money from their general funds to provide transportation for pupils attending non-public schools. Several local boards of education contract with their local fiscal court to provide such transportation. These expenses are reimbursed each year. These students are not being counted in the transportation calculation. However, there is no consistency in the manner in which these transactions are recorded in the MUNIS finance system. KDE does not provide districts guidance on how to include the information in MUNIS. Reimbursements were reported incorrectly and the district overstated its school transportation expenses by over a half million dollars. Of seven districts contacted about this issue, only one independent district recorded the revenue correctly.

While reviewing FY 2019 annual financial reports, there were two independent districts that had no students transported, but reported transportation expenses. Based on these issues, OEA also found that during the first year of a county and independent merger; the county is not getting the independent district's transportation expenses or depreciation included in funding determinations.

KRS 157.3175(3) requires preschool programs to be funded by a grant from the General Assembly to local school districts. Recommendation 4.16 suggests if full-day kindergarten is funded in the future, OEA recommends KDE consider changing the statewide equalization level in order to accurately reflect 150 percent of per pupil assessments.

The next meeting of the committee will be Monday, October 18th, 2021 at 10 AM.

With no further business before the committee, the meeting adjourned at 12:10 p.m.

## **SCHOOL FUNDING TASK FORCE**

### **Minutes of the 5th Meeting of the 2021 Interim**

October 18, 2021

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

The 5th meeting of the School Funding Task Force was held on Monday, October 18, 2021, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair;

Representative James Tipton, Co-Chair; Senator Reginald Thomas; Representatives Kim Banta, Tina Bojanowski, and DJ Johnson.

Guests: Chay Ritter, Division of District Support Services, KDE; Todd Allen, General Counsel, KDE and SBE; Chuck Truesdell, KDE; Mike Borchers, Ludlow, KY; Robbie Fletcher, Lawrence County, KY; and Davonna Page, Russellville, KY.

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

### **Nonresident Student Funding and Additional Discussion of School Funding**

During the 2021 Regular Session, the General Assembly passed House Bill 563 which included a provision allowing nonresident students to be included in a district's average daily attendance (ADA) for the purposes of receiving state SEEK funding. The responsibilities of the School Funding Task Force include receiving a report from the Kentucky Department of Education (KDE) regarding recommendations on how local funds may follow nonresident students. Presenting for KDE were Mr. Chay Ritter and Mr. Todd Allen.

Mr. Ritter said KRS 157.350 permits districts to include nonresident students in Average Daily Attendance (ADA) under a written agreement between a nonresident and resident district. ADA determines funding for SEEK funds, state formula grants, and some federal grants. As districts receive nonresident students, coding in the Infinite Campus system keeps track of the students in the districts.

By July 1, 2022, HB 563 mandates school districts must adopt policies governing the terms under which the district shall allow enrollment of nonresident pupils. Districts may include nonresident pupils admitted under the policy in the ADA calculation, no longer requiring a nonresident agreement.

Local tax revenue recommendations include tax rates set by the local boards of education. Property taxes, permissive taxes, utilities taxes, occupational taxes, and excise taxes are collected locally by school districts or the Kentucky Department of Revenue (KDOR). Tax collection rates vary by district and KDE has no control over local revenues. Funds collected by KDOR are sent directly to districts.

Responding to a question from Representative Tipton, Mr. Allen said the recent court decision did not litigate the educational opportunity portion of HB 563 and failed to address the portion of the bill relating to the transfer of nonresident funds from one district to another. He said the courts final order declared the entirety of HB 563 unconstitutional, although the plaintiffs only questioned the legality of particular sections of the bill. Mr. Allen said the courts may enter clarifying language but based on the courts language and order, HB 563 is currently declared unconstitutional. Representative Tipton indicated the litigation may be appealed or sent to a higher court where the final outcome will be known.

Responding to a question from Representative Tipton regarding the Office of Education Accountability (OEA) presentation last week, Mr. Ritter said district SEEK funding is reduced by 30 cents per \$100 of the property assessment. As a district's property assessment grows, the deduction grows, and SEEK

funding is reduced. OEA's hypothetical example of increasing local effort from 30 to 35 cents provides a higher amount for the reduction in SEEK and changes the dynamic between local and state funding. A larger portion of local funding would be reduced from state funding by default. Currently, every district currently has tax rates above the 30 cent minimum.

In response to a question from Senator Thomas, Mr. Ritter said as local effort increases due to increased property assessments, the amount of SEEK funding decreases. He said districts with decreasing property values will ultimately receive additional SEEK funding.

Mr. Ritter presented four options for how local funds could follow a student to another district. The first option would be the current status quo where local funds stay in the community in which they are levied and are not transferrable. The second option would be the transfer of local funds from the resident to nonresident district. However, there could be issues with Kentucky Constitution Section 180. The third option would be an adjustment of SEEK where the state could use state funds to credit the district where the student is attending and deduct from where the student resides. However, this could have issues with the constitutional responsibility of providing adequate funding. The last option would be designating a separate appropriation equal to the local per pupil revenue for the enrolled district. This could take the form of an add-on. This could encounter a timing issue because the state looks at last year's data to calculate funding, causing a delay in funding.

Responding to a question from Mr. Fletcher, Mr. Ritter said a higher property valuation increase is more beneficial to a school district than the resulting cut in state SEEK funding. The property value increase and district SEEK decrease are not dollar for dollar. Actual tax collection may be less than the calculated property value increase due to contests and adjustments. Mr. Fletcher noted that the benefit in property valuation increase is reflected by the discrepancy in equity between property rich districts and property poor districts.

In response to a question from Mr. Borchers, Mr. Ritter said some districts require nonresident students to pay tuition under different circumstances. Mr. Allen indicated that there may be issues regarding tuition. Citing *Rose v. Council for Better Education*, Mr. Allen said the Kentucky Supreme Court required common schools to be free. He said that under that thinking, schools receiving common school funds should not be charging tuition. A statute provision allows a school district to have a tuition arrangement with other school districts for nonresident students. Mr. Allen said that charging tuition to a parent would not be free at that point and seems to violate the language that is clear from the Supreme Court.

Ms. Page said school boards levy taxes to operate schools within its districts and that she foresees difficulty in raising taxes if the money will be transferred to a different district.

Mr. Ritter proceeded to discuss the possibility of switching from using ADA to average daily membership (ADM) in the SEEK funding formula. ADA is generally calculated as the total number of student attendance days divided by the total number

of days in the school year. KDE's legacy SEEK computer program stores ADA and other SEEK data for each district.

Within that ADA calculation, kindergarten students were previously funded at one half of the ADA allocations; however, the General Assembly recently allowed full kindergarten funding for the current school year. That has now been adjusted in the calculation. Additionally, pursuant to regulation, over-age and under-age students do not qualify and are removed from the data. There are also adjustments for low attendance days, low attendance weather days, and non-traditional instruction days. All of this data is combined to develop a district's ADA.

ADM is an enrollment count of the average number of enrolled students over a certain period of time. In reviewing other states, the ADM can be an average daily count throughout the entire school year, part of the school year, a single day count, a multi-day day count in the spring and fall, or enrollment count periods over single or multiple days.

Key considerations in implementing ADM are: accuracy, predictability, budget stability, and transitioning from ADA to ADM. Currently, SEEK has a hold harmless position to create a floor for funding to prevent a handful of districts from financial fall. A similar feature may be needed if ADM is implemented. KDE logistically figures out the least harmful way to implement but also obtains quality data for student counts to ensure districts receive accurate funds.

Responding to a question from Senator Wise, Mr. Ritter said KDE would need some time in transitioning from ADA to ADM, to communicate the changes with districts, training, and testing district employees on the new system. Mr. Ritter said a cycle of one year should be sufficient to confirm accurate and auditable information. He said current year data becomes an issue if a student is transient on a regular basis.

Mr. Fletcher, referring to the OEA report, said approaching a change to ADM needs to look at adequacy and equity. His concern is that, without additional funds, some districts would experience an increase and others a decrease in funding, creating winners and losers. If the budget is increased and approached from adequacy, every district should experience an increase.

Responding to a question from Senator Thomas, Mr. Ritter said ADA is attendance driven and ADM is based on enrollment and attendance is irrelevant.

Representative Banta indicated she is leaning toward an ADM model due to the pandemic. She said encouraging kids to come to school sick is troubling. She also said that the cost associated with locating students is enormous and creates more work for teachers causing absent students to cost a district as much as when present. Transient students also cost districts money and time but are not funded under ADA. She said bringing SEEK up to the cost of living would provide a fair budget regardless of changing weights or models. Senator Wise encouraged Representative Banta to use this charge in the recommendation phase.

Representative Tipton echoed Representative Banta's comments and said the COVID pandemic has caused attendance to become an issue. He cautioned the committee to set an effective and adequate long-

range policy going forward. He agrees district costs are present regardless of student attendance and encouraged the task force to find an effective policy moving forward with ADM, but that such a policy should have a smoothing effect or hold harmless for those districts that are reducing in size.

Mr. Borchers said a district plans a budget based on the district's student membership and not only the ADA.

Mr. Truesdell, also in strong agreement with Representatives Banta and Tipton and Mr. Borchers, said a huge amount of time and energy has been exhausted over the years on how to count attendance rather than focusing on instruction models that will benefit students. He said the transition to ADM would allow a focus on student needs. Additionally, Mr. Truesdell said that a change to a resource based model and how to pay for it may be expensive, but it is crucial.

Senator Thomas offered a dissenting opinion. He said the 2015 performance funding model for postsecondary education emphasized getting students to complete college and fears the ADM model will not focus on student attendance. Responding to Senator Thomas' comments, Representative Banta said teachers will work hard on student attendance with an ADM model.

Mr. Truesdell said when looking at district attendance, low attendance is a proxy for low poverty and social economic status. With funding based on attendance, districts are being punished with a large number of students in those gap groups. He said the ADM is a positive first step to get to true equity. Senator Thomas said addressing poverty and equity issues must include funding early childhood education and keeping students in school.

Mr. Ritter discussed the pros and cons of ADA. He said attendance will always be tracked for security, health, and safety reasons and creates an administrative burden regardless of the model. Fixed costs in districts remain the same even with fluctuation in attendance. ADA provides an incentive to boost attendance and favors districts with higher attendance rates. ADA is also used in federal reporting and state needs. The cons of ADA are chronic absenteeism caused by issues beyond the school's control, such as: poverty, chronic health issues, and other community-related factors. Using attendance can also penalize districts that serve more disadvantaged students and spread resources over a larger group of students. Although the ADM funding amount will appear lower, more students can result in the same amount of funding dollars.

Responding to a question by Representative Tipton on OEA's report on transportation funding, Mr. Ritter said KDE sometimes has differing opinions on OEA recommendations or findings. He said if mistakes are being made in the formula, KDE's sole job is to make sure it is accurate. KDE has been moving to make those changes immediately and are working to ensure accurate calculations for each district. KDE realizes the seriousness of providing accurate data. KDE always takes advice under consideration, is open to areas of improvement, and makes sure all issues are resolved.

In response to a question by Representative Tipton, Mr. Ritter said state-wide equalization of full funding



for kindergarten will be extremely important moving forward and will be in the calculation for the upcoming budget if kindergarten is fully funded. Mr. Truesdell explained that the equalization level is set during the budget process and is derived from the property assessment numbers in the first year of the biennium. Like all SEEK items, the equalization level has a self-correcting mechanism. Going forward, including all kindergarten students will resolve the issue.

#### **Discussion of Possible Recommendations**

Senator Wise called for the discussion of possible task force recommendations.

Representative Bojanowski requested that OEA perform an evaluation based on poverty to include federal funds prior to making an official recommendation to the task force. She recommended before changing the SEEK formula there should be a task force on the adequacy and goals of public education with an objective to study the number of special education and at-risk students and determine how the numbers impact education.

Representative Banta agreed with Representative Bojanowski. She recommended the SEEK funding be adjusted to the current cost of living while the requested studies are being performed.

From a superintendent's standpoint, Mr. Fletcher recommended funding for full-day kindergarten. He also recommended fully funding transportation because it would impact almost all districts. Additionally, he recommended a hold harmless provision for school districts so that adjustments made to the SEEK formula do not negatively impact the funding of any school district.

Ms. Page agreed with full-day kindergarten funding and transportation costs being fully funded. She recommended to increase equity in funding school districts by adding foster care children as an add-on in the SEEK formula as outlined by the OEA report. She also recommended: adjusting the SEEK base to account for inflation, adding an upward adjustment for the add-on for Limited English Proficiency students, and increasing funding across all districts in the Commonwealth. She said teacher salaries have not kept up with inflation.

Mr. Truesdell agreed with recommendations for full-day kindergarten funding, fully funding transportation, and including an add-on for foster care children in the SEEK formula. Mr. Truesdell suggested the weights of the SEEK formula add-ons be reviewed through a study on actual additional costs for possible adjustments and recommended that the SEEK formula needs to be reviewed so that it reflects the funding needs for every student and not just funding districts. He recommended making sure all facilities are equitable in every district, including career and technical education. Mr. Truesdell suggested the mandates for the resources in 2019 RS SB 1 be fully funded.

Representative Tipton reviewed the responsibilities and jurisdiction of the task force.

The next meeting of the School Funding Task Force will be November 8, 2021.

There being no further business before the committee, the meeting adjourned at 11:30 a.m.

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

### **Minutes of the 6th Meeting of the 2021 Interim**

October 19, 2021

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

The sixth meeting of the Interim Joint Committee on State Government was held on Tuesday, October 19, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Representative Thomas Huff; Reina Diaz-Dempsey, Personnel Cabinet; and Kevin Moulton, Zoneton Fire Protection District.

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

#### **Approval of Minutes**

The minutes of the September 21, 2021, meeting were approved without objection, upon motion by Representative Webber.

#### **Introductions**

Representative Miller welcomed a guest in the audience, Mr. Bode Brooks, who recently moved from Louisiana to join the news team at WDKY, Lexington.

#### **2022 Kentucky Employees' Health Plan**

Reina Diaz-Dempsey, Commissioner, Department of Employee Insurance (DEI), Personnel Cabinet, updated the committee regarding the Kentucky Employees' Health Plan (KEHP) for the 2022 plan year. She also briefly reviewed KEHP's response to COVID-19. Ms. Diaz-Dempsey's testimony included a PowerPoint presentation.

As of September 2021, KEHP covered 292,732 members, including 177,897 active employees and pre-65 retirees. School boards comprised 52.5 percent of the membership, state agencies 18 percent, under-65 retirees 24 percent, and quasi groups 5.5 percent. Annual plan spending is approximately \$1.9 billion, and 95 percent of KEHP expenses are for claims payments. Of that 95 percent, 63 percent is for medical claims and 27 percent for prescription claims. DEI salaries are less than one-quarter of a penny for every dollar spent.

The presentation included a comparison of benefits from 2020 to 2022. For 2022, employer and employee premiums will increase 3 percent. Deductibles and

out-of-pocket maximums will not change. The PPO plan will provide a PrudentRx Program for certain specialty drugs. Member in-network co-insurance will increase by 5 percent in the LivingWell PPO and LivingWell CDHP plans. The 30-day generic prescription copay in the LivingWell PPO plan will increase by \$5.

KEHP offers several free and low-cost member benefits/programs, including Rethink, SmartShopper, LiveHealth Online, and Diabetes Prevention. The Value Benefits program for diabetes, COPD, and asthma provides for reduced copays or co-insurance, with no deductibles for maintenance drugs and supplies. Highlights of the 2022 plan include lactation support via the Future Moms program through LiveHealth Online, no member cost-share for the Diabetes Self-Management Education and Support program; and introduction of Hinge Health, a clinic that provides a digital alternative to pain management and in-person physical therapy. Also new in 2022, covered dependent spouses will be able to participate in the Wellness Program and earn engagement rewards; however, members who waive health insurance coverage will not be eligible.

When asked by Representative Miller, Ms. Diaz-Dempsey reviewed the requirements relating to re-enrollment in the health plan and explained the difference between LiveHealth Online and the Rethink behavioral health benefit.

Responding to Representative Graham, Ms. Diaz-Dempsey explained why members who waive health insurance coverage will not be able to participate in the WebMD wellness program.

When asked by Representative Blanton, Ms. Diaz-Dempsey explained the rule relating to cross-referencing by KEHP members.

Responding to Representative Cantrell, Ms. Diaz-Dempsey confirmed that telehealth services, such as LiveHealth Online, are covered 100 percent. Representative Cantrell commented on the difficulties and trauma associated with the job duties of social workers.

Senator Thayer expressed his personal opinion that members of the executive branch administration who testify before a legislative committee should attend in-person, unless there is an extenuating circumstance. He thinks that many members of the committee would find it beneficial to have in-person testimony.

When Representative Decker asked whether KEHP is tracking the results of the diabetes treatment and prevention programs, Ms. Diaz-Dempsey responded affirmatively.

Representative Blanton, referencing previous comments about the hard work faced by social workers, said it was recently pointed out during a meeting of another legislative committee, that there has been a 57 percent increase over the past year in children's deaths, due to being kept at home with abusive parents during the pandemic shutdowns. He questioned why that statistic has not been reported in the media.

22 RS BR 430 – AN ACT relating to death benefits for first responders, making an appropriation therefor, and declaring an emergency.

Representative Thomas Huff, primary sponsor, testified regarding 22 RS BR 430. The bill would

amend KRS 61.315 to create a presumption that first responders who die of COVID-19, do so while in the line of duty and thus qualify for death benefits. The presumption would apply retroactively to any claim for death benefits brought by a first responder on or after March 6, 2020. Kevin Moulton, Chief of the Zoneton Fire Protection District in Bullitt County, accompanied Representative Huff and spoke in support of the legislation.

Representative Huff said that BR 430 adds COVID-19 to the list of reasons for the family of a first responder to draw a death benefit. The benefit would be retroactive to March 2020, when the first COVID death was recorded in Kentucky.

Mr. Moulton said that in December 2020, the previous Zoneton fire chief died after contracting COVID and that the battalion chief died the following February. When he submitted the claim to the Fire Commission, it was denied, and he began his effort to have COVID-19 included in the statutes as a qualifying event. When asked by Senator Wheeler, he confirmed that those two families did qualify for workers' compensation benefits, including the death benefit.

Senator Southworth said that the risk of contracting COVID while on the job is not limited to first responders. She acknowledged that first responders take more risk than a lot of people but questioned whether some type of financial assistance should perhaps be provided also to the many other categories of workers whose jobs can be considered essential. Representative Huff said that BR 430 is geared toward first responders. The bill is not intended to be all inclusive, but that does not mean that the jobs of other workers are not essential.

Representative Johnson said he will stand with first responders in any way he can. While BR 430 applies to first responders, different legislation could be proposed, if needed, relating to other professions. When he inquired about the bill's fiscal impact, Representative Huff responded that he did not request a fiscal note but that the financial impact could easily be determined. The bill calls for a death benefit payment of \$80,000 to eligible families.

Representative Graham questioned whether BR 430 would apply to medical personnel that work in the correctional institutions. He considers them to be first responders, as well. Representative Huff said he does not believe it would, as the bill is currently written.

There were no additional questions, and Representative Miller thanked Representative Huff and Mr. Moulton for their testimony. He advised the committee members that there will be an opportunity to discuss additional prefiled legislation at the next meeting on November 22. Business concluded, and the meeting was adjourned at 2:00 p.m.

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

### **Minutes of the 5th Meeting of the 2021 Interim**

October 21, 2021

#### **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 21, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Phillip Wheeler, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Julie Kirkpatrick, President and CEO, Northern Kentucky Convention and Visitors Bureau; Erin Carrico, President, Kentucky Association of Convention and Visitors Bureaus; Janette Marson, Executive Director, Lake Cumberland Tourism Commission; Brandon Pennington, Executive Director, City of Harlan, Tourist and Convention Commission; Stacy Roof, President and CEO, Kentucky Restaurant Association; and Shannon Stiglitz, Vice President of Government Affairs, Kentucky Retail Federation.

LRC Staff: Andrew Manno, Audrey Ernstberger, Kirk Smith, and Sasche Allen.

#### **Approval of Minutes**

A motion to approve the minutes of the September 23, 2021, meeting was made by Representative Fister, seconded by Representative Timoney, and approved by voice vote.

#### **Discussion of Airbnb and VRBO**

The shared economy industry involves individuals sharing their house, a portion of their house, apartment, or car to gain financial benefit. Airbnb and VRBO have proved to be major economic drivers in the state and have generated \$157 million worth of transactions in the first nine months of 2021. However, there are some inequalities with these platforms and the obligation to pay the transient occupancy tax to the Commonwealth. Airbnb and VRBO have agreements to pay this tax with some destinations across the state such as Northern Kentucky, Lexington, Louisville, and Bowling Green but not with the rest of the state.

The Kentucky Department of Tourism receives one percent of the tax through these agreements and these funds are used for marketing. However, this leaves a large portion of taxes not being paid by these platforms from the remainder of the state. Tennessee passed legislation in 2020 that centralized the payment of transient occupancy taxes for these platforms. Julie Kirkpatrick, President and CEO of the Northern Kentucky Convention and Visitors Bureau, explained that legislation similar to the Tennessee model should be considered to ensure tourism organizations across the state receive their fair share of revenue generated by these platforms to contribute to the tourism industry's marketing budgets and the continued recovery from the COVID-19 pandemic.

Responding to Representative King, Ms. Kirkpatrick clarified that \$157 million was generated from Airbnb and VRBO transactions in the state alone for the first nine months of 2021.

Answering Senator Wheeler, Ms. Kirkpatrick confirmed that hotels do pay property taxes.

Replying to Representative Bechler, Ms. Kirkpatrick said Airbnb and VRBO property owners pay income taxes.

#### **Kentucky Association of Convention and Visitors Bureaus Update**

Although tourism organizations across the Commonwealth are of different sizes and have different needs, many members of the Kentucky Association of Convention and Visitors Bureaus (KACVB) are continuing to struggle with funding, staffing, and ways to move forward after facing obstacles during the COVID-19 pandemic. Brandon Pennington, the Executive Director of the City of Harlan Tourist and Convention Commission, and Janette Marson, the Executive Director of Lake Cumberland Tourism Commission, detailed how their organizations made it through the pandemic during 2020 and how they have begun to recover throughout 2021. Even though some organizations have seen a rise in the number of visitors to their regions in 2021, most do not have the funds for necessary marketing and infrastructure due to revenue that was lost during 2020. Some KACVB member organizations were forced to use reserve funds to continue operating, but others did not have reserve funds to use. There are many projects and expansions planned for various regions throughout the Commonwealth, and tourism organizations are in need of funding to promote these future ventures that will have a major impact on the tourism industry and the state's economy. Funding is also needed to move forward in regaining the meetings and conventions market.

Senator Thomas recommended the state have an automobile trail similar to the Kentucky Bourbon Trail.

Responding to Representative King, Erin Carrico, President of the Kentucky Association of Convention and Visitors Bureaus, stated the \$75 million that is being requested would be divided amongst the meetings and conventions area, the Kentucky Department of Tourism offices, and destination marketing organizations across the Commonwealth. The funds would be distributed by the Kentucky Department of Tourism since it already has funding

distribution procedures in place.

Addressing Senator Southworth, Ms. Carrico said the Bowling Green Convention and Visitors Bureau works closely with the National Corvette Museum which remains closed due to COVID-19, and the KACVB has hopes that the museum will reopen for tours next year.

#### **COVID-19 Recovery Update: Kentucky Restaurant Association and Kentucky Retail Federation**

Representatives from the Kentucky Restaurant Association and the Kentucky Retail Federation gave an update in how their affiliated industries are recovering from COVID-19, current industry challenges, and potential solutions. Many restaurants and retailers stepped up during the pandemic and have donated to local food banks and food rescue programs, provided paid leave for employees to receive vaccinations, and offered their place of business for testing and vaccine clinics. The General Assembly's passage of legislation relating to legal liability reform, cocktails-to-go, raw grocery sales, and tax changes regarding small business loans has helped both the restaurant and retail industry's recovery tremendously. However, restaurants and retailers are faced with challenges such as supply delays and shortages, labor and food cost increases, staffing shortages, decreases in profits, and issues related to future COVID-19 variants. The Kentucky Restaurant Association requests consideration that would allow those 18 and older to serve or handle alcohol in some ways in a restaurant setting. Additionally, the organization would benefit from a restaurant recovery fund with American Rescue Plan Funds as has been done in 38 other states. According to the Kentucky Retail Federation, there are several legislative proposals that could harm the recovery of the retail and restaurant industries such as legislation relating to local option sales tax, property tax assessments, restaurant taxes, fees related to retail and restaurant industry businesses, alcohol sales, and soda taxes.

Responding to Representative Branscum, Stacy Roof, the President and CEO of the Kentucky Restaurant Association, said there is no distinction in current statute between being a bartender and serving alcohol. In the state, if an individual is 20 years of age or younger, then they are not allowed to legally be involved in any transaction involving alcohol.

Answering a question from Senator Wheeler, Shannon Stiglitz, Vice President of Government Affairs for the Kentucky Retail Federation, said the Kentucky Retail Federation will research how much outsourcing is effecting supply delays and shortages, and that the National Retail Federation is supportive of federal legislation that would alleviate issues being encounter at U.S. shipping ports. Responding to a follow up question, Ms. Stiglitz stated that some members of the Kentucky Retail Federation support tariffs while others oppose them.

Replying to Representative Roberts, Ms. Roof verified that the Kentucky Restaurant Association supports the H-2B visa program.

Addressing Senator Thomas, Ms. Stiglitz stated that fourth and fifth class cities are authorized under Kentucky Revised Statutes to levy a restaurant tax,

but if a statewide restaurant tax was put into place, then it would apply to not only restaurants but other businesses as well. The Kentucky Retail Federation would like for the General Assembly to pose to voters whether or not a constitutional provision should be removed that would allow the General Assembly to give cities the authority to impose sales taxes.

Responding to Representative Calloway, Ms. Roof explained that restaurant capacity limits are not necessarily due to COVID-19 precautions but due to staffing shortages. Addressing a follow up question, Ms. Roof said while a majority of the Kentucky Restaurant Association's members encouraged employees to receive the COVID-19 vaccine, few have put a vaccine mandate in place. Ms. Stiglitz added that, to her knowledge, there is not a member of the Kentucky Retail Federation that has put a vaccine mandate in place.

Answering a question from Representative Dotson, Ms. Stiglitz agreed that due to the COVID-19 pandemic, restaurants were forced to change their business models, and if some changes prove to be more profitable, then the changes may become permanent.

There being no further business before the committee, the meeting adjourned at 2:12 p.m.

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

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

##### **of the 2021 Interim**

October 20, 2021

#### **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 20, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Scarlet Hudson, Founder and Director, Women of Alabaster; Attorney General Daniel Cameron; Representative Nancy Tate, House District 27; Heather Wagers, Office of Trafficking and Abuse Prevention and Prosecution; Representative Steve Riley, House District 23; Susan Liebel, State Policy Director, Susan B. Anthony List; Addia Wuchner, Executive Director, Kentucky Right to Life Association; Representative Melinda Gibbons Prunty, House District 15; Representative Lynn Bechler, House District 4; Tamarra Wieder, Kentucky State Director, Planned Parenthood Alliance Advocates;

Angela Cooper, American Civil Liberties Union of Kentucky; Lindsay LePage, Research Psychologist, Kentucky Department of Criminal Justice Training; Carissa Smith, Telecommunicator; Sharon Snowden, Mayor, Ravenna, KY; and Amy Crowe, City Clerk, Ravenna, KY.

LRC Staff: Jessica Zeh and Logan Schaaf

Representative Fugate moved to approve the September 22, 2021, meeting minutes. Senator Mills seconded the motion. The minutes were approved.

#### **Distinguished Veteran**

James Edward "Ted" Bassett, 99, of Lexington, was honored as a distinguished veteran. Although not present, Chair Thomas wished to honor his many achievements upon the celebration of his 100th birthday. Mr. Bassett was attending Yale when Pearl Harbor was attacked. He enlisted and the Marine Corps sent him back to Yale, where he graduated and became a second lieutenant. At Yale, Mr. Bassett played basketball and was known for his game winning shot against Harvard. In 1944, Mr. Bassett completed training at Parris Island and went on to Guadalcanal and Okinawa, where he was wounded by an enemy sniper. After recovering, he reunited with the Fourth Marine Regiment and served in mainland Japan as part of the occupying force. He received a Purple Heart and many other honors. When Mr. Bassett returned to Kentucky, he met his wife of over 60 years, Lucy Gay, and in 1964 he became the director of the Kentucky State Police. As director of KSP, he established a police academy, pushed for the hiring of the first African American to work at KSP, established Trooper Island, and formed the Department of Criminal Justice Training, located on the campus of Eastern Kentucky University. Mr. Bassett eventually became the president of Keeneland and of the Breeders' Cup. He turns 100 next week.

#### **Addressing Human Trafficking**

Scarlet Hudson, Founder and Director of Women of Alabaster, spoke about human trafficking in Kentucky. Ms. Hudson noted that the trafficking corridor from Detroit to Miami runs through Kentucky. Ms. Hudson praised the work of the Attorney General's office in addressing human trafficking but emphasized that it is still a major issue. Ms. Hudson said that is important to find ways to help victims of trafficking, rather than penalize them. She discussed the need for mental health care, drug treatment, and trauma therapy. Ms. Hudson said the focus should be on penalizing the perpetrators, not the victims.

Attorney General Daniel Cameron spoke about combatting human trafficking. He noted that Kentucky ranked ninth in the United States for new federal human trafficking cases in 2019. General Cameron highlighted recent legislative changes to address the issue, including 2020 RS HB 2, which broadened the definition of commercial sexual activity, and 2020 RS HB 79, which requires background checks for massage therapy licensure. General Cameron spoke of Operation United Front as a success. It was a multistate sting carried out by 29 agencies across Kentucky, resulting in the rescue of 21 victims and the arrest of 46 perpetrators. He also spoke about the Your Eyes Save Lives campaign, funded by a grant

from the United States Department of Justice. The campaign runs ads targeting Kentucky regions with the largest reported incidences of child trafficking and encourages Kentuckians to look for signs of trafficking and report them.

Representative Nancy Tate, House District 27, and Representative Steve Riley, House District 23, spoke about their work to combat human trafficking. They shared how their knowledge of the issue has evolved and they said they hoped strong legislation could be passed in the 2022 Regular Session.

Responding to a comment from Representative Bratcher suggesting that those working to address human trafficking share more stories to help communicate to the public the gravity of the issue, Ms. Hudson suggested watching the video “Heroine of Hope” on YouTube, which contains the stories of three trafficking victims. Representative Tate commented on the importance of education efforts and Heather Wagers, Office of Trafficking and Abuse Prevention and Prosecution, suggested watching the “Your Eyes Save Lives” video on the Attorney General’s website.

Representative Blanton suggested speaking to Dr. Elizabeth Perkins, Associate Professor of Criminology at Morehead State University, about her research on human trafficking in Kentucky.

Responding to a question from Senator Yates, General Cameron said that they could always use more funding and resources from the General Assembly to assist with their anti-trafficking operations. General Cameron also said he would work with Senator Yates to improve the anti-trafficking efforts of the Louisville Metro Police Department.

Responding to a comment from Senator Meredith, Representative Tate indicated that exploring the possibility of raising the age of consent in Kentucky could assist with getting victims away from trafficking.

### **Pro-Life Omnibus Bill**

Representative Tate provided an overview of the Humanity in Healthcare Act, highlighting parental consent, judicial bypass, and verification and compliance of abortion providers. Representative Tate also spoke about the regulation of both medical and chemical abortions, including informed consent, physician requirements, reporting requirements, fetal remains protocol, and public funding.

Representative Tate noted some of the potential medical complications arising from an abortion. She also emphasized a medical conscience section of the omnibus bill, which would prohibit discrimination against medical care providers who decline to perform procedures that violate their conscience.

Addia Wuchner, Executive Director of the Kentucky Right to Life Association, said it was important to begin crafting this legislation early, before the session is too far along. She also noted that some people living in Kentucky may seek abortions out of state, and said that this reflects the importance of enhancing the collection of abortion statistics.

Susan Liebel, State Policy Director of the Susan B. Anthony List, said that there is an opportunity to solidify the current health and safety protocols for abortion inducing drugs, because the Food and Drug Administration (FDA) is poised to remove many

of these requirements. Ms. Liebel spoke about the potential medical risks of two specific abortion drugs, Mifepristone and Misoprostol. She also noted that chemical abortions now outpace surgical abortions in Kentucky and said that chemical is more dangerous than surgical. Ms. Liebel said that abortion providers are targeting people with online advertising.

Representative Melinda Gibbons Prunty, House District 15, said that she brought the parental consent section into the bill.

Representative Bechler, House District 4, said that he believes abortion is murder, and would answer any questions related to his section of the bill.

Responding to a question from Representative Bratcher, Representative Tate said that the medical conscience section would prevent people from losing their jobs for their anti-abortion stance.

Responding to questions from Senator Yates, Representative Tate said that parents would have the opportunity to make a decision on what happens with the fetal remains. Ms. Wuchner said that fetal remains would not be treated as or mixed with medical waste. Representative Tate said that the health of the mother would always be considered.

Responding to a question from Senator Mills, Representative Tate noted that the physician provider, not the facility, would require certification.

Responding to questions from Representative Stevenson, Ms. Wuchner said that she could provide more data on the targeted online advertising of abortion services. Representative Tate added that search algorithms also play a role. Responding to another question from Representative Stevenson, Representative Tate said that she would evaluate any bill designed to reduce infant mortality. Responding to a request to see a copy of the omnibus bill, Representative Tate said that they could discuss the bill outside of the meeting.

Tamarra Wieder, Kentucky State Director of Planned Parenthood Alliance Advocates, said that the omnibus bill would make obtaining parental consent for an abortion more difficult. Ms. Wieder said that the United States Supreme Court has ruled that states with parental consent laws must provide a way for people to seek an abortion without parental consent, through judicial bypass. She also noted that organizations including the American Academy of Pediatrics, American Medical Association, and the American College of Obstetricians and Gynecologists oppose mandatory parental consent laws. Ms. Wieder said that the sections of the bill relating to fetal remains would create shame and stigma for those seeking an abortion, and would create hurdles for physicians and clinics. She said that provisions in the omnibus bill were similar to parts of a recent Texas law that was temporarily blocked by a federal judge. Ms. Wieder said that the omnibus bill could threaten funding for healthcare providers, including hospitals, and would impermissibly deny benefits. Ms. Wieder said that medication abortion happens at the two abortion providers in Louisville and not by mail.

Angela Cooper, American Civil Liberties Union (ACLU) of Kentucky, said that she was concerned that the omnibus bill would force victims of sex trafficking to carry pregnancies that they do not want. She also expressed concern that the Center for Women

and Families and the Kentucky Coalition Against Domestic Violence were disinvited from speaking at the committee meeting because they do not take a stance on abortion, and were told that their funding may be cut.

Representative Wheatley said that he would like to hear from more people involved with this issue, including judges, child advocates, and attorneys.

Responding to a question from Representative Wheatley, Ms. Wieder said that medication abortion reversal is based on faulty science and is not endorsed by the American College of Obstetricians and Gynecologists.

Responding to a question from Representative Wheatley, Representative Tate said that statistics on judicial bypass are not gathered, but the omnibus bill would require these statistics to be collected.

Responding to questions from Senator Yates, Ms. Wieder expressed concern at the “clear and convincing standard” language, saying that it is a much higher burden than what is typically seen in civil cases.

Representative Gibbons Prunty said that there is evidence from Kentucky that abortion reversal works, highlighting a recent case in Paducah.

### **Addressing Mental Health for Telecommunicators**

Representative Wesley expressed admiration for dispatchers. He said that a common misconception holds that dispatchers do not experience post-traumatic stress disorder (PTSD).

Lindsay LePage, Research Psychologist with the Kentucky Department of Criminal Justice Training, delivered a presentation regarding duty-related stress and trauma among 911 dispatchers. Ms. LePage said people experience trauma in different ways. Repeated or extreme exposure to details of trauma, especially relevant to dispatchers, can cause PTSD. Symptoms include nightmares, avoidance, depression, lack of ability to feel joy, lack of connection, sleep loss, aggression, and self-destructive behaviors. Ms. LePage said that common sources of telecommunicator duty-related stress include line of duty deaths, events involving infants or children, deaths of adults, suicide, and officer-involved shootings. She also noted that rates of PTSD tend to drop significantly after participation in a post-critical incident seminar.

Carissa Smith, telecommunicator, shared the story of her struggles with duty-related PTSD. She said that the Kentucky Post-Critical Incident Seminar helped save her life. Ms. Smith said that while the average number of traumatic events someone experiences in their lifetime is two to three, for dispatchers the number is closer to 300 over their career. She spoke about the stigma accompanying dispatcher mental health concerns, saying they are often ignored even when they voice their problems.

Representative Wesley said that sheriffs, fire chiefs, EMTs, and public safety directors have expressed their support for telecommunicators. He said that he is working on a bill that will include training for telecommunicators and will grant them access to law enforcement mental health programs.

The committee listened to a recording of a traumatic 911 call as an example of a situation a dispatcher might encounter.

Representative Fugate expressed support for

dispatchers, noting that he is a former emergency radio operator and depended on them in his time as a state trooper. He said that dispatchers are unsung heroes.

Representative Stevenson thanked Ms. Smith for her testimony. Responding to a question from Representative Stevenson, Ms. LePage said that there is a general stigma surrounding mental health in the workplace, and the concerns of telecommunicators are often dismissed. She highlighted more education and training as keys to overcoming this stigma.

Representative Wesley said that 911 associations have expressed support for the bill, and he thanked legislative staff for drafting it. Ms. Smith noted some of the difficulties telecommunicators face in seeking out help and training, and said the bill would address them.

With no further business before the committee, the meeting adjourned at 12:15 PM. The next meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection is November 23, 2021, at 10:00 AM.

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

### **Minutes**

October 21, 2021

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

The Capital Projects and Bond Oversight Committee meeting was held on Thursday, October 21, 2021, at 2:00 PM, in Room 169 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Elizabeth Baker, Senior Director, Strategic Capital Planning and Legislative Analysis, University Budget Office, University of Kentucky; Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority; 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; Korey Sallee, Committee Analyst; and Ashton Thompson, Committee Assistant.

#### **Approval of Minutes**

Senator Howell moved to approve the September 23, 2021, minutes, seconded by Representative Freeland, and approved without objection.

#### **Information Items**

Ms. Halloran referenced ten 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 43.050(2)(e)] the Auditor of Public Accounts examined the Finance and Administration Cabinet's Kentucky Lease Law compliance and did not report any findings; [pursuant to KRS 45.760(5)], the University of Kentucky reported its \$497,700 cash purchase of two pieces of surgical imaging equipment for UK Healthcare's Kentucky Clinic South; [pursuant to KRS 45.760(9)], the Administrative Office of the Courts, the Office of State Budget Director, and postsecondary institutions managing their own capital construction under KRS 164A.580 transmitted Annual Capital Project Reports; [pursuant to KRS 45.810(6)], the Office of Financial Management submitted the Annual Report of Outstanding Debt on behalf of state entities, including postsecondary institutions, authorized to issue debt; [pursuant to KRS 45.812(1)] through their fiscal agents, the Breathitt County and Menifee County school districts, which did not need an additional tax levy to pay debt service, reported debt issuances to finance new projects and the Knox County school district reported an advance refunding debt issue; [pursuant to KRS 56.863(11)], the Kentucky Asset/Liability Commission transmitted, through the Office of Financial Management, its Semi-Annual Report; [pursuant to KRS 45A.077(6)], Murray State University reported its intent to use the public-private partnership project delivery method for residential housing and a dining facility; the School Facilities Construction Commission reported previous school district debt issues with SFCC debt service participation; and UK reported a consolidation of project authorizations for the Sanders-Brown Center to utilize the state bond fund match.

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

Ms. Baker submitted a new lease for the UK's Police Department, PR-8487; 5,441 square feet at the Coldstream Research Campus with a \$104,739.25 annual cost. The lease will allow UK's police department to participate with federal agencies, including the FBI and Secret Service, in a regional threat assessment and information sharing center for cyber threat analysis.

Senator Webb moved to approve the new UK lease, seconded by Senator Howell, and approved by unanimous roll call vote.

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

Ms. Tomes reported nine Fees-in-Lieu-of Stream Mitigation Projects Pool allocations totaling \$39.2 million for the Tourism, Arts and Heritage Cabinet, Department for Fish and Wildlife Resources. All projects are in the acquisition and survey phase and were authorized by the U.S. Army Corps of Engineers. The projects are as follows: Bender Hollow (Lincoln County), \$5 million to restore and protect over 16,000 linear feet of streams; Big Rivers Wetland (Crittenden and Union Counties), \$2.3 million to restore and protect over 2,900 linear feet of streams and over 40 acres of wetlands; Burnette Branch (McCreary and

Wayne Counties), \$8.3 million to restore and protect over 37,000 linear feet of streams; Morgan County Extension Wetland, \$2.5 million to restore and protect over sixty acres of wetlands; Northern Kentucky Middle Creek II (Boone County), \$7.7 million to restore and protect over 54,700 linear feet of streams and over twelve acres of wetlands; Northern Kentucky Middle Creek III (Boone County), \$2.3 million to restore over 11,700 linear feet of headwater tributaries in the Middle Creek watershed; Stream Restoration Otter Creek (Meade County), \$4.5 million to restore and protect over 12,300 linear feet of streams and seven acres of wetlands; Whites Creek (Boyd County), \$2.3 million to restore and protect over 9,300 linear feet of streams; and Wolf Run (Jefferson County Memorial Forest), \$4.3 million to restore and protect over 16,000 linear feet of streams.

Senator Webb stated that she supported the above projects, referencing her long-term involvement with the FILO program.

#### **Report from the Office of Financial Management Kentucky Infrastructure Loans**

Representative Freeland moved to roll the two KIA Drinking Water State Revolving Fund (Fund F) Program Loans into one roll call vote, seconded by Senator Howell, and approved without objection.

Ms. Williams submitted two KIA Fund F program loans, \$1,463,000 and \$2,549,645, for the City of Harlan with a 0.25 percent interest rate over a thirty year loan term. The Harlan Municipal Water Distribution System Improvements project involves the partial relocation of a sixteen inch raw water transmission main, replacement of other line sections, and painting a 100,000 gallon storage tank. The Harlan Municipal Water Treatment Plant and Raw Water Intake Improvements project involves miscellaneous upgrades.

Senator Howell moved to approve the two KIA Fund F program loans, seconded by Representative Freeland, and approved by unanimous roll call vote.

#### **Economic Development Fund Grant**

Ms. Smith submitted a \$285,241 Economic Development Fund grant, Marshall County Fiscal Court for the benefit of the Marshall County Industrial Development Authority. The Fiscal Court and Industrial Development Authority are implementing Southwest One Industrial Park upgrades; a dense grade Southwest One Boulevard extension, an aluminum box culvert across Gain Branch, and an expandable 120,000 square foot pad-ready site. An independent site consultant recommended the project for Kentucky Product Development Initiative industrial site upgrade program funds, administered in conjunction with the Kentucky Association for Economic Development. Grant fund disbursements occur on a reimbursement basis to local governments after the Cabinet reviews the required supporting documentation of invoices, proof of payment, and matching funds.

Representative Freeland moved to approve the Economic Development Fund grant, seconded by Senator Howell, and approved by unanimous roll call vote.



## New Debt Issues

Senator Webb moved to roll the four new debt issues into one roll call vote, seconded by Senator Howell, and approved without objection.

Mr. Barrow submitted three Kentucky Housing Corporation conduit debt issues, applied towards the state's private activity volume cap and affecting neither the commonwealth's nor KHC's financials as the developer pays the debt service, and a postsecondary debt issue. The first KHC conduit debt issue was the KHC Conduit Multifamily Housing Revenue Bonds (Kearney Ridge Apartments), Series 2021; 252 units in Lexington, \$26 million net proceeds with an over \$45 million project cost. The second was the KHC Conduit Multifamily Housing Revenue Bonds (Mount Lebanon Apartments), Series 2021; 70 units in Louisville, \$6.5 million net proceeds with an over \$14 million project cost. The final was the KHC Conduit Multifamily Housing Revenue Bonds (Oakdale Apartments), Series 2021; 144 units in Lexington, \$15.93 million net proceeds with a \$26.8 million project cost. Mr. Barrow then submitted the Murray State University General Receipts Bonds, 2021 Series A; around \$12.32 million for the Historic Building Preservation Pool authorized in House Bill 192 of the 2021 Regular Session. MSU will sell this issue in December or January via competitive sale, consistent with other public postsecondary general receipts debt issues. The term is twenty years with a projected 2.4 all-in true interest cost.

Senator Howell moved to approve the four new debt issues, seconded by Representative Freeland, and approved by unanimous roll call vote.

## Previous Debt Issue

Mr. Barrow reported a previous KHC conduit debt issue, also applied towards the state's private activity volume cap and affecting neither the commonwealth's nor KHC's financials as the developer pays the debt service; KHC Conduit Multifamily Housing Revenue Bonds (Christian Towers), Series 2021; 132 units in Versailles, \$18.9 million net proceeds with a \$55.6 million project cost.

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

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

Mr. Barrow submitted six debt issues with SFCC participation: four new projects and two to refinance debt. For the new projects, the school districts did not need an additional tax levy for debt service. The Elizabethtown Independent (Hardin County), Eminence Independent (Henry County), Grayson County, and Monroe County school districts proposed debt issues totaled approximately \$11 million with \$2.5 million SFCC debt service participation. The Campbell County school district planned two refunding issuances totaling around \$1.2 million, with 100 percent SFCC participation.

Senator Howell moved to approve the six SFCC school district debt issues, seconded by Representative Freeland, and approved by unanimous roll call vote.

Senator Girdler announced the upcoming meeting at 2:00 P.M. on November 18. With there being no further business the meeting adjourned at 2:30 P.M.

## HOME & COMMUNITY BASED SERVICES WAIVER REDESIGN TASK FORCE

### Minutes of the 5th Meeting of the 2021 Interim

October 18, 2021

### Call to Order and Roll Call

The 5th meeting of the 1915c Home & Community Based Services Waiver Redesign Task Force was held on Monday, October 18, 2021, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Steve Riley, Co-Chair; Senators Danny Carroll, Stephen Meredith, and Dennis Parrett; Representatives Daniel Elliott, Norma Kirk-McCormick, and Pamela Stevenson.

Guests: Representative Kimberly Moser; Representative Mark Hart; Sharon Raymond; Sherry Pickett; Scott Romano; Grayson Kemplin and Frankie Huffman, Members of the Protection and Advocacy for Persons with Developmental Disabilities (PADD) board; Pam Smith, Director, Division of Community Alternatives, Department for Medicaid Services, Cabinet for Health and Family Services; Steve Shannon, Executive Director, Kentucky Association of Regional Providers; Amy Staed, Executive Director, Kentucky Association of Private Providers; Jane Stahl, Executive Director, NeuroRestorative Kentucky; and Kelly Upchurch, Legislative Chair, Kentucky Association of Adult Day Centers.

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

### Approval of Minutes

A motion to approve the September 2021, minutes was made by Senator Meredith, seconded by Representative Kirk-McCormick, and approved by a voice vote.

### The Importance of Waiver Services and Barriers to Care

Sherry Pickett, mom of waiver recipient Matthew, and a parent advocate discussed the challenges Matthew faces and the challenges she faces as Mathew's caregiver. Ms. Pickett discussed the complex needs Matthew has and the struggle to find and keep caregivers for the amount they are paid by the waiver.

Sharon Raymond, mom of Jessie, discussed Jessie's experience as a person on the autism spectrum, who does not qualify for waiver services and the need for waiver reform to include people like Jessie. Ms. Raymond stated that Jessie's complex and volatile behavior issues had made options for keeping her in the community limited. Ms. Raymond stated that they

face frequent worker turnover due to the intensity of Jessie's behavior which also limits her ability to stay in a community residential home. Ms. Raymond stated that more options for persons with complex needs, need to be incorporated into waiver programs.

### The Rights of Individuals with Intellectual and Developmental Disabilities

Representative Mark Hart, Scott Romano, and members of Protection and Advocacy for Persons with Developmental Disabilities (PADD) Grayson Kemplin and Frankie Huffman spoke about the need for a disabled person's bill of rights legislation that will put into law, more expansive rights for persons with disabilities. Mr. Romano stated that his adult daughters who are waiver recipients struggle to have their needs met and rights respected since they are of legal age but have the functioning capability of a child. Mr. Romano added that the bill of rights would help adult family care provider's better advocate for the rights of their relatives better than what is currently available to guardians and family care providers. Mr. Kemplin stated that many people with disabilities cannot advocate their rights for themselves and he feels having a bill of rights in place will give a voice to those people. Representative Hart stated that he is proposing legislation for the 2022 Regular Session that creates a disabled person's bill of rights and is using Mr. Kemplin, Mr. Huffman, and Mr. Romano's input to guide the language of the bill.

In response to questions and comments from Senator Meredith, Mr. Kemplin stated the bill of rights would be a statement to the commonwealth that persons with disabilities have rights, as any other person, and should be taken seriously.

### Waiver Services Reimbursement Rate Changes: An Overview of the Rate Setting Process and Recommendations

Pam Smith, Director, Division of Community Alternatives, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS) presented an overview of provider reimbursement rates, how rate are set, how rates can be improved, and DMS's rate recommendations including, an update to the current rate setting methodology and reimbursement rates, a review of Kentucky's full 1915(c) HCBS service menu, an increase in training of case managers, providers, and participants, a consideration of a tiered payment methodology, and extra support for providers.

In response to questions and comments from Senator Meredith, Ms. Smith stated that she does not know when the timeline for a new reimbursement rate study will begin but stated that once the rate study does begin it could take several years. Ms. Smith stated that DMS has conducted two internal surveys with providers and DMS will use American Rescue Plan Act (ARPA) funds to begin collecting reimbursement rate data.

In response to questions and comments from Representative Riley, Ms. Smith stated an interim rate increase is possible but Centers for Medicare and Medicaid (CMS) requires proof of a rate methodology that shows why the rates need to be increased

temporarily.

In response to questions and comments from Senator Adams, Ms. Smith stated that the deadline to spend the ARPA dollars is March 21, 2024, and that while the guidelines were distributed, Kentucky did not receive approval from CMS to begin using the ARPA funds until September 2021.

#### **Update on Enhanced Federal Medical Assistance Percentage (FMAP) Spending Plan**

Pam Smith, Director, Division of Community Alternatives, Department for Medicaid Services (DMS), Cabinet for Health and Family Services presented an update on the enhanced FMAP spending plan, the timeline for implementation, and how DMS plans to use enhanced FMAP funds.

In response to questions and comments from Senator Meredith, Ms. Smith stated that she will follow-up with the committee on a potential FMAP reduction.

**Waiver Services Reimbursement Rate Changes: Recommendations for Changes from the Prospective of Providers**

Jane Stahl, Executive Director, NeuroRestorative Kentucky discussed labor shortage challenges facing NeuroRestorative including 124 open positions, 12 clinical and 3 licensed nurse openings. Ms. Stahl stated that NeuroRestorative clinical and administrative staff are working as direct support providers (DSP) to fill the labor shortages, averaging 1000 clinical hours and 1500 salaried hours per month in covering DSP shifts. Ms. Stahl stated that this is unsustainable and provider reimbursement rates must be increased.

Kelly Upchurch, Legislative Chair, Kentucky Association of Adult Day Centers presented an overview of the labor challenges facing adult day centers across the Commonwealth and reported to the task force that at least 4 centers have closed since the pandemic began. Mr. Upchurch also stated that unless there is at least a ten percent increase in provider reimbursement rates, adult day centers will continue to close down permanently.

Amy Staed, Executive Director, Kentucky Association of Private Providers stated that to meaningfully address the waiver waitlist, the labor shortage must be addressed first which can only be done by increasing reimbursement rates. Ms. Staed stated that wages and reimbursement rates are so low that there are not enough providers to serve the participants that are currently on waivers let alone taking on new participants from the waitlist. Ms. Staed stated that there is not time for another rate study nor is there is need for another rate study; immediate funding is needed. Ms. Staed stated that a twenty-five percent increase in the provider reimbursement rates across all waivers will be enough in the short term to stave off collapse. Ms. Staed stated that the Appendix K fifty percent rate increase for SCL and ABI residential service models must be made permanent without an exclusion for day services. Ms. Staed stated that in the long term, regular rate analysis should be conducted, cost-of-living adjustment should be made annually, and priority funding for a robust, qualified workforce should be ensured.

Steve Shannon, Executive Director, Kentucky

Association for Regional Providers stated that more money is needed now or else providers are going to stop being able to provide services and participants will not get their needs met. Mr. Shannon stated that as a collective, providers from KARP, KAPP, NeuroRestorative, and KAAD request that CHFS utilize HCBS-only ARPA funds to implement rate increases for all waivers, that the general assembly appropriate approximately \$279 million in the 2022 budget to implement a 25 percent increase across all waivers in 2022, and that CHFS make the fifty percent Appendix K increase for SCL and ABI residential services permanent without the exclusion for day centers maintain the current definition of attendant care as defined in 907 KAR 7:010.

In response to comments from Senator Meredith, Mr. Shannon stated that he agrees that the cost of doing nothing to more than the remedy.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:30 p.m.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the October Meeting**

October 12, 2021

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

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 12, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Todd Allen and Cassie Trueblood, Education Professional Standards Board; Marc Manley, Office of the Attorney General; Bethany Atkins-Rice, Richard Dobson, and Jessica Johnston, Department of Revenue; Cary B. Bishop and Brian Thomas, Finance and Administration Cabinet; Jeffrey Prather, Board of Nursing; August Pozgay, Board of Chiropractic Examiners, Board of Licensure for Professional Art Therapists, Board of Durable Medical Equipment; Keith Poynter, Board of Physical Therapy; Mike Denney, Jennifer Luhrs, and Ellen Benzing, Kentucky Lottery Corporation; Amy Barker and Kristie Willard, Department of Corrections; Erin Bravo and Anthony Hudgins, Department of Workforce Investment; Chuck Stribling, Robin Maples, Sam Flynn, Erin Bravo, and Kim Perry, Department of Workplace Standards; Abigail Gall, Chad Thompson, and Shaun Orme, Department of Insurance; Linda Birdwell, J.E.B. Pinney, and Ben Bellamy, Public Service Commission; Jason Keller, Charter Company; Dan Rhinehart, AT&T Kentucky; Eric B. Langley, LG&E, Kentucky Utilities, Kentucky Power; Marc Guilfoil, Jennifer Wolsing, and Shan Dutta, Kentucky Horse Racing Commission; Julie Brooks, Jennifer Burt,

Amber Agee, and Brian Short, Department for Public Health; Jonathan Scott, Veronica Judy-Cecil, and Fatima Ali, Department for Medicaid Services; Steve Veno and Maria Lewis, Department of Income Support; and Laura Begin, Rachael Ratliff, and Dr. Sarah Vanover, Department for Community Based Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, October 12, 2021, and submits this report:

#### **Administrative Regulations Reviewed by this Subcommittee:**

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates

16 KAR 2:180. One (1) year conditional certificate. Cassie Trueblood, counsel, represented the board.

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

16 KAR 2:220. Emeritus certificate.

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

16 KAR 2:230. Exception certificate.

16 KAR 3:070. Endorsement for individual intellectual assessment.

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

16 KAR 4:050. Dating of certifications.

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

16 KAR 5:010. Standards for accreditation of educator preparation providers and approval of programs.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through

7, 9 through 11, 15, 16, 18 through 21, and 23 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

DEPARTMENT OF LAW: Office of Civil and Environmental Law: Attorney General

40 KAR 1:040E. Standardized Open Records Request Form. Marc Manley, assistant attorney general, represented the office.

40 KAR 1:040. Standardized Open Records Request Form.

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

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; Corporations

103 KAR 16:320. Claim of right doctrine. Bethany Atkins-Rice, counsel; Richard Dobson, executive director, Sales and Miscellaneous Taxes; and Jessica Johnston, executive director, Income Taxation, represented the department.

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

103 KAR 16:352. Corporation income taxes policies and circulars.

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

Income Tax; Withholding

103 KAR 18:020. Withholding return adjustment.

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

103 KAR 18:090. Payroll records.

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

Sales and Use Tax; Miscellaneous Retailer Occupations

103 KAR 27:050. Sourcing of retail sales by florists.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 27:150. Repairers and reconditioners of tangible personal property.

In response to questions by Co-Chair Hale, Mr. Dobson stated that this administrative regulation was being amended in response to legislation from 2018. Sales tax was now being expanded to include extended warranties, which affected the repair industry.

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

103 KAR 27:230. Motor vehicle body shops.

Sales and Use Tax; General Exemptions

103 KAR 30:091. Sales to farmers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 and 10 through 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 30:120. Machinery for new and expanded industry.

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

103 KAR 30:140. Energy and energy-producing fields.

In response to a question by Co-Chair West, Mr. Dobson stated that this administrative regulation affected sales and use practices, while previously only addressed authorization and eligibility.

103 KAR 30:190. Interstate and foreign commerce.

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

103 KAR 30:250. Property used in the publication of newspapers.

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

FINANCE AND ADMINISTRATION CABINET: State-owned Buildings and Grounds

200 KAR 3:020. Use of state-owned facilities and grounds. Cary Bishop, assistant general counsel, and Brian Thomas, general counsel, represented the cabinet.

In response to questions by Co-Chair West, Mr. Bishop stated that the previous version of this administrative regulation, which was effective prior to the coronavirus (COVID-19) pandemic, prohibited masks except in certain situations. Due to the pandemic, this administrative regulation was being amended to allow, but not require masks. Prohibitions against livestock at state facilities did not include facilities specifically designed for livestock, such as the state fair site. Livestock would be allowed for specific events if a request was submitted. Firearm safety provisions were established, including that long guns shall be carried with the muzzle point up and that handguns shall be holstered with at least two (2) steps of safety. Those with firearms shall not keep a finger on the trigger. Law enforcement already had at least two steps of safety regarding firearms. Bringing livestock, such as a horse, to state property would require a request. Requests were granted from a policy neutral standpoint.

In response to questions by Representative Bridges, Mr. Thomas stated that those who used horses or horse and buggies for transportation generally used public roads, which were not considered part of state facilities. If a horse were on, for example, the Capitol lawn, a request would be required and the owner would need to clean up after the animal and would be responsible for repairs to any damaged state property.

In response to questions by Senator Alvarado, Mr. Thomas stated that this administrative regulation did not have procedures to impound livestock in situations of noncompliance. This administrative regulation required a request for livestock to be on state-owned property unless otherwise exempted. Livestock used for transportation would be differentiated from others. Because this administrative regulation established provisions for state facility visitation, a clarification of this matter would more appropriately be made in

200 KAR 3:010, which established transportation provisions.

In response to a question by Representative Marzian, Mr. Thomas stated that a request to bring livestock to a state facility would include a review of necessary measures, such as cleaning up after an animal. Mr. Bishop stated that this administrative regulation addressed damage related to visiting a state facility.

In response to questions by Co-Chair West, Mr. Bishop stated that Section 3(1)(q) of this administrative regulation established criteria for the approval of a request to bring livestock to state property. Co-Chair West stated that he hoped that this livestock provision was not directed at any specific person.

A motion was made and seconded to approve the following amendments: to amend (1) Section 1 to add a definition for “face covering”; (2) Sections 1 and 2 to: (a) clarify that the Application to Use State Facilities and Grounds shall be for all state property, not just historic, and that it shall be maintained by the Department for Facilities and Support Services; (b) allow state agencies to individualize the form if it is substantially similar and approved by the department; (c) allow the department to delegate authority to review and approve use applications for specific facilities and grounds to a tenant agency of the facility or grounds; (d) specify the Division of Historic Properties shall continue to oversee use of historic properties; and (e) require any delegation to be posted on the department’s Web site; (3) Section 2 to authorize similar delegation for the Rental Application and Lease Agreement; (4) Section 3 to remove the requirement that face coverings worn to prevent disease shall be department provided if they satisfy the components of the new definition; and (5) Sections 1 through 4 and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Nursing

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses. Jeffrey Prather, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 6, 7, 9, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Chiropractic Examiners

201 KAR 21:035. Seal. August Pozgay, executive advisor, represented the board.

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

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

201 KAR 21:054. Emergency orders.

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

201 KAR 21:070. Licensing examination requirements.

201 KAR 21:090. Pre-chiropractic education requirements.

201 KAR 21:100. Minimum standards for recordkeeping or itemized statement.

Board of Physical Therapy

201 KAR 22:045. Continued competency requirements and procedures. Keith Poynter, general counsel, represented the board.

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

Board of Licensure for Professional Art Therapists

201 KAR 34:070. Inactive status. August Pozgay, executive advisor, represented the board.

A motion was made and seconded to approve the following amendments: to amend (1) Section 1 to: (a) clarify that the board shall notify a licensee that the licensee is relieved of the obligation to pay the license renewal fee if the board has granted a request for inactive status; and (b) add language that a licensee shall have thirty (30) days from inactive status denial to pay the license renewal fee; (2) Section 2 to clarify that the two (2) year inactive status period shall begin when the board notifies a licensee that it has granted inactive status; (3) Section 3 to add a provision that: (a) a two (2) year extension shall be automatically granted if the required paperwork is received; and (b) the licensee shall have thirty (30) days to resubmit a request for inactive status if the extension is denied; (4) Section 5 to clarify that the reactivation of a license shall be effective upon the date listed in the written notification from the board; and (5) Sections 1 through 3, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Durable Medical Equipment

201 KAR 47:010. Home medical equipment and

supplier licenses, requirements, and fees. August Pozgay, executive advisor, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 4 through 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 47:030. Compliant and disciplinary process.

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

KENTUCKY LOTTERY CORPORATION:  
Kentucky Lottery Corporation

202 KAR 3:020. Procurement procedures. Ellen Benzing, staff attorney; Mike Denney, assistant general counsel; and Jennifer Luhrs, general counsel, represented the corporation.

In response to questions by Co-Chair West, Mr. Denney stated that the corporation was statutorily authorized to establish independent procurement procedures, which were generally structured in accordance with the Model Procurement Code but tailored for the needs of the corporation. This administrative regulation increased the small purchase limit, pursuant to inflation, from \$20,000 to \$30,000. The corporation was not a direct state agency and operated under the authority of a board of directors.

JUSTICE AND PUBLIC SAFETY CABINET:  
Office of Medical Examiner

500 KAR 12:010. Duplicate records request fee schedule. Amy Barker, assistant general counsel, and Kirstie Willard, division director, represented the cabinet.

In response to questions by Senator Alvarado, Ms. Barker stated that duplicate records were typically related to litigation and media needs. Government agencies received free copies of duplicate records. The fees had not been raised for many years, and copying costs had risen. Senator Alvarado stated that this situation was similar to copying costs for medical providers and that he hoped that the General Assembly would consider for future legislation, fee needs for medical provider copying.

Department of Corrections

501 KAR 2:050. Transfer requests.

501 KAR 2:070. Work release.

EDUCATION AND WORKFORCE  
DEVELOPMENT CABINET: Department of  
Workforce Investment: Unemployment Insurance

787 KAR 1:010. Application for employer account; reports. Erin Bravo, deputy general counsel, and Anthony Hudgins, deputy executive director, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct the link to the Unemployment Self Service Web Portal; and (2) to amend Sections 3 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

787 KAR 1:020. Change of status; discontinuance of business.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (a) correct the link to the Unemployment Self Service Web Portal; and (b) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

787 KAR 1:060. Separation for cause; reports.

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

787 KAR 1:080. Labor dispute or strike; notification.

787 KAR 1:090. Unemployed worker's reporting requirements.

In response to a question by Co-Chair West, Mr. Hudgins stated that Form UI-480 was being deleted in order to make fraud alerts easier to submit. An email or online claim could now be submitted.

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

787 KAR 1:110. Appeals.

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

787 KAR 1:140. Unemployment insurance fund payments.

787 KAR 1:150. Interstate claimants.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

787 KAR 1:210. Employer contribution rates.

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

787 KAR 1:220. Required reports and due dates.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

787 KAR 1:260. Voluntary election of coverage.

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

787 KAR 1:290. Contract construction rates.

787 KAR 1:300. Successorship.

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

787 KAR 1:310. Claimant profiling.

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

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

803 KAR 2:325. General industry standards. Robin

Maples, occupational safety and health standards specialist, and Chuck Stribling, federal – state coordinator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 3(3) to remove standards relating to brakes because they are outdated and no longer publicly available; and (2) to amend the RELATES TO paragraph and Sections 2 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 17:240. Data reporting requirements. Abigail Gall, regulation coordinator; Shaun Orme, executive advisor; and Chad Thompson, general counsel, represented the department.

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

806 KAR 17:270. Telehealth claim forms and records.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:280. Registration, utilization review, and internal appeal.

In response to a question by Co-Chair West, Ms. Gall stated that this administrative regulation was unrelated to 803 KAR 25:190. This administrative regulation only applied to health benefit plans.

A motion was made and seconded to approve the following amendments: to amend (1) Section 1 to: (a) add a definition for “health benefit plan”; and (b) use a broader definition for “insurer”; and (2) the RELATES TO paragraph and Sections 1, 2, 4, 6 through 8, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:470. Data reporting to an employer-organized association health benefit plan.

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



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

#### ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities

807 KAR 5:015. Access and attachments to utility poles and facilities. Ben Bellamy, staff attorney; Linda Birdwell, executive director; and Jeb Pinney, executive advisor, represented the commission. Jason Keller, Charter Company and cable providers, and Eric Langley, utilities companies, appeared in support of this administrative regulation. Daniel Rhinehart, director AT&T National Regulatory Organization, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Mr. Pinney stated that, as it pertains to issues of pole attachments, Kentucky preempted the Federal Communications Commission (FCC) in 1983. This administrative regulation establishes a comprehensive, uniform system for pole attachments by streamlining processes, establishing deadlines, and providing for cost equity. Pole replacement and overlashing, which is the doubling up of lines, were issues of particular interest to many stakeholders.

In response to a question by Co-Chair West, Mr. Rhinehart stated that this administrative regulation was discriminatory against Incumbent Local Exchange Carriers (ILECs), such as AT&T, and represented as disincentive for the expansion of broadband. This administrative regulation defined “broadband internet provider” so that a provider with a joint use agreement with a utility would not be considered a broadband internet provider and would be governed by less advantageous requirements. AT&T requested two amendments to rectify the problem. AT&T requested that the definition for “new attacher” be amended to make clarifications and remove the exclusion of joint use agreements, and to amend Section 3(7) to correlate rates in the case of joint use agreements with tariff terms.

In response to a question by Co-Chair West, Mr. Langley stated that he represented a group of utility providers that supported this administrative regulation. The Public Service Commission had historically treated parties of joint use agreements differently pertaining to pole attachments, and it was necessary to treat them differently because terms varied significantly, agreements would become unmanageable, and other types of providers might be put at a disadvantage.

In response to a question by Co-Chair West, Mr. Keller stated that, in his capacity with representing many cable providers, Charter Company supported this administrative regulation. Pole attachment provisions were vital in efforts to expand broadband access in Kentucky. Uniform provisions would help the process of expanding broadband be more timely and efficient.

In response to a question by Senator Alvarado, Mr. Pinney stated that it was probably not necessary to define “overlashing” because it was a common term in the industry; however, the commission would take the matter under advisement.

In response to questions by Co-Chair West, Mr. Rhinehart stated that time frames for joint use agreements varied and were often valid for one to five years with automatic renewal options. New rates were developed on a case-by-case basis. Mr. Pinney stated that 21 other states had established pole attacher requirements independently of the FCC. ILECs had been established in Kentucky for many years with successful agreements reached. Mr. Rhinehart stated that addressing pole attachment complaints was a tedious, expensive, and complex process. ILECs should have just and reasonable rates, as statutorily required.

In response to a question by Co-Chair Hale, Mr. Rhinehart stated that AT&T requested two amendments, including that the definition for “new attacher” be amended to make clarifications and remove the exclusion of joint use agreements, and to amend Section 3(7) to correlate rates in the case of joint use agreements with tariff terms.

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

#### PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Flat and Steeplechase Racing

810 KAR 4:040. Running of the race. Shaun Dutta, deputy general counsel; Marc Guilfoil, executive director; and Jennifer Wolsing, general counsel, represented the commission.

In response to a question by Co-Chair West, Mr. Wolsing stated that this administrative regulation represented a compromise between the jockey’s guild and legislators regarding the use of riding crops. Specific requirements for how and when a riding crop could be used were established, along with fines and suspension provisions. Riding crops were allowed in the event of an emergency.

A motion was made and seconded to approve the following amendments: to amend Section 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### CABINET FOR HEALTH AND FAMILY SERVICES: Lead Abatement

902 KAR 48:010. Definitions for 902 KAR Chapter

48. Amber Agee, compliance and accreditation coordinator; Julie Brooks, regulation coordinator; and Jennifer Burt, branch manager, represented the cabinet.

In response to a question by Senator Alvarado, Ms. Agee stated that lead was a legal product, including in paint if the paint was not intended to be used in areas that children frequented.

902 KAR 48:020. Training and certification requirements for persons who perform lead-hazard detection or abatement.

902 KAR 48:030. Accreditation of training programs and providers of educational programs for individuals who perform lead-hazard detection and abatement.

902 KAR 48:040. Lead-hazard abatement permit fees, permit requirements and procedures, and standards for performing lead-hazard detection and abatement.

#### Department for Medicaid Services: Outpatient Pharmacy Program

907 KAR 23:020E. Reimbursement for outpatient drugs. Fatima Ali, assistant pharmacy director; Veronica Judy-Cecil, deputy commissioner; and Jonathan Scott, regulation coordinator, represented the department.

In response to questions by Co-Chair West, Ms. Judy-Cecil stated that copays would no longer be assessed in accordance with recent legislation.

#### Department for Community Based Services: Family Support

921 KAR 1:400. Establishment, review, and modification of child support and medical support orders. Maria Lewis, assistant director, and Steve Veno, commissioner, represented the department.

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

#### K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015. Supplemental programs for persons who are aged, blind, or have a disability. Laura Begin, regulation coordinator; Rachael Ratliff, social services specialist; Dr. Sarah Vanover, division director, represented the program.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 17 to comply

with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.	EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates	201 KAR 15:030. Fees. 201 KAR 15:040. Examination.
Supplemental Nutrition Assistance Program	16 KAR 6:010. Assessment prerequisites for teacher certification.	201 KAR 15:050. Apprenticeship and supervision requirements.
921 KAR 3:060. Administrative disqualification hearings and penalties.	STATE BOARD OF ELECTIONS: Statewide Voter Registration	201 KAR 15:110. Funeral establishment criteria. 201 KAR 15:125. Surface transportation permit.
Energy Assistance Program/Weatherization	31 KAR 3:010. Current address of Kentucky registered voters and distribution of voter registration lists.	Board of Nursing
921 KAR 4:116. Low Income Home Energy Assistance Program or “LIHEAP”.	Forms and Procedures	201 KAR 20:215. Continuing competency requirements.
Child Welfare	31 KAR 4:195E. Consolidation of precincts and precinct election officers.	201 KAR 20:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs.
922 KAR 1:300. Standards for child-caring facilities.	31 KAR 4:195. Consolidation of precincts and precinct election officers.	201 KAR 20:471. Repeal of 201 KAR 020:470.
In response to a question by Co-Chair West, Ms. Begin stated that the cabinet received one public comment from the Children’s Alliance. Additionally, the Children’s Alliance requested the changes made by the agency amendment.	31 KAR 004:200E. Chain of custody for records during an election contest.	201 KAR 20:472. Initial approval for dialysis technician training programs.
A motion was made and seconded to approve the following amendments: to amend (1) Section 3 to: (a) provide an exception to the age requirement for employees of a child-caring facility if there is an agreement between the agency and a college or university to employ students; and (b) delete language that had been added in the Amended After Comments version related to how long an employee shall be removed from direct contact with all children if being investigated for child abuse or neglect, and retaining the original language that the employee removal shall be for the duration of the investigation; and (2) Section 5 to: (a) allow a licensed, qualified health care professional to be consulted by the facility if there is evidence that the child might require medical attention and to provide for a child’s medical needs; and (b) to make clarifications. Without objection, and with agreement of the agency, the amendments were approved.	31 KAR 4:200. Chain of custody for records during an election contest.	201 KAR 20:474. Continuing approval and periodic evaluation of dialysis technician training programs.
	Voting	201 KAR 20:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement.
	31 KAR 5:025E. Ballot standards and election security.	201 KAR 20:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements.
	31 KAR 5:025. Ballot standards and election security.	TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game
	FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Ad Valorem Tax; State Assessment	301 KAR 2:015. Feeding of wildlife.
	103 KAR 8:090. Classification of property; public service corporations.	JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections
	Income Tax; Corporations	501 KAR 2:020. Definitions for 501 KAR Chapter 2.
922 KAR 1:380. Standards for emergency shelter child-caring facilities.	103 KAR 16:270. Apportionment; receipts factor.	501 KAR 2:060. Procedures for housing of Class C and D felons.
	Kentucky Infrastructure Authority	TRANSPORTATION CABINET: Department of Highways: Billboards
A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.	200 KAR 17:110. Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program.	603 KAR 10:011E. Repeal of 603 KAR 010:002, 010:010, and 010:021.
	BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators	603 KAR 10:040E. Advertising devices.
922 KAR 1:390. Standards for residential child-caring facilities.	201 KAR 6:020. Other requirements for licensure.	EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: General Administration
Division of Child Care	Board of Dentistry	702 KAR 1:191E. District employee quarantine leave.
922 KAR 2:160E. Child Care Assistance Program.	201 KAR 8:520. Fees and fines.	School Terms, Attendance, and Operation
	Board of Embalmers and Funeral Directors	
The following administrative regulations were deferred or removed from the October 12, 2021, subcommittee agenda:	201 KAR 15:030E. Fees.	

702 KAR 7:125E. Pupil attendance.	other allowances.	Hazardous Materials
702 KAR 7:150. Home or hospital instruction.	803 KAR 1:090. Workers with disabilities and work activity centers' employee's wages.	815 KAR 30:010. LP gas license; financial responsibility required.
Office of Learning Support Services	Department of Workplace Standards: Occupational Safety and Health	815 KAR 30:060. Certification of underground petroleum storage tank contractors.
704 KAR 7:121. Repeal of 704 KAR 007:120.	803 KAR 2:330E. Occupational exposure to COVID-19.	CABINET FOR HEALTH AND FAMILY SERVICES: Office of Telehealth Services: Telehealth
Department for Libraries and Archives: Archives	Department of Workers' Claims	900 KAR 12:005E. Telehealth terminology and requirements.
725 KAR 1:010. Records officers; duties.	803 KAR 25:190. Utilization review – Medical Bill Audit – Medical Director – Appeal of Utilization Review Decisions.	Sanitation
725 KAR 1:020. Recording and reproducing public records.	PUBLIC PROTECTION CABINET: Department of Insurance: Unauthorized Insurers' Prohibitions, Process and Advertising	902 KAR 10:120. Kentucky public swimming and bathing facilities.
725 KAR 1:025. Transfer of public records.	806 KAR 11:020. Multiple employer welfare arrangements.	902 KAR 10:190. Splash pads operated by local governments.
725 KAR 1:030. Scheduling public records for retention and disposal; procedures.	Health Insurance Contracts	Department for Medicaid Services: Outpatient Pharmacy Program
725 KAR 1:040. Collection and distribution of reports and publications.	806 KAR 17:350. Guaranteed Acceptance Program (GAP) reporting requirements.	907 KAR 23:020. Reimbursement for outpatient drugs.
725 KAR 1:050. Records management program.	Motor Vehicle Reparations (No-fault)	Department for Community Based Services: Division of Child Care
725 KAR 1:061. Records retention schedules; authorized schedules.	806 KAR 39:070. Proof of motor vehicle insurance.	922 KAR 2:160. Child Care Assistance Program.
Libraries	Department of Housing, Buildings and Construction: Elevator Safety	The subcommittee adjourned at 3:10 p.m. The next meeting of the subcommittee was tentatively scheduled for November 9, 2021, at 1 p.m.
725 KAR 2:015. Public library facilities construction.	815 KAR 4:010. Annual inspection of elevators, chairlifts, fixed guideway systems, and platform lifts.	<b>EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE</b>
725 KAR 2:080. Interstate Library Compact.	815 KAR 4:025. Permit and inspection fees for new and altered elevators, chairlifts, fixed guideway systems, and platform lifts.	<b>Minutes</b>
KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEMS: Commission on Fire Protection Personnel Standards and Education	815 KAR 4:027. Reporting incidents involving personal injury or death.	October 5, 2021
739 KAR 2:060. Certification and qualifications of fire and emergency services instructors.	Kentucky Building Code	<b>Call to Order and Roll Call</b>
LABOR CABINET: Department of Workplace Standards: Labor Standards; Wages and Hours	815 KAR 7:080. Licensing of fire protection sprinkler contractors.	A meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, October 5, 2021, at 3:00 p.m., in Room 129 of the Capitol Annex. Representative Brandon Reed, Chair, called the meeting to order, and the secretary called the roll.
803 KAR 1:005. Employer - employee relationship.	815 KAR 7:110. Criteria for expanded local jurisdiction.	<u>Present were:</u>
803 KAR 1:025. Equal pay provisions, meaning and application.	Standards of Safety	<u>Members:</u> Senator Max Wise, Co-Chair; Representative Brandon Reed, Co-Chair; Senators Gerald A. Neal, and Mike Wilson; Representatives Tina Bojanowski, and Steve Riley.
803 KAR 1:060. Overtime pay requirements.	815 KAR 10:060. Kentucky standards of safety.	<u>Guests:</u> Bart Liguori, Research Division Manager, OEA; Sabrina Cummins, Research Analyst, OEA; Allison Stevens, Research Analyst, OEA; and Marcia Seiler, Interim Deputy Director, OEA.
803 KAR 1:063. Trading time.	815 KAR 10:070. Consumer fireworks retailer registration and fees.	<u>LRC Staff:</u> Lauren Busch, Joshua Collins, and Maurya Allen.
803 KAR 1:065. Hours worked.	Plumbing	<b>Approval of August 3, 2021 Minutes</b>
803 KAR 1:066. Recordkeeping requirements.	815 KAR 20:050. Installation permits.	Senator Wilson made a motion, seconded by
803 KAR 1:070. Executive, administrative, supervisory or professional employees; salesmen.	815 KAR 20:195. Medical gas piping installations.	
803 KAR 1:075. Exclusions from minimum wage and overtime.		
803 KAR 1:080. Board, lodging, gratuities and		

Representative Bojanowski, to approve the minutes of the August 3, 2021, meeting. The motion passed by voice vote.

#### **OEA Report on SEEK Funding (Part 1)**

Dr. Bart Liguori, Research Division Manager, Office of Education Accountability (OEA), was present with Sabrina Cummins and Allison Stevens, Research Analysts, OEA, to present their research into the Support Education Excellence in Kentucky (SEEK) school funding formula.

The purpose of the OEA study was to analyze proposed changes to the current SEEK funding formula to improve equity without increasing state funding. Additionally, the report reviews other states' funding formulas and the difference between rural and non-rural districts in Kentucky. For better clarity, the presentation was made in two parts, the first discussing the existing formula and hypothetical changes, and the second focusing on problems discovered during OEA's audit of the data and recommendations found in the report.

Data for the report was compiled from meetings with Kentucky Department of Education (KDE) staff, school year 2020 state and local revenues by district, student demographic data recorded in Infinite Campus, attendance data submitted in the Superintendents' Annual Attendance Report, and national sources including Fund Ed: State Policy Analysis and Common Core data submitted to the National Center for Education Statistics. In comparison to other states, 21 states use average daily membership when counting students for funding purposes, and approximately one-third have a higher district local share than Kentucky. Ms. Cummins said the written report distributed to members and available on the LRC website provides 44 hypothetical changes to the SEEK funding formula, several of which would increase equity when looking at state and local revenue. When comparing rural districts to non-rural districts, it was found that rural districts on average had more people living in poverty and more students requiring special education. Over time, it was also apparent that enrollments have been declining in rural districts, and they are projected to lose even more students in the years to come.

Ms. Stevens explained that the SEEK funding formula was designed to equalize local revenue with state funds to ensure that students living in property poor districts receive the same base funding as students living in property wealthy districts. In school year 2020, the guaranteed base funding per pupil, as set by the General Assembly, was \$4,000. The SEEK funding formula, however, includes additional funding for students with greater need, referred to as "add-ons." There are five add-on adjustments for at-risk students, exceptional children, students receiving home & hospital instruction, students with limited English proficiency, and for student transportation. To receive state funding, districts must generate local effort through tax revenue by levying a minimum equivalent tax rate of 30 cents per \$100 in taxed property through any combination of property tax, motor vehicle tax, and permissive taxes.

Regarding the add-on adjustments, each has an associated weight used to determine the additional

amount of funding per student. The at-risk add-on amount for students eligible for free lunch is 15 percent of the guaranteed base, or \$600 per student. The limited English proficiency add-on has a weight of 0.096 or an additional \$385 per student. The exceptional child add-on has three categories, based on the severity of the students' exceptionality and home and hospital students receive the guaranteed base, less \$100 for capital outlay. Lastly, Kentucky funds students transported to and from school over one mile. Exceptional children receive five times the base funding if they require special transportation.

Ms. Stevens presented a table displaying three common types of funding used by surrounding states. Kentucky and three surrounding states use a student-based funding model, and Kentucky's, at \$4,000 per pupil, is the lowest. She also shared a table illustrating how states count students for education funding purposes. The most common method, utilized by 21 states, is average daily membership, followed by single count date and multiple count date (both used by 9 states). Kentucky and six other states use average daily attendance. This method has a primary disadvantage in that student absences (including excused absences), can bring down the average daily attendance causing districts to lose funding. Schools with higher numbers of students living in poverty feel this effect more strongly because students living in poverty are more likely to miss school.

Regarding add-on funding, other surrounding states also supplement base funding for students on both free and reduced price lunch programs, while Kentucky only provides extra funds for those students in the free lunch program. Kentucky and Ohio use multiple weights for the exceptional child add-on, while others use one multiplier or a flat amount per student regardless of the severity of the exceptionality, or they utilize the cost of delivery for special education services or a hybrid method. All surrounding states provide extra funding for limited English proficiency students. Kentucky and Tennessee provide funding for rural, remote, or small districts through their transportation funding formula. Missouri and West Virginia provide funding for districts with a certain number of students, while the other surrounding states do not provide additional funding for rural districts.

Kentucky and three surrounding states have multiple formulas for funding specific categories of student transportation. Many states specify that students must live in a minimum number of miles from school before being transported at public expense. Six surrounding states specify that this distance be measured by route, and states generally may transport students living within these set mile minimums under certain circumstances, such as to avoid hazardous routes or when excluding such transportation from funding. Additionally, Kentucky includes bus depreciation in school transportation funding, while other surrounding states use depreciation rates or replacement schedules. Indiana and Tennessee include school buses in other funds, and Ohio allows buses to be purchased through competitive bidding.

In order to compare districts and assess equity, districts were divided into quintiles ranked by per pupil property assessments and divided so that each group represented approximately one-fifth of the state's

students. Quintile 1 contains districts with the lowest per pupil property assessments and Quintile 5 contains those with the highest property assessments. Equity was measured using the gap between the funding received by Quintile 5 and the funding received by lower wealth quintiles, particularly Quintile 1. Based on this model, however, individual districts within quintiles may experience different outcomes, meaning that while overall equity for schools within Quintile 1 may increase, individual districts within the quintile may experience a decrease. Ms. Stevens displayed a map shading the states' districts based on their quintile assignment for this study. There were 68 districts in Quintile 1, primarily in eastern Kentucky, and only five districts in Quintile 5: Anchorage Independent, Jefferson, Fayette, Livingston, and Lyon Counties.

Ms. Stevens briefly illustrated how characteristics of the quintiles had changed over time by looking at pre-Kentucky Education Reform Act (KERA) data compared to the most recent years for which data was available. Compared to 1991, the number and percent of at-risk students and exceptional children has increased, with the largest increase in at-risk children being in Quintile 5, although the percentage remained lower than in Quintile 1. Additionally, the percent of exceptional children increased the most in Quintile 1. Property wealth has increased in each quintile, and the percentage of total property wealth in less wealthy districts came closer to the percentage in wealthier districts. The equivalent tax rate has increased correspondingly. Local and state revenue increased in each quintile, with greater increases in lower quintiles, with the difference between Quintile 1 and 5 being \$115 more equitable in 2020.

Ms. Cummins briefly defined the terms metropolitan, micropolitan, and rural as used in the context of this study and their relationship with the previously discussed quintiles.

Ms. Cummins presented the hypothetical SEEK changes, starting with a rural district add-on weight. By reducing the base and including a rural district add-on of 0.239, equity increased by \$629 per pupil in Quintile 1, by \$290 in Quintile 2, by \$110 in Quintile 3, and by \$25 in Quintile 4. Correspondingly, the per-pupil average amount in Quintile 5 was reduced by \$208. Because OEA was asked to not increase state revenue to fund any proposed modifications, the SEEK guaranteed base was reduced by this change from \$4,000 to \$3,830.95. If the General Assembly wanted to fund any of the models instead of reducing the SEEK guaranteed base amount, OEA did include the amount necessary in all of its calculations in the report. For the proposed rural add-on discussed above, it would cost \$140.6 million. Other hypothetical adjustments presented included a micropolitan add-on, changing Average Daily Attendance to a three-year average of attendance (to account for rapidly declining enrollment), changing student count to membership, creating a foster care add-on, increasing the at-risk add-on to 60 percent (as recommended in an audit performed by Augenblick, Palaich, and Associates), and categorizing districts by percentage of students in poverty. The full report has several other ways of adjusting the SEEK formula, including ways of addressing the at-risk add-on factor.

OEA staff also presented a hypothetical increase

to the SEEK base amount to account for inflation. Using the Bureau of Labor Statistics CPI Inflation Calculator, the 2021 buying power of the guaranteed base per pupil funding amount in 1991 was determined to be almost \$4,769. To adjust the SEEK guaranteed base for inflation would cost an additional \$613.8 million, and would improve equity in Quintile 1 by \$156. However, equity would decrease for Quintile 4. In addition, a proposal to increase the local contribution to 35 cents per \$100 assessed property value would not cause any district to increase their local tax rate, and the state share of SEEK funds would decrease. This model included the same state SEEK appropriations as 2020, and allowed for the guaranteed base amount to increase to \$4,218 with no additional state funding required. If this change were made, equity would increase in quintiles 1 through 4. Again, staff informed members that there were several other models included in the full report, some of which increased equity and some did not. The report also included transportation funding changes, however, due to KDE calculation errors discovered during research, an equity analysis was not performed on transportation funding suggestions.

Major conclusions from the study were reviewed. First, rural districts have more students living in poverty, more special education students, student with lower ACT reading and math scores, and lower teacher salaries. Rural districts receive less per-pupil funding than metropolitan districts, but more than micropolitan districts. Second, there are many possible changes to the SEEK formula that can be made to improve equity, including calculating the exceptional child add-on using a percentage rather than counts, adding rural and micropolitan district add-ons, and increasing the local effort amount allowing the guaranteed base to increase to \$4,219 with no new state funding. Third, increasing local effort and the base adjusted for inflation increases equity in Quintile 1 by \$465 and changing student count from average daily attendance to membership increases equity in Quintile 1 by \$364. Finally, changes which had no impact or decreased equity included changing the limited English proficiency add-on to a test score, including students who qualify for reduced-price lunch to the at-risk add-on, and including teacher retirement or state grants in the SEEK guaranteed base funding.

Dr. Liguori briefly demonstrated an interactive SEEK tool available online at: <https://bit.ly/OEASEEK-2020>

This tool allows legislators and others to visualize the amount of SEEK funding distributed for the 2020 school year according to existing SEEK formula percentages and add-ons. It also gives the opportunity to manipulate the data and approximate what the costs of various changes to base SEEK funding or add-on funding would be for districts based on their percentile.

#### **Election of Senate Co-Chair**

While staff prepared for part two of their presentation on SEEK funding, members took the opportunity to elect a Senate Co-Chair. Senator Wilson nominated Senator Wise for the position. Senator Neal seconded the motion. Seeing no other nominations, the chair closed the floor. Senator Wise was elected by voice vote.

#### **OEA Report on SEEK Funding (Part 2)**

The second part of the OEA Report on SEEK funding was an examination of the SEEK formula as it is currently implemented by KDE. OEA made 16 recommendations based on this examination. Staff began by presenting the major findings from the transportation calculation. First, KDE calculated square mileage incorrectly for county districts with independent districts within their borders, did not correctly audit districts' transportation codes for students transported more than a mile, and grouped districts into seven groups instead of nine as required by statute for the transportation graph adjustment. In creating seven cost groups, rather than density groups, KDE did not use an objective methodology. KDE was also multiplying the number of handicapped students by a 2.0 multiplier rather than the required 5.0 multiplier mentioned earlier.

While reviewing the 2019 annual financial reports, OEA staff also found districts with transportation expenses to and from schools that did not transport students. Also, as mentioned earlier, district activity funds are not currently required to be recorded in MUNIS, making accurate assessments of district funding difficult. Districts were also found to be receiving the exceptional child add-on for preschool students, who are not included in other exceptional child counts. Full day kindergarten was added for fiscal year 2021-2022 but the equalization level did not change correspondingly.

Regarding SEEK transportation funding, districts are reimbursed for transporting students to and from school. Most school districts transport students for school, but the SEEK transportation formula does not include funding for field trips or sports. There is a complex formula associated with transportation that is currently not being correctly implemented by KDE. Kentucky has not fully reimbursed schools for their transportation costs since 2004. In school year 2020, the total cost for pupil transportation was \$392 million. In that same year, districts received a prorated amount of 54.8 percent of their total cost for pupil transportation. Also, statute requires that the area of independent districts be subtracted from the county district of the county they are in. In discussions with KDE staff, OEA determined that this calculation was not being made. Additionally, statute requires that the average daily attendance of transported pupils include all public school pupils transported at public expense who live beyond a one-mile radius of the school. KDE staff currently calculated students' distance from school based on road miles, rather than a one-mile radius, which may be including students who should not be included in the calculation. Based on these issues, OEA recommended that KDE correct these errors by subtracting the square mileage of independent districts from the square mileage of county districts in accordance with KRS 157.370(4) and ensure students listed as being transported more than one mile, live beyond a one-mile radius in accordance with KRS 157.370(3).

Also set out in KRS 157.370 are the requirements for calculating transportation reimbursements. The major requirements are the creation of nine density groups, a smooth graph, county and independent districts to be calculated separately, no independent

district should receive more per pupil day than a county district, and attendance of students with disabilities should be multiplied by 5. To calculate transportation costs, KDE uses two variables as inputs, the gross transported pupil density per square mile and the cost per pupil day. In looking at the data, OEA found the number of students with disabilities was being multiplied by 2 instead of 5 as required by statute. Also, the gross average daily attendance plus disability amount was used in determining the cost per pupil day. Because this number is the denominator, each student with a disability was lowering the cost per pupil day resulting in a penalty being applied to districts with more disabled students.

Staff illustrated the grouping and charting errors through use of a scatterplot. The gross pupil density was plotted on the x-axis and the cost per pupil day was plotted on the y-axis. KDE staff uses professional judgement to exclude districts from the graph that they view as outliers. In the 2020 school year, districts with transportation costs per pupil day above \$9 or below \$3 were excluded from the graph. Based on these assumptions, there were seven density groups. According to statute, the transportation calculation should have nine density groups to determine the graph-adjusted cost per pupil day. In addition to only having seven groups, they are not similar in density. KDE chose to group districts using this subjective methodology rather than the objective method set out in statute, which OEA recommends they use in the future. Also, OEA discovered that the correct factor was not being used for students with disabilities and recommends they correct that going forward. OEA further recommended that calculating the cost per pupil day, KDE not combine the number of students with disabilities with total student count in the denominator of the calculation. Staff illustrated the impact that these corrections would have on the graph adjusted costs calculations.

For several years, KDE has made an error in transcribing districts' graph adjusted costs with one district consistently receiving too much money. This was due to a mistake in the computer program. Due to this error, that district has received more than \$100,000 more than they should have been reimbursed in fiscal year 2020. KDE has been made aware of this error and will correct it in future years. The three county districts that were not included in the graph calculations received \$5.78 per pupil day, equivalent with Jefferson County's adjusted cost per pupil day. However, it would make more sense, according to the analysts, to bring the two districts that had the greatest costs down to the highest county that was included in the graph, resulting in a \$7.21 per pupil day amount. There were five independent districts not included in the graphs because they had gross costs less than \$3 per pupil day. Their costs were shown and again, it would have made more sense to bring them up to the same level as the lowest independent districts on the graph rather than equalizing them with Jefferson County's per pupil day amount. OEA made a recommendation to address these concerns.

Another concern of OEA staff was the indication from KDE officials that no one in the Division of School Finance understood the program code used to calculate the SEEK transportation formula, a concern



also noted in a 2002 LRC report. Therefore, in addition to improving the validity of the data used in the calculation OEA recommended that KDE improve the process and staff's understanding of the process. Without expertise in the program code, KDE will be unaware of any mistakes that are made in calculating the graph-adjusted transportation costs. Many instances were also discovered where the calculations performed in the program did not match what was posted on the KDE website. Regulations should be amended to more accurately describe the statistical report submitted by superintendents and to ensure accurate data is posted to the website for inclusion in calculations.

Regarding the depreciation of school buses, the General Assembly passed House Bill 208 in the 2021 Regular Session to allow school districts to use 2018-2019 attendance data to calculate SEEK funding amounts. While KDE is calculating SEEK attendance correctly, they are also using the 2018-2019 bus depreciation in the SEEK calculation which is not expressly allowed in the bill. Vehicle depreciation should have been updated in calculating transportation costs. Statute requires KDE to regulate the depreciation of school transportation vehicles. The regulation states that district vehicles depreciate by 124 percent over a period of 14 years. This was initially instituted to incentivize districts to purchase more fuel efficient vehicles. All districts have now transitioned to more fuel efficient buses, and OEA staff recommended that if buses were depreciated at 100 percent for 10 years, the non-prorated transportation cost would decrease from \$392 million to \$387 million and transportation would be funded at 55.4 percent.

Systemic issues in data collection were also identified and included the shortchanging of county districts in transportation funding the first year following a merger with an independent district, districts overstating school transportation expenses when transportation of nonpublic school students is reimbursed, and districts not transporting any students still reporting transportation expenses. Based on those issues, OEA staff recommended allowing county districts merging with independent districts to include the independent districts' prior year transportation costs (including depreciation) during the first year of the merger, requiring school districts to record fiscal court revenue received for transporting private school students as a negative expenditure on annual financial reports, and ensuring that transportation costs are accurately recorded in MUNIS, especially for districts not transporting students.

OEA staff addressed concerns with the reporting of district and school activity funds. School activity funds are currently recorded in MUNIS, and represent those funds collected and spent by student clubs and groups. District activity funds are not currently required to be reported in MUNIS. These funds include fees to join sports, general enrollment fees, textbook fees, and parking fees. Expenditures of these fees are approved by the local school board and are generally spent on instructional supplies. A 2009 OEA study on fees included information on the amount of fees charged in schools annually. There is a wide discrepancy in the amount of additional fees collected by schools in Kentucky, for example two schools

with similar average daily attendance for whom data was available in MUNIS were illustrated. A school in Quintile 4 collects approximately \$295 in fees while a school in Quintile 1 collects approximately \$6.10 per student in district activity fees. Because KDE does not currently require districts to record activity funds in MUNIS, it is difficult to know the impact these funds have on equity. OEA recommends that KDE require districts to report this data in their annual financial reports so that a full understanding of the impact of these fees on equity can be assessed.

Finally, the presentation addressed the impact of preschool and kindergarten funding on SEEK appropriations. While preschool programs are funded by grants from the General Assembly to local school districts, preschool students are not included in the SEEK base funding and the grant funding is considered separate from SEEK. However, there are districts receiving the SEEK exceptional child add-on for preschool children. In fiscal year 2020, there were 2,571 preschool students counted for exceptional children add-on funding resulting in a cost of almost \$8.2 million. OEA recommends that KDE discontinue using preschool students in calculating the exceptional child add-on in the SEEK formula. Also, in each biennium, the General Assembly determines the equalization level for kindergarten. This level is currently set at 150 percent of average per pupil assessments. When funding full-day kindergarten in House Bill 382 of the 2021 Regular Session, the budget included kindergarten students in districts' per pupil assessments. This had the effect of increasing the denominator but not the numerator of the SEEK formula, and lowering the districts' per pupil assessments. By not changing the equalization level, this impacted calculations for Tier 1 and facilities nickel equalizations as well. To address this, OEA recommended that if full-day kindergarten is funded in the future, the General Assembly should consider changing the statewide equalization level in order to accurately reflect 150 percent of per pupil assessments.

In response to questions from Representative Bojanowski, Dr. Liguori said preschool children counted in the exceptional child counts were included when calculating schools' exceptional child add-on, but not included in the base funding calculations.

In response to questions from Senator Wilson, Ms. Cummins said student activity funds and district activity funds should be recorded in the system to see what the actual funding levels for schools are. However, currently district funds, such as fees charged for parking, school fees, textbooks, and sporting events are recorded, but KDE only requires that student activity fees (such as band or club fees) are reported in addition. OEA is recommending that district activity funds be included, and the 2021-2022 school year will be the first year to have that data available.

With no other questions regarding the report, Representative Bojanowski made a motion to accept the report, seconded by Senator Wilson. The motion passed by voice vote.

#### **Other Business**

Chair Reed reminded members that the OEA research agenda for the 2022 interim will be approved at the next meeting. He asked members to submit any suggestions before the Tuesday, November 12, 2021, deadline for consideration.

KRS 7.410 requires the Office of Education Accountability (OEA) to submit to EAARS, for each regular meeting, a report that summarizes the OEA's investigative activity. The report and the consideration of the report by the subcommittee are exempt from the open records and open meetings requirements contained in KRS Chapter 61. The report may be considered in closed session at the meeting if there are items that members wish to discuss. Representative Bojanowski made a motion to go into executive session for the purpose of considering the confidential investigative report. The motion was seconded by Senator Wilson, and passed by voice vote.

Following discussion of the report, Senator Wilson made a motion to return to open meeting, seconded by Representative Bojanowski. The motion passed by voice vote.

There being no other business to come before the committee, the meeting adjourned at 4:50 p.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes**

November 9, 2021

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

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

#### Present were:

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

Guests: Mona Womack, Mark Maier, Beverly Schneller, Jeremy Ratliff, Curtis Stauffer, Joni Gosser, Mark Bowman, Doug Hendrix, Mike Hayden, Adam Adkins, Steven Stack, Mike Tuggle, Kelly Rodman, Astrid Masterson, Karen Wirth, and Thomas Woods Tucker.

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

A motion was made by Senator Meredith to approve Minutes of the October 2021, meeting of the committee. Representative Hart seconded the motion, which passed without objection.

#### **JULY DEFERRED ITEM:**

#### **JUSTICE - OFFICE OF THE SECRETARY**

National Medical Services, Inc. (NMS Labs), 2100002935. Mona Womack discussed the contract with the committee. A motion was made by Senator Meredith to defer the contract to the December

2021 meeting of the committee. Representative Hart seconded the motion, which passed.

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

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

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

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

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

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

ADMINISTRATIVE OFFICE OF THE COURTS  
Adams Law, PLLC, 2200001162.

AUDITOR OF PUBLIC ACCOUNTS  
National Associates of State Auditors, Comptrollers and Treasurer, 2200000989; Patrick & Associates, LLC, 2200001034; Kelley Galloway Smith Goolsby, PSC, 2200001035; Teddy Michael Prater CPA, PLLC, 2200001036.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Marty Gamble DDS, 2200000557.

DEPARTMENT FOR LIBRARIES & ARCHIVES  
Qualitymetrics, LLC, 2200001009.

DEPARTMENT FOR LOCAL GOVERNMENT  
Jonathon Zach Waller, 2200000905.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Belinda Cheryl Fanning, 2200000050.

DEPARTMENT OF HIGHWAYS  
HDR Engineering, Inc., 2200001027; QK4, Inc., 2200001032; Aecom Technical Services, Inc., 2200001033; Bacon Farmer Workman Engineering & Testing, Inc., 2200001037; Palmer Engineering Company, 2200001038; Stantec Consulting Services, Inc., 2200001125; Parsons Transportation Group, Inc., 2200001178; Palmer Engineering Company,

2200001180.

DEPARTMENT OF JUVENILE JUSTICE  
I Am Training and Consultation Group, LLC, 2200000123.

KENTUCKY STATE POLICE  
Priority 1 Air Rescue Operations Arizona, LP, 2200001056.

KENTUCKY STATE UNIVERSITY  
Crowe, LLP, 22-05; Johnson, Bowman, Branco, LLP, 22-07.

MURRAY STATE UNIVERSITY  
Schmeeckle Research Inc., 022-22.

NORTHERN KENTUCKY UNIVERSITY  
Carol Pitts Diedrichs, 2022-150.

UNIVERSITY OF KENTUCKY  
Walker Consultants, A221080; Ekhoﬀ, Ochenkoski, Polk Architects, A221100; Heidrick & Struggles, Inc., K22-185; Equine Medical Associates, PSC, K22-186; Sanger & Eby Design, LLC, K22-187; AON Risk Services Central, K22-188.

UNIVERSITY OF LOUISVILLE  
Denise Fitzpatrick, 22-021.

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

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES  
Reach of Louisville, Inc., 2000001388; Sources of Strength, Inc., 2100001221.

COUNCIL ON POSTSECONDARY EDUCATION  
Sova Solutions, LLC, 2100002012.

DEPARTMENT FOR LOCAL GOVERNMENT  
Cathryn A. Figlestahler, 2100003290.

DEPARTMENT OF EDUCATION  
DPJ Consulting, LLC, 2100002116.

DEPARTMENT OF HIGHWAYS  
Community Transportation Solutions, 0900012152; HDR Engineering, Inc., 1400000344; HMB Professional Engineers, Inc., 1400000565; Palmer Engineering Company, 1500001283; Aecom Technical Services, Inc., 1800000898; Integrated Engineering, 1800000901; Tammy L. Barnes, 1900003390; J.M. Crawford & Associates, Inc., 1900004970; Vaughn & Melton Consulting Engineers, Inc., 1900005012; Vaughn & Melton Consulting Engineers, Inc., 2000000306; HDR Engineering, Inc., 2000000569; Aecom Technical Services, Inc., 2000000830; HDR Engineering, Inc., 2000000832; Palmer Engineering Company, 2000000836; Bacon Farmer Workman Engineering & Testing, Inc., 2000000838; QK4, Inc., 2000000839; Palmer Engineering Company, 2100001825; American Engineers, Inc., C-03060711.

DEPARTMENT OF JUVENILE JUSTICE  
Federal Staffing Resources, LLC, 2100002628.

DEPARTMENT OF MILITARY AFFAIRS  
Dr. Abdul Kader Dahhan, MD PSC, 2000003263.

EASTERN KENTUCKY UNIVERSITY  
PJB Marketing, LLC, 22-053; Multi, 674-2021.

FACILITIES & SUPPORT SERVICES  
Lockett and Farley Architects Engineers and Construction Managers, Inc., 1600000831; Paladin, Inc., 1700002128; Nomi, Inc., 2000002477; Paladin, Inc., 2100000795; Patrick D. Murphy Company, Inc., 2100002960.

KENTUCKY EMPLOYERS MUTUAL INSURANCE  
GENEX Services, LLC, 22-GEN-001.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM  
The Center for Accessible Living, Inc., 809.

MILITARY AFFAIRS COMMISSION  
Kratzer Consulting, LLC, 2000002465.

TRANSPORTATION - OFFICE OF THE SECRETARY  
Baptist Health Medical Group, Inc., 2000003182; Tim Long M.D., 2000003216; Wallace Boggs, PLLC d/b/a JSB Attorneys, 2000003576.

UNIVERSITY OF KENTUCKY  
K. Norman Berry Associates, PLLC, A201070; Joseph & Joseph Architects, A211070; Trimeric Corporation, K21-152.

UNIVERSITY OF LOUISVILLE  
Walker Parking Consultants, 21-030; OPM Services, 21-082.

WESTERN KENTUCKY UNIVERSITY  
Multi, 202003.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES  
Manchester Memorial Hospital, 2200000817; Shatterproof A Nonprofit Corporation, 2200000871.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING  
University of Kentucky Research Foundation, 2200000506.

COUNCIL ON POSTSECONDARY EDUCATION  
Collaborative for Teaching & Learning, 2200000872; Kentucky Community and Technical College System, 2200000920.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Hopkins County Board of Education, 2200000778; Community Coordinated Child Care, 2200000882; Child Care Council of Kentucky, 2200000885; Child Care Council of Kentucky, 2200000892; Early Childhood Consumer Education and Tech. Assist. Ctr. In, 2200000894; Barren River District Health Department, 2200000921; Monroe County Board of Education, 2200000922; Berea Independent Board of Education, 2200000923; Graves County Board of Education, 2200000924; Glasgow Independent School District, 2200000927; Bardstown Independent School District, 2200000928; Barren County Board of Education, 2200000929; Pendleton County Board of Education, 2200000930; Montgomery County Board of Education, 2200000931; Bath County Board of Education, 2200000932; Bellevue Independent School District, 2200000933; Bullitt County Board of Education, 2200000934; Butler County Board of Education, 2200000935; Greenup County Board of Education, 2200000937; Hart County Board of Education, 2200000938; Henderson County Board of Education, 2200000940; Marion County Board of Education, 2200000951; Mercer County Board of Education, 2200000954; Nelson County Board of Education, 2200000955; Newport Independent School District, 2200000956; Owensboro Independent School District, 2200000957; Calloway County Board of Education, 2200000958; Campbell County Board of Education, 2200000959; Cumberland County Board of Education, 2200000960; Dayton Independent School District, 2200000961; Owsley County Board of Education, 2200000962; Paducah Independent School District, 2200000963; Rowan County Board of Education, 2200000966; Russell Independent School District, 2200000967; Southgate Independent School District, 2200000975; Todd County Board of Education, 2200000977; Warren County Board of Education, 2200000979; Washington County Board of Education, 2200000980; Whitley County Board of Education, 2200000981; Pulaski County Board of Education, 2200000984; Larue County Board of Education, 2200000985; Union County Board of Education, 2200000986; Appalachian Early Childhood Network, Inc., 2200001023.

#### DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Laurel County Board of Education, 2100002968.

#### DEPARTMENT FOR LOCAL GOVERNMENT

Hancock County Fiscal Court, 2100003138; Carter County Fiscal Court, 2100003412; City of Newport, 2100003464; City of Edgewood, 2100003500; Campbell County Fiscal Court, 2100003501; City of Independence, 2100003502; City of Florence, 2100003504; Ohio County Fiscal Court, 2100003508; City of Walton, 2200000043; Hart County Industrial Authority, Inc., 2200000310; Woodford County, 2200000376; City of Franklin, 2200000425; Clinton County, 2200000429; Crittenden County Fiscal Court, 2200000443; City of Erlanger, 2200000444; Christian County, 2200000445; City of Newport, 2200000448; City of Dayton, 2200000546; Trigg County Fiscal Court, 2200000559; Hopkins County, 2200000564; City of Drakesboro, 2200000617; Todd County, 2200000619; Muhlenberg County Fiscal Court,

2200000671; City of Elkhorn City, 2200000754; Webster County Fiscal Court, 2200000781; City of Nicholasville, 2200000802; Jessamine County Fiscal Court, 2200000804; Kenton County Fiscal Court, 2200000814; City of Alexandria, 2200000816; City of Fort Thomas, 2200000818; City of Bellevue, 2200000821; Owen County, 2200000828; Floyd County, 2200000829; Pike County, 2200000830; Carlisle County, 2200000831; Knott County Fiscal Court, 2200000835; Lee County, 2200000839; Pulaski County Fiscal Court, 2200000854; Adair County, 2200000856; Casey County, 2200000857; Leslie County, 2200000860; Cumberland County Fiscal Court, 2200000890; Green County, 2200000891; Gateway Juvenile Diversion Project, Inc., 2200000896; Russell County, 2200000897; The Methodist Home of Kentucky, Inc., 2200000898; McCreary County Fiscal Court, 2200000899; Hardin County Fiscal Court, 2200000913; Leslie County, 2200000970; Leslie County, 2200000972; Leslie County, 2200000973; Leslie County, 2200000974; Owsley County, 2200000998; Butler County Fiscal Court, 2200001002; City of Bromley, 2200001003; City of Campbellsville, 2200001005; Bullitt County Fiscal Court, 2200001006; Letcher County Fiscal Court, 2200001013; Jackson County Fiscal Court, 2200001017; City of Providence, 2200001020; Ballard County, 2200001031; City of Wilder, 2200001039; Montgomery County, 2200001043; City of Lawrenceburg, 2200001048; City of Hazard, 2200001055; City of Nortonville, 2200001065; Martin County Fiscal Court, 2200001071; Floyd County Fiscal Court, 2200001072; City of Columbia, 2200001073; City of Ravenna, 2200001076; City of Edmonton, 2200001088; City of Cynthiana, 2200001095; City of Eddyville, 2200001110; City of London, 2200001130; Shelby County Fiscal Court, 2200001135; Elliott County, 2200001136; Elliott County, 2200001137; Elliott County, 2200001138; Carter County, 2200001139; Carter County, 2200001142; Boyd County Fiscal Court, 2200001143; Boyd County Fiscal Court, 2200001144; Boyd County Fiscal Court, 2200001145.

#### DEPARTMENT FOR PUBLIC HEALTH

Pineville Community Health Center, Inc., 2200001189.

#### DEPARTMENT OF AGRICULTURE

University of Kentucky Research Foundation, 2200000450; University of Kentucky Research Foundation, 2200000687; University of Kentucky Research Foundation, 2200000690.

#### DEPARTMENT OF CORRECTIONS

Hope Center, 2200000399.

#### DEPARTMENT OF EDUCATION

Boyle County Board of Education, 2100002095-1; Board of Regents of the University of Wisconsin System, 2100003408; Department for Public Health, 2100003424; Oldham County Board of Education, 2100003459; Morehead State University, 2200000255; Fayette County Board of Education, 2200000333; University of Kentucky Research Foundation, 2200000563; University of Louisville

Research Foundation, 2200000771; Department for Medicaid Services, 2200000808; Anderson County Board of Education, 2200000840; Calloway County Board of Education, 2200000842; Kentucky Valley Education, 2200000843; Simpson County Board of Education, 2200000844; The Achievement Network, Ltd., 2200000874; Kentucky Center for Education and Workforce Statistics, 2200000903; Bardstown Independent School District, 2200000995; Bellarmine University, 2200001099; Western Kentucky University Research Foundation, 2200001106; University of Louisville Research Foundation, 2200001107.

#### DEPARTMENT OF MILITARY AFFAIRS

University of Kentucky Research Foundation, 2200000226; Office of Vocational Rehabilitation, 2200001075.

#### TOURISM - OFFICE OF THE SECRETARY

African American Heritage Foundation, Inc., 2200000997; Department of Local Government, 2200001053.

#### TRANSPORTATION - OFFICE OF THE SECRETARY

Southern Conservation Corporation, 2200000895.

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

#### ADMINISTRATIVE OFFICE OF THE COURTS

Hope Center, 2000000664; New Vista of the Bluegrass, Inc., 2100003198.

#### BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Wellspring, Inc., 2000001615; Kentucky Alliance Boys and Girls Clubs, 2000001635; Department of Corrections, 2000001695; Voices of Hope - Lexington, Inc., 2000001738; Kentucky Coalition Against Domestic Violence, Inc., 2000001739; University of Kentucky Research Foundation, 2000002455; Kentucky Partnership for Families and Children, Inc., 2000002721; Life Learning Center, Inc., 2100001760; Northern Kentucky Regional Mental Health Mental Retardation Board, 2100002229; Pathways, Inc., 2100002232.

#### CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 2000002839; Multi, 2000002889; Multi, 2000003467; Multi, 2000003474; Multi, 2000004400; Multi, 2100001810; Multi, 2100002005.

#### COUNCIL ON POSTSECONDARY EDUCATION

Kentucky Valley Education Cooperative, 2100001734.

#### DEPARTMENT FOR COMMUNITY BASED SERVICES

University of Louisville Research Foundation, 2000001617; University of Kentucky Research Foundation, 2000001647; Kentucky Association of

Sexual Assault Programs, 2000001992; University of Kentucky Research Foundation, 2000003507; West Kentucky Allied Services, Inc., 2100001597; Bell Whitley Community Action Agency, Inc., 2100001600; Audubon Area Community Services, 2100001601; Big Sandy Area Cap, Inc., 2100001602; Blue Grass Community Action Partnership, 2100001603; Central Kentucky CAC, Inc., 2100001604; Daniel Boone Community Action Agency, Inc., 2100001605; Gateway Community Action, 2100001606; KCEOC Community Action Partnership, 2100001607; Lake Cumberland Community Action Agency, Inc., 2100001608; Community Action Lexington Fayette, 2100001609; Licking Valley Cap., 2100001611; LKLP Community Action Council, 2100001612; Community Action of Southern Kentucky, Inc., 2100001613; Louisville Jefferson County Metro Government, 2100001628; Multi Purpose Community Action Agency, Inc., 2100001630; Harlan County Community, 2100001631; Middle Kentucky Community Action Partnership, Inc., 2100001632; Northeast Kentucky Community Action Agency, 2100001638; Northern Kentucky Community Action, 2100001639; Pennyryle Allied Community Services, Inc., 2100001640; Kentucky Housing Corporation, 2100001641; Community Action Kentucky, Inc., 2100001642; Tri-County Community Action Agency, Inc., 2100001712; Kentucky River Foothills Development Council, Inc., 2100001713.

#### DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Multi, 2000001719; Multi, 2000001720; Multi, 2000001721; Multi, 2000001722; Multi, 2000001725; Multi, 2000001726; Multi, 2000001727; Multi, 2000001728; Multi, 2000001729; Multi, 2000001730.

#### DEPARTMENT FOR LOCAL GOVERNMENT

Owen County, 1900004743; City of Scottsville, 2000000587.

#### DEPARTMENT FOR MEDICAID SERVICES

University of Kentucky Research Foundation, 2000003157.

#### DEPARTMENT FOR PUBLIC HEALTH

Go-Hire Employment and Development, Inc., 2000001850; Kentucky Hospital Research & Education Foundation, 2000002308.

#### DEPARTMENT OF AGRICULTURE

Multi, 2100001484; Multi, 2100001485.

#### DEPARTMENT OF EDUCATION

Harlan County Board of Education, 2100000217; Jefferson County Board of Education, 2100002062; Boyle County Board of Education, 2100002095; Central Kentucky Educational Cooperative, 2100002272; Green River Regional Educational, 2100002581; Kentucky Valley Education, 2100002582; Ohio Valley Educational Cooperative, 2100002583; Southeast/Southcentral Educational Cooperative, 2100002584; Kentucky Educational Development Corporation, 2100002611; Northern Kentucky Cooperative for Educational Services, Inc., 2100002614; Kentucky Valley Education,

2100002639; Kentucky Valley Education, 2100002640; Knox County Board of Education, 2100003121.

#### ECON DEV - OFFICE OF THE SECRETARY

Kentucky Science and Technology Corporation, 2100002706.

#### MILITARY AFFAIRS COMMISSION

University of Louisville Research Foundation, 2000002961.

#### OFFICE OF INSPECTOR GENERAL

Second Wind Dreams, Inc., 2000000702.

#### TRANSPORTATION - OFFICE OF THE SECRETARY

University of Kentucky Research Foundation, 2100000742.

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

##### DEPARTMENT FOR WORKFORCE INVESTMENT

Winstead PC, 2200001052. Mark Maier discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

##### KENTUCKY STATE UNIVERSITY

McCarthy Strategic Solutions, LLC, 22-08. Beverly Schneller discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

##### KY HOUSING CORPORATION

Corporation for Supportive Housing, Inc., 2022-50. Jeremy Ratliff and Curtis Stauffer discussed the contract with the committee. A motion was made by Senator Meredith consider the contract as reviewed. Representative Minter seconded the motion, which passed.

##### UNIVERSITY OF LOUISVILLE

Dinsmore & Shohl, LLP, 22-020. A motion was made by Senator Meredith to defer the contract to the December 2021 meeting of the committee. Representative Hart seconded the motion, which passed.

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

##### DEPARTMENT OF VETERANS AFFAIRS

Multi, 2000002328. Joni Gosser and Mark Bowman discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

##### KENTUCKY COMMUNICATIONS NETWORK

#### AUTHORITY

Ice Miller, 2000001702. Doug Hendrix, Mike Hayden, and Adam Adkins discussed the contract with the committee. A motion was made by Representative Bowling to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

##### UNIVERSITY OF LOUISVILLE

Grand River Solutions, 21-068; Embry Merritt Shaffar Womack, PLLC, 21-069. A motion was made by Senator Meredith to defer the contracts the December 2021 meeting of the committee. Representative Hart seconded the motion, which passed.

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

##### DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky, 2100000282. Steven Stack, Mike Tuggle, Kelly Rodman, and Astrid Masterson discussed the contract with the committee. A motion was made by Representative Koch to consider the contracts as reviewed. Representative Minter seconded the motion, which passed with Senator Southworth voting no.

##### DEPARTMENT OF EDUCATION

Jefferson County Board of Education, 2100002363. Karen Wirth and Thomas Woods Tucker discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Koch seconded the motion, which passed with Senator Southworth voting no.

#### EXEMPTION REQUEST:

##### ENERGY AND ENVIRONMENT CABINET:

The Division of Forestry requested an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the current biennium for activities associated with the Unmanned Aerial Systems (UAS) Forest Health Grant. UK Research Foundation is the lead on the project which will increase the use of UAS and assess their ability to monitor key forest health threats and prioritize management. A motion was made by Senator Meredith to grant the request to June 30, 2024. Representative Hart seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 10:11 AM.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE**

### **Minutes of the 2021 Interim**

October 26, 2021

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

The meeting of the Medicaid Oversight and Advisory Committee was held on Tuesday, October 26, 2021, at 1:00 PM, in Room 171 of the Capitol

Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Jimmy Higdon, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Steve Shannon, Executive Director, Kentucky Association of Regional Providers; Sheila Schuster, PhD., Executive Director, Kentucky Mental Health Coalition; Dr. Mary Lloyd, Ed.D, CCC-SLP, Executive Director, Suzanne Vitale Clinical Education Complex, Western Kentucky University; David Wheeler, Director, LifeWorks, Western Kentucky University; John Kelly, Founder, Kelly Autism Program, Western Kentucky University; Adrienne Bush, Executive Director, Homeless and Housing Coalition of Kentucky; Tom Walton, Executive in Residence, University of Louisville, School of Public Health and Information Sciences; Nancy Galvagni, President and Chief Executive Officer, Kentucky Hospital Association; Brian Brezovsky, Senior Vice President and General Counsel, Kentucky Hospital Association; and Justin Gilfert, General Counsel, Aperture Health.

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

#### **Approval of Minutes**

A motion to approve the September 30, 2021, minutes was made by Senator Alvarado, seconded by Senator Higdon, and approved by a voice vote.

#### **Severe Mental Illness Waiver**

Dr. Sheila Schuster, Executive Director, Kentucky Mental Health Coalition and Steve Shannon, Executive Director, Kentucky Association of Regional Providers, presented background on the home and community-based services waiver program and the need for a waiver for individuals with a severe mental illness (SMI).

Dr. Schuster stated that an SMI waiver would provide needed services to adults with SMI not available through traditional Medicaid including three-person staffed residences, family home provider, tenant skill development, extensive in-home supports, and supported employment. Dr. Schuster stated that a SMI waiver would enable access to the Federal Medical Assistance Percentage (FMAP), and the 30/70 FMAP match would mean that for every \$30 Kentucky invests in a SMI waiver, the federal government would add \$70, resulting in \$100 to be spent on waiver services. Mr. Shannon detailed existing SMI waivers in other states, Florida and Hawaii's 1115 waiver which targets behavioral health and supported housing, as well as detailed community integration services. Mr. Shannon gave an overview of Colorado, Connecticut, Massachusetts, and Montana which all have a 1915 (c) waiver serving adults with SMI that covers prevocational services, supported housing, respite, and supported employment. Mr. Shannon stated that there would be no financial cost for state fiscal year (SFY) 2023 as it would be a planning year,

and for SFY 2024, there would be an initial phase-in of 100 SMI waiver slots with a projected aggregate cost of approximately \$4,468,150.

In response to questions and comments from Senator Meredith, Mr. Shannon stated that because there is not a SMI waiver, this population ends up in a revolving door of other state services where their needs are not met, costing the state additional money. Mr. Shannon stated that he will follow up with an approximate amount of money the state spends dealing with the SMI population in hospitals, jails, and shelters.

In response to questions from Representative Elliott, Mr. Shannon stated that the exact number of persons with SMI in Kentucky jails is not known, but it is a disproportionate number. Dr. Schuster stated that regions with mental health courts, like Lexington, there should be a number of those who are filtered from jail to mental health services. Dr. Schuster stated she will follow up with the committee once she has that number from Lexington.

In response to questions and comments from Representative Prunty, Dr. Schuster stated that the age of 18 and above for the SMI waiver is because severe emotional disturbance (SED), not SMI is diagnosed in persons under 18. Dr. Schuster stated that SED requires different treatment and services than SMI.

In response to questions and comments from Senator Higdon, Mr. Shannon stated that unlike the developmental and intellectually disabled population that is served by other HCBS waivers, individuals in the SMI population may transition off waiver services once stabilized and life skills are learned.

In response to questions and comments from Senator Alvarado, Mr. Shannon stated that he can provide him with a cost of SMI wavier services.

#### **LifeWorks at Western Kentucky University**

Dr. Mary Lloyd Moore, Executive Director, Suzanne Vitale Clinical Education Complex, Western Kentucky University, gave an overview of the work being done at the Suzanne Vitale Educational Complex at Western Kentucky University, which seeks to provide education and support for individuals and families with autism, while providing evidence-based training for students. David Wheeler, Director, LifeWorks, Western Kentucky University, provided an overview of the LifeWorks program which assists college age adults with autism spectrum disorders learn how to live and work independently and transition into community life. Dr. Moore stated that LifeWorks will need additional funding to be sustainable with potential funding sources being participant tuition contributions, Office of Vocational Rehabilitation (OVR) funding, Michelle P Waiver coverage, charitable gifts, and grants. Dr. Moore stated that LifeWorks asks the General Assembly for a line-item appropriation of \$2,800,000 over three budget periods which will provide for 84 transition participants and 100 bridge participants.

In response to questions and comments from Representative Elliott, Mr. Kelly responded that interest from out-of-state is expected but the priority would be to serve Kentuckians with future state funding. Mr. Kelly stated that the LifeWorks program is replicable and can be replicated across the state.

In response to questions and comments from Representative Prunty, Dr. Moore stated that while early childhood interventions are critical in treating autism, maturation provides new challenges that participants need help with as they age and enter into university and work life. Dr. Moore stated that the reason for the two year duration of the program is that two years gives the student's time to learn skills and transition into independence. Dr. Moore stated that the instances of autism are increasing and while the exact reason are not confirmed, environment must be considered as a possible influence on the development of the disorder.

In response to question and comments from Senator Carroll, Dr. Moore stated that if LifeWorks were to receive state funding, students who are unable to pay would have access to that funding and families that are able to pay would be expected to do so.

Senator Alvarado stated that the link between vaccines and autism has been conclusively disproven, that vaccines do not cause autism, and that vaccines are safe.

#### **Medical Respite Care for Individuals Experiencing Homelessness**

Adrienne Bush, Executive Director, Homeless and Housing Coalition of Kentucky, presented an overview of medical respite. Which is acute and post-acute care for persons experiencing homelessness, who are too ill or frail to recover from a physical illness or injury on the streets, yet not ill enough to remain in the hospital. Ms. Bush stated that medical respite also provides outreach opportunities for persons experiencing homelessness and a pathway to housing.

Tom Walton, Executive in Residence, University of Louisville, School of Public Health and Information Sciences, stated that the daily cost of hospital inpatient care is \$2,607 compared to the daily medical respite cost of \$125-\$127 per day. Ms. Bush stated that the Homeless and Housing Coalition of Kentucky would like medical respite and other flexible housing supports to be included in an 1115 or 1915 Medicaid waiver and recommended using ARPA funds to develop whole person care based pilot programs.

In response to questions and comments from Representative Elliott, Ms. Bush stated there are different methodologies used to determine the percentage of people experiencing homelessness who have a severe mental illness, but a definitive number would be speculation. Ms. Bush added that it would be safe to say that a large percentage of persons experiencing chronic homelessness have a severe mental illness.

In response to questions and comments from Senator Meredith, Ms. Bush stated that there have been learning calls organized with the Homeless and Housing Coalition and Kentucky's managed care organizations (MCOs), with all six MCOs expressing interest in medical respite programs.

In response to questions and comments from Senator Alvarado, Mr. Walton stated that twenty percent of homeless hospital admissions have private insurance, most likely due to the individual being under the age of 25 and on their parent's insurance. Mr. Walton stated



that the majority of homeless hospital admissions in Louisville and Northern Kentucky are individuals 65 and older on Medicare advantage plans. Mr. Walton stated that hospital billing data shows the cost-benefit for medical respite by limiting hospital readmissions. Mr. Walton added the average medical respite stay is seven to thirty days, excluding those requiring intravenous antibiotics or chemotherapy.

#### **Update on Establishment of a Provider Credentialing Alliance (20RS HB 438)**

Nancy Galvagni, President and Chief Executive Officer, and Brian Brezosky, Senior Vice President and General Counsel, Kentucky Hospital Association, presented an overview of the provider credentialing alliance that was required in 20RS House Bill 438. Ms. Galvagni stated that a provider does not get reimbursed by a MCO unless they have been credentialed by that MCO and that the Kentucky Hospital Association (KHA) has partnered with a Kentucky-based firm, Aperture, to be their credentialing organization to streamline the credentialing process as allowed under 20RS HB 438. Ms. Galvagni stated that Molina, Aetna, and Wellcare have all agreed to join the credentialing alliance. Justin Gilfert, General Counsel, Aperture Health, stated that Aperture has been involved in credentialing for 20 years and is looking forward to helping alleviate problems facing providers in the Commonwealth, through their partnership with KHA and the provider credentialing alliance.

In response to questions and comments from Senator Meredith, Ms. Galvagni stated that the alliance has hosted multiple meetings and at this time only three of the six MCOs in the Commonwealth have agreed to participate, Aetna, Molina, and Wellcare. Ms. Galvagni stated that hospitals and their workforce have not recovered from the effects of the pandemic and that hospitals have told KHA that in addition to staffing shortages, patients are sicker than ever. Ms. Galvagni stated that underperforming and struggling hospitals do not want to be publicly named and tied to their financial distress.

In response to questions and comments from Senator Higdon, Ms. Galvagni stated that regardless of who their healthcare insurance provider is, patients are impacted by the pandemic, often putting off treatment or seeking medical attention which is causing them to seek treatment at hospitals for issues that could have been caught earlier if there was not fear of COVID-19.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:30 p.m.

## **LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE**

### **Minutes of the 5th Meeting of the 2021 Interim**

October 14, 2021

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

The 5th meeting of the Legislative Oversight & Investigations Committee was held on Thursday,

October 14, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Representative Jason Nemes, Co-Chair Senator Danny Carroll, Co-Chair; Senators Jason Howell, Morgan McGarvey, Michael J. Nemes, Wil Schroder, Brandon J. Storm, Reginald Thomas, and Max Wise; Representatives John Blanton, Lynn Bechler, Ken Fleming, Joni L. Jenkins, Steve Riley, and Scott Sharp.

Guests: Dr. Melissa Currie, MD, FAAP, Chief, Norton Children's Pediatric Protection Specialists; Dr. Jamie Pittenger Kirtley, MD, FAAP, President, Kentucky Chapter of the AAP; Dr. Elizabeth Salt, PhD, University of Kentucky College of Nursing; Steve Shannon, Executive Director, Kentucky Association of Regional Programs, Inc.; Jason Hamilton, Executive Director, Justice and Public Safety Cabinet, Office of Financial Management Services.

LRC Staff: Gerald W. Hoppmann, Committee Staff Administrator; Committee Analysts William Spears, Chris Hall, Joel Thomas, Jeremy Skinner, Shane Stevens, Jacob Blevins, Ryan Brown, Taylor Johnston; and Ashley Taylor, Committee Assistant.

#### **Minutes for September 16, 2021**

Upon motion by Representative Bechler and second by Senator Nemes, the minutes for the September 16, 2021, meeting were approved without objection.

#### **Staff Report: Kentucky Child Fatality And Near Fatality External Review Panel 2021 Update**

Legislative Oversight staff members Chris Hall and Jeremy Skinner presented results of the annual evaluation of the Child Fatality and Near Fatality External Review Panel. The review included a summary of staff's work since 2014 and discussion of the major objectives of the 2021 update. Staff also summarized three major finding areas and seven recommendations.

The draft report and presentation slides are available on the Legislative Oversight and Investigations Committee webpage.

Representative Blanton thanked staff for the presentation and asked how data are reported if there is not a standard or definition for reporting, which could cause over-reporting or under-reporting. Mr. Hall discussed the difference between a data tool and data dictionary, as well as the consistency by which data are used.

Representative Blanton stated that problems can be created when inconsistencies arise in what may or may not be reported. He gave his version of a solution, which is to set out standard definitions for what should be reported. He expressed concern that the panel may be missing important data that are needed to make its determinations.

Senator Carroll asked staff to elaborate more on his concerns regarding follow up and accountability to the findings and recommendations that the panel makes. The follow up to those findings and recommendations does not always seem to be specific and there is no

accountability to ensure that agencies implement the panel's recommendations. He expressed concern that if this is happening with every case, the value of the panel is diminished.

Mr. Hall explained that the panel does not have statutory authority to enforce its recommendations. Because of the panel's current caseload, it does not have enough staff to follow up on recommendations. Senator Carroll discussed the possible need to follow up on this area to increase accountability. He requested comment from the panel on whether the legislature should include requirements that the panel's annual recommendations go to a specific cabinet or agency. Senator Carroll also suggested providing a 6-month deadline to finalize efforts and then report progress to the committee.

Representative Fleming stated there seems to be a systemic, organizational, structural issue in terms of accountability and how processes are set up. He asked staff to comment on the structure of what the panel does and what the Department for Community Based Services (DCBS) does. Mr. Hall briefly explained the DCBS process for receiving and investigating allegations and how fatality and near-fatality cases are then forwarded to the panel. Representative Fleming followed up by asking whether the panel's responsibilities should be realigned or readjusted. Representative Nemes commented that the panel could address questions related to its current statutory authority.

Representative Nemes called members of the Child Fatality And Near Fatality External Review Panel to testify: Dr. Melissa Currie, MD, FAAP; Dr. Elizabeth Salt, PhD; Dr. Jamie Pittenger Kirtley, MD, FAAP; and Steve Shannon, Executive Director of the Kentucky Association of Regional Programs, Inc.

Dr. Currie stated the panel was created by executive order in 2012 and codified in statute in 2014. The purpose of the panel is to conduct comprehensive reviews of child fatalities and near fatalities suspected resulting from abuse or neglect. She described the panel as a panel of experts as opposed to a panel of citizen reviewers. Members are recommended by respective boards or governing bodies and several of the nominations are submitted to the attorney general who then makes the final appointments. Panel members are unpaid volunteers. Statute requires the panel to meet quarterly; however, because of the volume of cases, in 2020, the panel met 10 times, and in 2021, the panel has met each month so far to get through the cases that have been provided for review.

Dr. Currie clarified the panel's reporting has not been inconsistent, and that it has definitions for each of the data fields, which constitutes a data dictionary. She explained that within the data tool for every data field, definitions and guidelines are provided. She also stated that over the years data fields have been added to the data tool.

Dr. Currie mentioned their data tool has about 240 data fields compared to the National Child Fatality Review Panel data tool that has 2,500 data fields. Case analysts and panel staff pull and input data into the data tool using SharePoint. She explained that the 2,500 data fields from the national data tool are well beyond what they could do with a volunteer panel and only two case analysts. She wanted the

committee to know that the panel has engaged with the National Child Fatality Review Panel and has taken its resources into account as they have created the structure and processes of the panel.

Dr. Currie noted referrals come from DCBS and include cases that involve fatalities or near fatalities alleged from abuse or neglect. Children who die unexpectedly for whom there was not a child protective services (CPS) report or an allegation of abuse or neglect do not get reviewed by the panel. Cases are also referred from the Department for Public Health's local fatality review teams. These teams include first responders, medical examiners, and the coroner. This is a team that reviews local child deaths in their community and that may have concerns about a specific case that may not have been reported to DCBS.

Dr. Currie explained the processes in which cases get referred to the panel. DCBS staff conduct their own investigation into the case and make their own substantiations independent of the panel, likewise the panel makes its findings independent of the findings of DCBS. She stated that there are some cases where DCBS has chosen to unsubstantiate a case and the panel has made a finding of abuse or neglect. In 2020, the panel reviewed 182 cases: 85 fatalities and 97 near fatal cases. This year the panel is on track to review about 200 cases.

Dr. Currie said that over the years the panel has made several recommendations and advocated for implementation but that the panel does not have the authority to hold any agency or legislative body accountable for implementing the panel's recommendations.

Dr. Currie summarized recommendations from the panel's 2020 annual report. Those recommendations are implementation of family drug courts, plans of safe care for neonatal abstinence syndrome or opioid withdrawal syndrome and substance-exposed infants, best practices for medication-assisted treatment, drug testing protocol at the time of a fatal or near fatal event, suicide prevention lifelines, and psychological autopsies. Dr. Currie stated that over the last year, the panel has partnered with the Kentucky Safety Prevention Alignment Network and developed the Child Home Safety Committee.

Dr. Salt explained the panel has cross-checked the current data tool with the national data tool. She said the panel reviews about 25 cases. With each data field requiring about one minute to enter, the panel would need five analysts to input data, but it currently only has two. She stated that the feasibility of using the national tool is a huge limitation.

Dr. Salt explained the panel has moved the data tool to REDCap, a software platform that allows each variable to have its own name from which it creates a data dictionary. This will allow for data analysis to be more easily implemented. Additionally, any specific variables the panel wants to include in the annual report could be easily procured.

In response to a question from Representative Nemes, Dr. Currie explained the purpose of the national data tool differs from the one used by the panel. She said that the national tool includes data from more than 40 states and is much more granular. The purpose of the national data tool is so that federal

agencies can develop their own prevention services and recommendations. She noted that the panel would need its own investigators to collect and use that information because law enforcement and DCBS does not collect it.

Representative Nemes noted other states are probably reporting the information for their own best practices, in addition to comparing to other states nationally. He said that the Department of Revenue could probably provide family income data and that 250 fields out of 2,500 may not be capturing enough information for the panel to work effectively. Using the Department of Public Advocacy as an example, Representative Nemes said that it might work better if the panel could make budget requests to the General Assembly rather than to the Justice and Safety Cabinet. The panel could remain independent but have more autonomy with budget requests because they are the experts and know what could make the panel work more effectively.

Dr. Kirtley clarified that the Cabinet for Health and Family Services does input child fatalities into the national dataset, but it does not include near fatalities.

Representative Nemes expressed concern that the panel is not using the full amount of money being appropriated by the legislature. He also noted that since the panel is not part of the budgetary process to make direct requests to the General Assembly, there is significant room for improvement. He stressed the importance of the panel being able to independently make a budget request directly to the legislature, such as the Department of Public Advocacy, which is also within the Justice and Public Safety Cabinet.

Jason Hamilton, Director with the Office of Financial Services, Justice and Public Safety Cabinet, said that it is true that there is no separate line item appropriation for the panel, which can very valuable for funding decisions. He said that the panel is under the Office of the Secretary and competes with other programs for appropriations.

Representative Nemes responded by stating that it appears that the base funding for the panel is not all being allocated to the panel. He said he is also aware of competition at the Justice and Public Safety Cabinet and that some worthy programs are underfunded. He thinks there should be a line item of direct appropriation for the panel.

Senator Thomas asked if the number of child fatalities has declined in the 10 years the panel has existed. Dr. Currie responded that although they are not seeing a drop in numbers, and that cases are not getting any better, she did not know how much worse the situation might be without the panel making recommendations and working with DCBS.

Senator Carroll said that having a panel of experts that cannot maximize recommendations in a timely manner is a problem. He explained he was not placing blame on law enforcement or DCBS, but that it is a staffing issue, but that the shortages of social workers is significant and needs to be addressed. He stated that panel recommendations should be directly linked to someone who is accountable and can provide research. He said that he would be happy to sponsor a bill for drug testing in fatality and near fatality cases. He also said that the panel should make clear to the legislature, in writing, what it needs to be effective.

Dr. Currie replied that the panel would appreciate any additional legislative support. To help the panel be more effective with its work, Dr. Currie said that the panel could provide the legislature with a dollar amount needed to implement the panel's programs. She also explained that it would be helpful if the panel better understood what is feasible from a policy standpoint.

Steve Shannon, Executive Director, Kentucky Association of Regional Programs, Inc., discussed that the work of the panel needs authority to see that recommendations are implemented. He wanted to know who the panel should give its recommendations to so that they are carried out.

Senator Carroll responded that the panel should be independent, like public defenders. Senator Carroll noted that the efficiency of the panel is critical to maintaining accountability. He said that the panel will be a priority on his agenda, that the panel should be aggressive, and that it should go directly to the committee to make requests.

Mr. Shannon said that creating the panel as a stand-alone entity had been considered in the past, but it never happened.

Representative Nemes stated the panel has a contract that allows some independence from the cabinet. He said he would talk with Senator Carroll and Appropriations and Revenue Committee co-chairs Senator McDaniel and Representative Petrie about getting a line item. Mr. Shannon said that he did not want to cause a problem with the cabinet.

Senator Carroll responded he thinks it will be a priority for Secretary Kerry Harvey of the Justice and Public Safety Cabinet. He said that the processes are in place and the panel just needs more direct contact. Senator Carroll then asserted that he would file the drug testing bill next session. In response to a comment by Mr. Shannon, Senator Carroll wanted to know where there was opposition to moving forward with drug testing.

Representative Nemes said that after 10 years and a revamp of the committee, maybe it is time to give the panel some teeth.

Representative Blanton said he intends to give the panel his full support. He asked if the panel could provide the number of fatality and near fatalities for the years 2018 and 2019 because over the last 18 months, there has been an increase in crime and domestic violence.

Dr. Currie responded she did not have those numbers readily available, but she agreed that there has been an increase in crime and domestic violence.

Dr. Salt pointed out that COVID caused a significant decrease in reporting cases despite potentially increased case severity. She said that the systems for reporting child abuse were disabled by COVID and that the severity of cases may have increased because people were not responsive to the situations occurring.

Representative Nemes said that, as of September 23, 27 students from Jefferson County Public Schools were shot and killed and another 91 were shot and survived. He wanted to know if the panel examines those cases. Dr. Currie replied that the panel does not examine those cases because they are attributed to external factors.

Senator Carroll asked Dr. Currie if the way the panel

selects cases is appropriate and credible. He said that DCBS chooses cases to be reviewed, but they are also the agency conducting the work.

Dr. Currie responded she thinks it works well because DCBS sends all of the fatality and near fatality cases, whether or not they substantiate the finding. She said that, to her knowledge, they are not missing any cases. She stated that the way DCBS assesses certain cases, like sleep-related deaths, rarely rises to the level of something the panel would review. She added that, in those instances, the panel only sees a small portion of cases.

Representative Fleming stated he thought that the General Assembly had failed the panel by not giving them the proper tools to be effective. He said that he will support Senator Carroll's bill on the House side and that the line-item budget idea needed to be examined further. Representative Fleming asked Dr. Currie to discuss what a psychological autopsy is and how it gets used.

Dr. Currie explained psychological autopsies are performed or led by someone with the appropriate training when a suicide is determined. A psychological autopsy involves talking to contacts of the deceased child to better understand if there were any concerns with abuse, mental health, or neglect that may have contributed to the suicide. The results are then shared with community organizations involved in suicide prevention so they can develop programs that can prevent suicide.

Dr. Kirtley responded that more information about how to intervene and reach children at risk of suicide will be better in the long term. She further stated that the number of unsuccessful suicide attempts has been staggering.

In response to a question from Representative Fleming, Dr. Currie said that she did not know if the panel has seen a completed psychological autopsy. The panel has discussed it, but has not determined a way to employ it.

Mr. Shannon responded he was not sure if there were many people in the state qualified to conduct psychological autopsies. He said that he was unaware of trainings or workshops for conducting psychological autopsies, but he thinks it is a missed opportunity.

Representative Bechler stated he questions whether a young person understands that suicide means death. He asked if there are studies showing what kind of information should be given to a young person and that addresses suicide, either in Kentucky or nationwide.

Mr. Shannon responded by saying there are suicide hotlines and groups that focus on teen suicide by going to schools and conducting suicide prevention presentations. He said that in June or July of 2022, the state will get a 988 number where people can call and be connected with a clinician. Mr. Shannon said the issue is whether at-risk kids are receiving the information they need.

Dr. Currie explained that there are data showing effective suicide prevention messaging. She stated that far more copycat suicides occur following a suicide where the media reports on the method. The panel is trying to educate the media about not reporting how a suicide was carried out. Dr. Currie maintained that children understand death and that adults sometimes

do not understand the pain children are carrying. She said that it is important to empower peers to seek help for children who are in pain.

Representative Fleming asked Dr. Kirtley how much it would cost to hire a data analyst. Dr. Kirtley deferred to Elisha Mahoney, a staff person attending the meeting, who said she did not know but that their office was working on it.

Representative Fleming said that information would get to the Appropriations Committee and hoped to get the panel a line item in the budget.

Representative Blanton commented he does not understand why the child fatality rate and near fatality rate have been under-reported in the media despite increases in the last few years.

Dr. Currie responded that the panel only reviews cases where there are allegations of abuse and neglect and they only see a small portion of overall fatalities in children. She said that the panel does good work and has seen success, but any help with funding and staffing would be helpful.

Dr. Salt thanked the committee and said she looked forward to ongoing communication.

Representative Nemes mentioned that the family drug court in Jefferson County is the only one of its kind in the state and should be expanded. It has been privately funded, and he wanted to mention the people who helped, including the National Council of Jewish Women, Jane Emke, Representative Joni Jenkins, Senator Julie Raque Adams, and Franklin Circuit Court Judge Phil Shepherd.

Motion to adopt the Legislative Oversight & Investigations staff report made by Representative Blanton and seconded by Senator Carroll. The report was adopted by roll call vote and the meeting adjourned.

## **LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE**

### **Minutes of the 6th Meeting of the 2021 Interim**

November 10, 2021

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

The 6th meeting of the Legislative Oversight & Investigations Committee was held on Wednesday, November 10, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Representative Jason Nemes, Co-Chair, Senator Danny Carroll, Co-Chair; Senators Jason Howell, Morgan McGarvey, Michael J. Nemes, Wil Schroder, Brandon J. Storm, and Reginald Thomas; Representatives John Blanton, Lynn Bechler, Ken Fleming, Angie Hatton, Joni L. Jenkins, Steve Riley, and Scott Sharp.

Guests: Stacy Tapke, Kenton County Attorney, President, Kentucky County Attorneys Association; Jenny Oldham, Hardin County Attorney, President-Elect, Kentucky County Attorneys Association; Joe Ross, Logan County Attorney, At Large Member, Kentucky County Attorneys Association; Lois Windhorst, Regional Director, Mothers Against

Drunk Driving; and Yolanda Mack.

LRC Staff: Gerald W. Hoppmann, Committee Staff Administrator; Committee Analysts William Spears, Jacob Blevins, Joel Thomas, Jeremy Skinner, Shane Stevens, Jacob Blevins, Chris Hall, Ryan Brown, Taylor Johnston, McKenzie Ballard; and Ashley Taylor, Committee Assistant.

#### **Minutes for October 14th, 2021**

#### **Upon motion by Representative Blanton and second by Representative Fleming, the minutes for the October 14, 2021, meeting were approved without objection.**

Representative Nemes stated that at the October 14, 2021, meeting, the committee adopted the Child Fatality and Near Fatality External Review Panel report by voice vote; however, statute requires that reports be adopted by a roll call vote. Upon motion by Representative Blanton and second by Representative Jenkins, the Child Fatality and Near Fatality External Review Panel report from the October 14, 2021, meeting was adopted with a roll call of 14 yes votes and 0 no votes.

Representative Nemes stated that the minutes of the October 14, 2021, meeting will be amended to reflect this action. Upon motion by Senator Howell and second by Senator Nemes, the amended minutes from the October 14, 2021, meeting were approved with a roll call of 14 yes votes and 0 no votes.

#### **Staff Report: County Attorney Traffic Safety Programs**

Legislative Oversight staff members William Spears and Jacob Blevins presented the County Attorney Traffic Safety Programs report. Mr. Spears stated that Kentucky Acts Chapter 190, section 15 from 2021 requires the Legislative Oversight and Investigations Committee to review the system of traffic safety programs operated by county attorneys in the Commonwealth in fiscal year 2020. Mr. Spears and Mr. Blevins discussed the report's findings and recommendations related to the lack of an internal control structure to ensure that statutory requirements are met.

Staff's full presentation is available on the Legislative Oversight and Investigations Committee webpage.

In response to a question from Representative Nemes related to past allegations of misconduct, Mr. Spears stated that the report identified largely technical and miscoding issues that need to be addressed as opposed to misconduct. He did note that with the exception of some issues identified by the Auditor of Public Accounts (APA), staff's report focused primarily on the lack of processes to catch misconduct. Representative Nemes said that the more important issues seem to focus on the need to create request for proposals (RFP) and contracting processes. He also stated that rather than the Transportation Cabinet, the Prosecutors Advisory Council (PAC) and the state Attorney General are appropriated entities to assist.

Representative Nemes inquired about the self-operating counties. Mr. Spears stated that 24 counties operate their own programs, but the report did not

review these programs. Representative Nemes also commented about operating expenses and asked whether identified credit card payments were used initially for operating expenses. Mr. Spears noted that the APA was available to answer questions related to their work in this area.

In response to a question from Representative Fleming, Mr. Spears agreed that after taking out the vendor fee, the Administrative Office of the Courts fee, and the Finance and Administration Cabinet fee, roughly 50 percent to 60 percent of the funds go back to the county attorney offices. Mr. Blevins stated the Kentucky County Attorneys Association (KCAA) indicated that in order to keep these programs competitive, the county attorney offices want the total cost to be roughly the same as if someone paid their ticket. In response to a question from Representative Fleming, Mr. Spears said that “reasonable fee” is not defined in statute.

In response to a question from Representative Bechler, Mr. Blevins stated that other than discovering there are no contracts in place, staff were not able to establish any clear reasoning for why the RFP process was not used to select traffic safety program vendors. Mr. Spears added that KCAA stated it had attempted more structure related to RFP and contracting processes in the past, but it became complex. Representative Bechler also commented on the complexity and uniformity of costs. Mr. Spears explained that every rate in the state was not compared to a typical fee, but that costs do appear to be within a reasonable range.

In response to a question from Representative Bechler, Mr. Blevins explained the curriculums of the two vendors appeared to be comparable, and staff found that personal preference was the reason for county attorneys choosing one vendor over the other. Mr. Spears said it did not appear that certain vendors were chosen based on cost. In response to another question from Representative Bechler, Mr. Spears stated that county attorney offices can use both vendors. Mr. Spears also stated that since agreements are verbal, there appear to be no restrictions or timeframes on the amount of time that one has to stay with a certain vendor.

Ms. Tapke introduced Ms. Oldham and other Kentucky County Attorneys Associations members who were present, including County Attorney Mike O’Connell from Jefferson County, County Attorney Joe Ross from Logan County, and County Attorney Martin Hatfield from Pulaski County. She stated that Mr. Ross and Mr. Hatfield are two of KCAA’s three representatives on the PAC.

Ms. Tapke stated that she provided a letter to the committee addressing staff’s draft report, which is available on the Legislative Oversight and Investigations Committee webpage.

She stated the traffic safety programs provide two purposes: educating offenders and supplementing the state funds that county attorneys receive for operating costs (approximately \$3,000). She said others also benefit from the fee allocations, including deputy clerks.

She stated that the two vendors used by county attorneys, Drive Safe Kentucky and AdventFS, are both comparable in price. However, her staff prefers AdventFS, because of its platform for inputting data.

Ms. Tapke said she somewhat disagrees with the report’s finding related to a lack of data verification because her staff checks citations to make sure offenders do not hold commercial driver licenses (CDLs), they also check CourtNet to review driving histories of offenders. Her staff inputs data and creates a spreadsheet to verify the data. Ms. Tapke stated that a higher-level review may require allocating additional costs. She said that amending the PAC form is a good idea to clearly show the breakdown of the total fee.

Ms. Tapke stated that KCAA is working with APA to develop agreed upon procedures (AUP) related to operating expenses, as opposed to paying for an audit, which can be expensive. Some offices, such as Kenton County, can afford to pay for an audit, but others that only have a \$25,000 operating budget cannot. She also believes the risk that CDL offenders are using the program is quite low, based on the numbers in the draft report provided by Legislative Oversight staff.

Mr. Ross stated that AdventFS was already established as a vendor related to cold check collection, so a lot of offices were familiar with them prior to the authority for county attorney offices to operate their own traffic safety programs. Mr. Ross stated he chose Drive Safe Kentucky because it was \$1 cheaper than the competitor. His office did not have enough participants for a formal bid, but he stated that the Jefferson County Attorney did put out a competitive bid at the time and went with the cheaper vendor, Drive Safe Kentucky.

Ms. Oldham said Hardin County is the fifth largest county, with 45 percent of her operating salaries coming from PAC. She stated that her office would not have the money to employ victim’s advocates or district court staff without the additional revenue generated from the traffic safety programs. Before the programs, her office could dismiss a case, but without the educational component. She said the programs are valuable in that sense. Ms. Oldham stated that related to CDL offenders participating in the programs, those particular offenders identified in the draft report could have come from out of state.

Representative Nemes commented on the complexity of the county attorney budgets. With respect to operating costs, offices only receive \$3,000 from the state. He stated his office pays that much on printing and toner. He also stated it is important to have protocols in place, given the amount of money that passes through these programs. With that, he asked if KCAA would commit to working with APA, PAC, and the Department for Local Government to work on implementing Recommendation 3.2. Ms. Tapke stated they have been working with APA on the AUPs and other types of engagements, and are committed to working with groups identified in Recommendation 3.2. She stated she also wants to make sure that KCAA is included when potential legislation is being discussed.

Representative Nemes stated that the recommendation does not only envision auditing but also RFPs and contracting. Representative Fleming asked about the curriculums that self-operating programs use. Ms. Tapke provided examples of Fayette and Henderson Counties where a combination of in-person and law enforcement participation is used. Representative Fleming stated that he heard

anecdotally that in some counties that self-operate, offenders simply check in without benefit of any curriculum. Ms. Tapke commented that these examples could be some type of diversion. Representative Nemes followed up and requested a list of counties that self-operate their programs. He also stated that diversion is something that is commonly used in the Commonwealth for other types of legal cases, so it is not an unusual disposition for a traffic offense.

Representative Blanton thanked staff and KCAA for their work in this area. He commented that staff’s research shows nothing outside of statute is occurring, but there are some procedures that could be improved.

Upon motion by Representative Fleming and second by Representative Riley, the County Attorney Traffic Safety program staff report was adopted with a roll call of 13 yes votes and 0 no votes.

#### **Louisville Community Bail Fund**

Ms. Windhorst introduced herself as the founder of the first chapter of Mothers Against Drunk Driving in Kentucky and the previous regional executive director overseeing Kentucky, Tennessee, and Indiana. She continues to volunteer, after funding for her position ended in October. She lost two family members in 1980 to a repeat impaired offender.

Ms. Windhorst recently became aware of the Bail Project after an impaired driver crossed the center line on Dixie Highway, killing Madelynn Troutt, a 17-year-old high school student. She discovered that the driver was a convicted felon and had three prior arrests. The day of the incident, he had stolen a vehicle and firearms, according to Ms. Windhorst. She stated that the Bail Project posted a \$5,000 cash bond for the driver.

Through research, Ms. Windhorst stated she found that the average bond posted in Jefferson County is \$3,500. She also stated that the intent of the Bail Project and other similar programs, however, is to bail out nonviolent offenders who cannot afford a \$500 bond. Ms. Windhorst also discussed the Louisville Community Bail Fund, which she stated is considered a corporation.

She introduced Yolanda Mack whose brother, Terrance Sheckles, was shot in the back of the head as he walked away from an argument. Ms. Mack talked about her brother and how he did not deserve to die in this manner. Representative Nemes stated it is his understanding that the person who was apprehended for murdering her brother was released on a \$50,000 cash bond paid by the Louisville Community Bail Fund. Ms. Mack and Ms. Windhorst concurred.

Ms. Windhorst stated that her research shows that 50 percent to 60 percent of cases where bail money is paid by these groups are for violent offenders. She stated she is not asking for the legislature to get rid of these entities in Kentucky but would like to see laws that detail what they can and cannot do in order to protect the citizens of Kentucky. For example, she stated that the Macks were not aware of the \$50,000 bond and did not know that the individual was back on the streets.

Representative Nemes discussed his understanding that bail is a constitutional right, and that he does not think either Ms. Mack or Ms. Windhorst believe bail should be eliminated. He stated that these groups

raise a lot of money, which should be expended appropriately and not for the benefit of the people running the organizations. He also discussed the notion of surety, which requires an individual to somehow vouch for the individual. However, when an unassociated third party posts bonds, there is no personal association with the defendant, which does not protect the public. He went on to state that he believes Ms. Mack and Ms. Windhorst are asking for parameters to be established for such programs to ensure the safety of the public. They both concurred.

Representative Blanton commented that bad actors are skirting the laws of bail by disregarding public safety. He and Representative Nemes are working on legislation to address these issues, including how donated money is being used. Ms. Windhorst also commented that the Louisville Community Bail Fund no longer includes its name on the bonds it posts, which are on file with the Jefferson Circuit Court Clerk.

Senator Carroll asked if research has been conducted in terms of the groups and individuals donating money to these groups. He wanted to know if the donations are primarily coming from outside Kentucky. Ms. Windhorst stated it is difficult to identify the actual parties donating to these funds. Representative Fleming discussed the website GuideStar as a possible source, which lists donors for various organizations.

Representative Nemes also commented that donors may not know their money is being used to provide bail for offenders charged with other than smaller crimes.

Senator Carroll asked if the groups are not-for-profits or 501(c)(3) organizations. Ms. Windhorst stated that the national bail project and the Louisville chapter are not-for-profit organizations. However, she stated that the Louisville Community Bail Fund may be designated as a limited liability company or assumed corporation, but she was not sure. Senator Carroll discussed the legalities of whether forfeited bail is an acceptable loss under federal regulations. He stated he would be happy to help with legislation to set some parameters on these groups.

Representative Fleming asked for examples of criteria and requirements when drafting a bill to monitor these operations. Ms. Windhorst stated it is important to include the organization's name and the name of the individual who is posting a bond. She also said the amount of money and offense where a bail is acceptable needs to be established. She stated that Kentucky is not the only state where offenders released on bond commit violent offenses. For example, she discussed Indiana where two women were recently killed by individuals who were out on bail. She stated that the Bail Project posted bond for the offenders.

Representative Nemes also stated that in domestic cases, family members might not bail out relatives if they know there is potential for violence. He also stated that the judge tried to protect Ms. Mack's family with a \$50,000 cash bond, but the system failed them.

Representative Nemes adjourned the meeting.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 8th Meeting of the 2021 Interim**

October 19, 2021

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

The 8th meeting of the Public Pension Oversight Board was held on Tuesday, October 19, 2021, at 3:00 PM, in Room 154 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Robby Mills, Gerald A. Neal, Dennis Parrett, and Mike Wilson; Representatives Derrick Graham, Jerry T. Miller, Jason Petrie, James Tipton, and Buddy Wheatley; Joseph Fawns, Mike Harmon, and John Hicks.

Guests: Jennifer Black Hans, Legislative Research Commission; David Eager, Executive Director, Kentucky Public Pensions Authority; and Danny White and Janie Shaw, GRS Consulting.

LRC Staff: Brad Gross, Jennifer Black Hans, and Angela Rhodes.

#### **Approval of Minutes**

Representative Graham moved that the minutes of the September 21, 2021, meeting be approved. Senator Neal seconded the motion, and the minutes were approved without objection.

Senator Higdon recognized Mac Jefferson for the years of service he has provided to the Public Pension Oversight Board (PPOB) as his term on the board has expired.

#### **Actuarial Audit Overview/Update – Legislative Research Commission Staff**

Jennifer Black Hans, Staff, Legislative Research Commission (LRC) discussed the basics of an actuarial audit to be conducted by the PPOB. The PPOB has the statutory duty under KRS 7A.250, enacted in 2016, which requires an actuarial audit every five years to evaluate the reliability of each retirement system's actuarial assumptions and methods. The cost of the audit is to be paid by the state-administered retirement systems to the LRC.

Ms. Hans explained that an actuarial audit involves engaging an outside actuary or reviewing actuary to evaluate the work of the retirement system's consulting actuary. The audit reviews the actuarial assumptions, methods, process, and valuation results and determines if the findings are reasonable, consistent, and accurate.

Ms. Hans explained the levels of actuarial audits. There are three levels: a level 1, full scope audit; a level 2, limited scope audit; and a level 3 or basic audit. The determination of level depends on the scope of review pursued.

Previous actuarial audits of the state-administered retirement systems have generally been conducted by the systems every 10 years. Ms. Hans gave information on the last actuarial audits conducted

for the Kentucky Retirement Systems (KRS) and the Teachers' Retirement System (TRS). KRS had a limited scope audit performed for the period of 2019-2020 on their June 30, 2019 actuarial valuation and their 2014-2018 Experience Study by the Segal Group at a cost of approximately \$97,500. TRS had a full scope audit performed for the period of 2015 on their June 30, 2014 actuarial valuation by the Segal Group at a contracted price not to exceed \$95,000.

Ms. Hans discussed the procedural steps for how the actuarial audit process should be conducted. However, this being the first actuarial audit under the authority of the Public Pension Oversight Board, the issuance of a Request for Information (RFI) is a reasonable starting point. An RFI is a part of the procurement process that is issued before other procurement steps, explains the task without a narrow scope of work, and is informational only. Responses to an RFI from interested firms contain no specific bids, but may provide: answers to questions, solutions to potential issues, necessary qualifications and experience, and estimates of the time, number of personnel, and costs required.

Ms. Hans discussed plans for the RFI and invited members to request additional information, if needed. The RFI will also include an introduction and background information, inquiries relating to the level of the audit (Level 1 or Level 2), organization of the three systems, level of independence, structure of audit process, necessary qualifications, and estimates of time, staff quantity, and cost.

In response to questions from Representative Miller, Ms. Hans stated that LRC tracks as closely as possible the level of transparency that is required by other state agencies during the procurement process. In response to a follow-up question regarding the past actuarial audits conducted by KRS and TRS, Ms. Hans confirmed that the boards of trustees for those systems had initiated the past audits on their own, as they are not required by law.

In response to a question from Representative Wheatley regarding whether there is an industry standard for handling conflicts of interest, Ms. Hans stated that LRC has asked for information on whether responding firms are a member of the American Academy of Actuaries, but she is not sure if the Academy has a specific conflict of interest provision. In response to a follow-up question, Ms. Hans stated the audit can provide opinions on how future actuarial valuations, including assumptions, methods, or processes should be conducted.

Senator Higdon commented that the PPOB will proceed with the RFI.

#### **Discussion of Retiree COLAs**

David Eager, Kentucky Public Pensions Authority (KPPA), along with Danny White and Janie Shaw, GRS Consulting (GRS) began the presentation with comments regarding the RFI. Mr. White commented that the process appears to be in order, but would make sure the time process is on target with the systems' own actuarial processes.

Mr. Eager began his presentation by stating he believes cost-of-living adjustments (COLAs) are being discussed throughout the country due to the



higher investment returns, although even at a 25 percent return, Kentucky was at the lower end of those percentages. Additionally, looking at the systems' returns from a longer term window, KRS lost more investment return in 2009 than it was able to earn in 2021.

Mr. Eager provided a background on COLAs. There are two types of COLAs, automatic and ad hoc. An automatic COLA is predetermined and set as a formula or specific rate increase and continues with no action, unless taken away. An ad hoc COLA is granted periodically. States providing COLAs vary widely in the manner of how they are determined.

Mr. Eager discussed the history of COLAs starting from the 1960s through the last COLA for Kentucky retirees in 2012. Through the years, the COLAs were anywhere from .25 percent to 15 percent along with monthly dollar amounts of \$1.00 to \$2.50 a month per year of service in the 1980s and 1990s. Beginning in 1996, COLAs went from ad hoc to automatic, driven by the consumer price index for urban areas (CPI-U), and ranged between 1.5 percent and 3.4 percent. There have been no COLAs since 2012.

Mr. Eager discussed the statutes which provide that a 1.5 percent COLA will be granted in the future only if: the KRS board (now KRS and County Employee Retirement System boards) determines that assets of the respective systems are greater than 100 percent of the actuarial liabilities, and legislation authorizes the use of surplus funds for the COLA; or the General Assembly fully prefunds the COLA or directs the payment of funds in the year the COLA is provided. New COLAs are not part of the inviolable contract.

Mr. Eager provided a chart of the historical change in inflation from 2011 to 2021 year ending July 3. In 2021, there is uncertainty regarding inflation, with the CPI-U increasing above 5 percent, and thus a reason for the discussion on COLAs.

Mr. Eager discussed national trends in COLAs. Most states are moving away from CPI-driven formulas and moving towards caps and fixed-rate formulas. Now, more COLAs are tied to financial conditions, such as, funded status and investment performance. Mr. White commented that Wisconsin provides a dividend that is not guaranteed where they compare their investment performance to a benchmark. If the investment performance exceeds that particular amount, the surplus of the extra assets are then used to provide an increased dividend to retirees and then, if in a later year the investment return underperforms compared to the benchmark, the dividend is pulled back.

Mr. Eager discussed the funded status of the pensions as of June 30, 2020. He provided the status for actuarial accrued liability, actuarial value of assets, unfunded actuarial accrued liability, and funded ratio at June 30, 2020, for each of the systems. He also provided the fiscal year 2021 investment gain.

Mr. Eager discussed the cost of possible benefit increases for each of the systems. He described different benefit scenarios and the cost to each system. Starting with the proposal from the Kentucky Government Retirees (KGR) for a one-time 1.5 percent increase in retiree benefits payable for 5 years only, the total cost to all systems would be \$171 million. Other COLA options presented range in cost from \$188 million for a "13th check" option for one

year to over \$6 billion for a permanent, annual 1.5 percent COLA to current and future retirees.

In response to a question from Representative Tipton, Mr. Eager stated one of the benefit increases is a one-time check to retirees.

In response to a question from Auditor Harmon, Mr. Eager stated an age-determined COLA benefit could start around a predetermined age of approximately 62 or 65.

In response to a question from Senator Mills regarding whether the past COLAs were prepaid, Mr. Eager stated previous COLAs ended up impacting the contribution rate the following year, but were amortized for a long period of time. In response to a follow-up question, Mr. Eager stated that, according to the PFM calculation, the total cost of past COLAs represents 15 percent of the unfunded liability, which is about \$2.4 billion with negative amortization.

Representative DuPlessis commented regarding Mr. Eager's information that it would appear financially best for the system not to give a COLA for the next 26 years until the unfunded liability is paid, but that would result in a total of 36 years between COLAs, which is possibly the life span of a member's retirement. In response to a question concerning options within the 26 years remaining on the amortization period, including adjusting for the payment cliff at the end, Mr. Eager responded that while KPPA is not making a policy recommendation on COLAs, they can provide several methods for financing COLAs, such as, a glide path and/or pension obligation bonds. Mr. White added that the glide path would have to wait another 10 to 15 years. As far as the COLAs, retirees in KRS do have some inflation protection with Social Security benefits. COLAs are expensive with the cost continuing to increase with more retirees at the same level of benefits. A 1 percent COLA will add about 7 to 8 percent to the value of a benefit. Mr. Eager added that a number of retirees continue to work for a supplemental income.

In response to a follow-up question from Representative DuPlessis regarding whether COLAs can be given to only those that are not of working age and/or disabled, Mr. Eager deferred the answer to LRC. Representative DuPlessis commented that he would appreciate ideas for a targeted COLA benefit for those who are no longer able to work as a result of disability and/or age.

In response to a question from Auditor Harmon, Mr. Eager and Mr. White explained the relationship between the glide path concepts in the context of level dollar funding with layered amortization.

Senator Higdon commented that additional discussion on COLAs would be necessary at a future date. In response to a question from Senator Higdon, Mr. White stated that GRS' opinion on using existing funds would be to make sure a COLA would be fully funded by being able to pay for the benefit in advance. Mr. Eager added funding a COLA is a policy matter for the legislature, but that as a fiduciary for the system he would not want money taken from the ARC to fund a COLA.

With no further business, the meeting was adjourned.

## SEVERE MENTAL ILLNESS TASK FORCE

### Minutes of the 5th Meeting of the 2021 Interim

October 19, 2021

#### Call to Order and Roll Call

The 5th meeting of the Severe Mental Illness Task Force was held on Tuesday, October 19, 2021, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Danny Bentley, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Ralph Alvarado, Karen Berg, and Stephen Meredith; Representatives Ken Fleming, Melinda Gibbons Prunty, and Lisa Willner.

Guests: Hannah E. Johnson, Pharm D, BCPS, BCPP, Assistant Professor, University of Kentucky; David Susman, Ph.D., Assistant Professor, University of Kentucky; Judge Stephanie Burke, Jefferson Court District; Carmen Pinto, M.D.; Dr. Scott Hedges, Seven Counties Services, Kolleen Kolassa, Integrated Care Nurse Manager, Seven Counties Services; Jennifer Marshall, Client, Seven Counties Services; Brenda Benson, National Alliance on Mental Illness; Jim Benson, National Alliance on Mental Illness; and Chris Stephenson, Chief Information Officer, MSHN Enterprises.

LRC Staff: Samir Nasir, Elizabeth Hardy, and Amanda DuFour

#### Approval of September 21, 2021 Minutes

Senator Alvarado moved to approve the minutes from the September 21, 2021, meeting. The motion was seconded by Representative Fleming. The minutes were approved.

#### Medication Non-adherence in Individuals with Severe Mental Illness

Hannah E. Johnson, Pharm D, BCPS, BCPP, and Assistant Professor at University of Kentucky, listed common medications used to treat severe mental illness (SMI), described medication non-adherence, and reported barriers to medication for individuals with SMI. Medication non-adherence rates among patients with SMI range from 30 to 65 percent. Some consequences of medication non-adherence include relapse, rehospitalization, suicide, poorer prognosis, and risky behavior. Some practices to improve medication adherence include patient involvement in decisions about medications, supports for adherence, reviews of medications, and communication between a patient's healthcare providers. Additionally, medication organizers, assertive community treatment (ACT), and long-acting injectable antipsychotics (LAIs) may improve adherence. Barriers to SMI medication adherence include poor health insurance coverage, transition in care, patient proximity to care, cultural competency of providers, and the stigma of SMI. Ways to improve access to medications include rational selection of medications, availability of a prescription formulary, affordability of insurance coverage and copays, and

appropriate usage of medications.

### **Severe Mental Illness and Recovery**

David Susman, Ph.D. and Assistant Professor at the University of Kentucky discussed SMI and recovery. Stigma and discrimination negatively impact the SMI community. According to a recent study of over 3,700 individuals with mental illness and their caregivers, 90 percent of mental health service users reported a negative impact from discrimination and two-thirds had limited their goals or interactions with others because of discrimination or fear of discrimination. There are four essential components of recovery services which include managing one's mental and physical health, having stable housing, participating in purposeful daily activities, and having a sense of community.

Dr. Susman discussed the importance of increased funding on a long-term basis to help the SMI community expand recovery based services. Community Mental Health Centers (CMHCs) have not received additional funding from the General Assembly since 1999, and during that same time period there has been an increase of approximately 25,000 individuals who have SMI in Kentucky. It is also important to fund a Medicaid SMI waiver for Tim's Law so that it may be implemented statewide.

In response to Representative Gibbons Prunty, Dr. Susman estimated that inpatient care is \$1,000 or more a day and outpatient services are much more cost effective.

### **Tim's Law**

Judge Stephanie Burke of the Jefferson District Court testified about Tim's Law, also called assisted outpatient treatment (AOT). AOT is the practice of delivering outpatient treatment pursuant to a court order for adults with SMI who meet the criteria outlined in statute. A team approach is used and the team is typically composed of a judge, community health providers, and the patient. Judge Burke stated that a "black robe effect" is necessary in AOT treatment, to create a relationship with the patient once they are stable and immediately start meetings to increase the likelihood that the patient will adhere to treatment. Individuals who need AOT have a history of repeat hospitalizations and arrests, noncompliance with outpatient treatment, and nonadherence to medication. Although, only about 0.05 percent of the population qualifies for AOT, the Commonwealth could potentially save millions of dollars if it implemented AOT statewide due to a decrease in hospitalizations and incarcerations. AOT reduces harmful behaviors, arrests, violence, and victimization.

Judge Burke recommended that the definition of eligible individuals be expanded so more individuals can have access to AOT and that an amendment to the statute be created to address the due process issues. To take Tim's Law statewide, she believes that the General Assembly should create a grant that would provide a small amount of funding to the counties that apply.

In response to Representative Willner, Judge Burke explained that the barriers to implementing Tim's Law statewide other than funding, are the lack of

structure mental health court setup. There also needs to be cooperation between the court, the legislature, and the CMHCs to provide these services.

In response to Representative Fleming, Judge Burke explained that with patient one, they tried to calculate expenses and determined that over an 18 month period about \$500,000 was saved. She also stated that about 10 percent of all cases that come through her mental health court would be good candidates for AOT. In response to Representative Fleming, Judge Burke explained that much of the grant money provided from Substance Abuse and Mental Health Services (SAMHSA) to fund Tim's Law was used to create the structure and moving forward, those expenditures will not be necessary. She stated that SAMHSA will match grant money if they see that counties or the state is funding AOT as well.

In response to Representative Gibbons Prunty, Judge Burke explained that to keep individuals with SMI out of jail, the Tim's Law criteria needs to be expanded in the statute.

### **Treatments for Patients with Severe Mental Illness**

Carmen Pinto, M.D., discussed long-acting injectable (LAI) antipsychotics primarily focusing on schizophrenia. He presented a graph depicting the levels of functioning after each relapse or psychotic break in an individual that suffers with schizophrenia. It is estimated that a person loses an average of one percent of brain functioning after each psychotic episode or relapse. The most common reasons for relapses are nonadherence to oral medications, substance abuse, and ongoing stress. The use of LAI antipsychotics and aggressive early substance use screening and treatment increases the chance of reducing the number of relapses in individuals.

Senator Alvarado said that he believes part of the issue is that many primary care providers are not trained in using LAI and many insurance companies most likely do not cover LAI. In response, Dr. Pinto stated that he believes there should be a state sponsored training for primary care providers as well as having resources available to help educate other providers. There is data that shows the cost savings of LAI antipsychotics however those cost savings would be shown indirectly in decreased incarcerations and hospitalizations.

### **Integrated Care in Persons with Severe Mental Illness**

Dr. Scott Hedges with Seven Counties Services, discussed integrated physical and mental health care for individuals with SMI.

Kolleen Kolassa, integrated care nurse at Seven Counties Services, stated that their mission was implemented by the Kentucky Cabinet for Health and Family Services. The services offered encompass health prevention strategies, evidence based screenings and assessments, and diagnosis and treatment of acute and/or chronic health problems. Seven Counties Services offers mental health counseling, case management, peer support, and a connection to community resources. Their overall goal is to teach clients self-management to reduce physical and behavioral health symptoms and improve their

functional outcomes.

Jennifer Marshall, client of Seven Counties Services, testified about her positive experiences utilizing integrated care. She spoke highly of the support that was offered and the thorough care that she received enabled her to live a more healthy and independent life.

### **Housing Model for People with Severe Mental Illness**

Brenda Benson with the National Alliance on Mental Illness, testified that she has a 36 year old son with paranoid schizophrenia and co-occurring SUD and they are searching for supported housing that fosters a healthier lifestyle with programs that include integrated services to help achieve better lives.

Chris Stephenson, Chief Information Officer at MSHN Enterprises, discussed the housing model they provide in Tennessee. The model includes three levels of care as well as intensive medication management and consistent therapy sessions. The Tennessee Department of Mental Health and Substance Abuse Services provides regulatory information and managed care organizations manage the funds that pay for the housing model. MSHN Enterprises' goal is to establish a therapeutic environment where individuals are provided care that fosters their independence, supports long-term recovery, and encourages integration into the community.

There being no further business, the meeting was adjourned.

## **SEVERE MENTAL ILLNESS TASK FORCE**

### **Minutes of the 6th Meeting of the 2021 Interim**

November 16, 2021

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

The 6th meeting of the Severe Mental Illness Task Force was held on Tuesday, November 16, 2021, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

### **Present were:**

**Members:** Senator Alice Forgy Kerr, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Ralph Alvarado, Karen Berg, and Stephen Meredith; Representatives Ken Fleming, Melinda Gibbons Prunty, and Lisa Willner.

### **Guests:**

**LRC Staff:** Samir Nasir, Elizabeth Hardy, and Amanda DuFour

### **Approval of October 19, 2021 Minutes**

Senator Alvarado moved to approve the October 19, 2021 minutes. The motion was seconded by Co-chair Bentley. The minutes were approved.

### **Discussion and Approval and Task Force Findings and Recommendations Findings**

Representative Willner made a motion to approve finding one. The motion was seconded by Representative Fleming and adopted by voice vote.

Senator Alvarado moved to approve finding two. The motion was seconded by Co-chair Bentley and approved by voice vote.

Senator Alvarado moved to approve finding three. The motion was seconded by Co-chair Bentley and approved by voice vote.

Co-chair Bentley moved to approve finding four. The motion was seconded by Senator Alvarado and approved by voice vote.

Senator Alvarado moved to approve finding five. The motion was seconded by Co-chair Bentley and approved by voice vote.

Senator Alvarado moved to approve finding six. The motion was seconded by Representative Gibbons Prunty and approved by voice vote.

Co-chair Bentley moved to approve finding seven. The motion was seconded by Senator Alvarado and approved by voice vote.

Representative Gibbons Prunty moved to approve finding eight. The motion was seconded by Senator Alvarado and approved by voice vote.

Senator Alvarado moved to approve finding nine. The motion was seconded by Co-chair Bentley and approved by voice vote.

Co-chair Kerr moved to amend finding 10 to strike out “do not” and insert “may not” and to strike out “primary care physicians” and insert “primary care providers.” The motion was seconded by Senator Alvarado and approved by voice vote. Representative Prunty moved to approve finding 10 as amended. The motion was seconded by Senator Alvarado and approved by voice vote.

## Recommendations

Senator Alvarado moved to approve recommendation one. The motion was seconded by Representative Willner and approved by voice vote.

Representative Willner moved to approve recommendation two. The motion was seconded by Co-chair Bentley and approved by voice vote.

Representative Fleming moved to approve recommendation three. The motion was seconded by Senator Alvarado and approved by voice vote.

Senator Meredith moved to amend recommendation four to strike out “encourage” and insert “direct.” The motion was seconded by Representative Willner and approved by voice vote. Senator Alvarado moved to approve recommendation four as amended. The motion was seconded by Senator Meredith and approved by voice vote.

Senator Alvarado moved to approve recommendation five. The motion was seconded by Senator Berg and approved by voice vote. Representative Gibbons Prunty moved to approve recommendation six. The motion was seconded by Senator Alvarado and approved by voice vote.

Co-chair Bentley moved to approve recommendation seven. The motion was seconded by Senator Alvarado and adopted by voice vote.

Representative Willner moved to amend recommendation eight to strike out “encourage” and insert “direct.” The motion was seconded by Representative Fleming and approved by voice vote. Senator Alvarado moved to approve recommendation eight as amended. The motion was seconded by Co-chair Bentley and approved by voice vote.

Senator Alvarado moved to approve recommendation nine. The motion was seconded by Representative Willner and approved by voice vote.

Senator Alvarado moved to approve recommendation 10. The motion was seconded by Representative Prunty. Representative Fleming moved to amend recommendation 10 to strike out “request” and insert “require.” Sen. Meredith seconded the motion. Rep. Willner commented that state compacts come from national organizations and state boards might find it burdensome to do something beyond their capabilities. Rep. Fleming commented it is the board’s responsibility to go out and get these things done. Sen. Willner commented the amendment should also replace “create” with “enter into.” Sen. Meredith commented there should not be an “either or” in this recommendation and rather than easing reciprocity, we should simplify reciprocity. Sen. Alvarado stated keeping the recommendation open to alternatives gives licensure boards more flexibility.

Sen. Kerr read the recommendation as proposed. Rep. Willner commented we should insert “or establish.” Sen. Kerr made a motion to amend the recommendation as a whole to replace “request” with “require,” delete “create” and replace it with “enter into,” and to insert “or establish.” Rep. Willner seconded the motion. It was approved by a voice vote. Senator Alvarado moved to approve recommendation 10 as amended. Senator Meredith seconded the motion and approved by voice vote.

## Approval of Findings and Recommendations

Senator Alvarado made a motion to accept the draft memorandum as amended. The motion was seconded by Representative Fleming. After a roll call vote of eight yes votes, 0 no votes, and 0 pass votes, the amended memorandum was approved by the task force.

## Adjournment

There being no further business, the meeting was adjourned at 4:02 PM.

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

### Minutes of the 8th Meeting

#### of the 2021 Interim

October 14, 2021

### Call to Order and Roll Call

The 8th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, October 14, 2021, at 10:30 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Julie Raque Adams, Dennis Parrett, and Robin L. Webb; Representatives George Brown Jr., Kim King, Phillip Pratt, Brandon Reed, and Rachel Roberts.

Guests: Brian Lacefield, Executive Director, Kentucky Office of Agricultural Policy (KOAP); Bill McCloskey, Deputy Executive Director, KOAP; Dr. Ryan Quarles, Commissioner, Kentucky Department of Agriculture; and Wayne Hunt, President, H&R Agri-Power.

LRC Staff: Stefan Kasacavage, Nathan Smith, Kelly Ludwig, and Rachel Hartley.

The minutes from the meeting of September 16, 2021, were approved by voice vote.

## Kentucky Office of Agricultural Policy Report

Brian Lacefield provided a personnel update and a brief overview of the 2021 Kentucky Office of Agricultural Policy Annual Report.

In response to Representative King, Mr. Lacefield stated underutilized programs are going to be reviewed by the joint meeting of the Kentucky Agricultural Development Board (KADB) and Kentucky Agricultural Finance Corporation (KAFC) to determine if any outreach is needed. Mr. Lacefield stated there is a significant need for large animal veterinarians, and more recruitment is important.

Senator Webb stated more incentives are needed to recruit large animal veterinarians.

Mr. Lacefield provided a brief update of the investments made by the KADB in the meat processing industry over the last 20 years. In the spring of 2020, the KADB established the Meat Processing Investment Program to expand Kentucky’s beef, dairy, pork, lamb, sheep, goat, and poultry processing capabilities.

Bill McCloskey described the Agricultural Development Board’s projects for September under the program. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Deceased Farm Animal Removal, Next Generation Farmer, Shared-Use Equipment Program, and Youth Agriculture Incentives Program (YAIP).

The requested program amendments discussed included:

Oldham County Farm Bureau requested an additional \$1,000 in Oldham County funds for YAIP. The board recommended approval, which would bring the program total to \$6,000.

Oldham County Farm Bureau requested an additional \$11,000 in Oldham County funds for CAIP. The board recommended approval, which would bring the program total to \$36,000.

Nicholas County Conservation District requested an additional \$12,600 in Nicholas County funds for CAIP. The board recommended approval, which would bring the program total to \$264,600.

Jarrod Brent Cornett was approved for a small scale grant of \$10,000 in state funds through the On-Farm Water Management Program.

The projects discussed included:

Creation Gardens, Inc. was approved for up to \$373,259 in state funds for renovating and repurposing a facility in Bardstown for e-commerce of its products.

Stepping Stone Farm, LLC was approved for up to \$300,000 in state funds and matching county funds to build an on-farm market and storage facility for local products.

Grow Appalachia at Berea College was approved



for up to \$260,575 in state funds contingent on securing at least \$15,000 from 15 counties to expand the Eastern Kentucky Direct Integrated Grower Support program in eastern Kentucky.

Bluegrass Roots Farm Foundation, Inc. was approved for up to \$38,365 in state funds to aid in constructing a storm water retention basin.

Ryan Bratcher was denied \$7,500 in state funds to install a municipal water meter, pipe, and hydrant to run water to a sheep herd and for poultry use due to the lack of gross farm income.

In response to Senator Embry, Mr. McCloskey stated the corporate office for Creation Gardens is

located in Jefferson County and the approved project is in Bardstown.

In response to Senator Webb, Mr. McCloskey stated the funds approved for Grow Appalachia at Berea College are for staff technical assistance. The Bluegrass Roots Farm Foundation, Inc. must continue working with at least six to eight producers to meet the criteria to have its loan forgiven.

In response to Representative King, Mr. McCloskey stated Creation Gardens is a fulfillment center that distributes locally produced agricultural products from the farm to the consumer.

Dr. Ryan Quarles stated the joint meeting of the KADB and KAFC will be the second joint meeting in the last 20 years. The United States Department of Agriculture has a college loan forgiveness program for large animal veterinarians and should be promoted to students.

Wayne Hunt provided a brief overview of his experience in the last 20 years since the passage of HB 611 during the 2000 Regular Session, which established the KADB.

There being no further business, the meeting was adjourned.



# 2022 Prefiled Bills

**BR22** - Representative Kim Banta  
(6/2/2021)

AN ACT relating to crimes and punishments.  
Repeal KRS 510.100, relating to sodomy in the fourth degree; amend KRS 194A.380 and 532.031 to conform.  
(Prefiled by the sponsor(s).)

**BR40** - Representative Jerry Miller, Representative Brandon Reed, Representative Buddy Wheatley  
(8/11/2021)

AN ACT relating to changes in pension payments due to overtime worked during a local emergency and declaring an emergency.  
Amend KRS 61.598 to exempt from the anti-pension spiking provisions any overtime directly attributable to a local government emergency in which the Governor calls in the Kentucky National Guard; make amendments retroactive to May 30, 2020; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR43** - Representative Buddy Wheatley  
(6/17/2021)

AN ACT relating to cremation.  
Amend KRS 367.97501 to create definition for “alkaline hydrolysis,” amend the definition of “cremation” to include “alkaline hydrolysis,” and amend the definition of “cremation container” to include alkaline hydrolysis; amend KRS 367.97514 to correct statutory reference; make conforming amendment to KRS 316.010.  
(Prefiled by the sponsor(s).)

**BR45** - Representative Lisa Willner, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Attica Scott  
(6/1/2021)

AN ACT relating to civil rights.  
Amend KRS 344.010 to include definitions for “sexual orientation” and “gender identity”; amend KRS 344.020, relating to the purpose of the Kentucky’s civil rights chapter, to include a prohibition against discrimination because of sexual orientation and gender identity; amend KRS 344.025, 344.040, 344.050, 344.060, 344.070, and 344.080, relating to prohibited discrimination in various labor and employment practices, to include sexual orientation and gender identity; amend KRS 344.100 and 344.110 to conform; amend KRS 344.120 and 342.140, relating to prohibited discrimination in places of public accommodation and advertisements therefor, to include sexual orientation and gender identity; amend KRS 344.170, 344.180, 344.190, 344.300, and 344.310, relating to the state and local human rights commissions, to include prohibition of discrimination on the basis of sexual orientation and gender identity in the scope of their powers and duties; amend KRS 344.360, 344.370, 344.380, and 344.680, relating to prohibited discrimination in certain housing, real estate, and other financial transactions, to include sexual orientation and gender identity; amend KRS

344.367, relating to prohibited discrimination in certain insurance sales, to include sexual orientation and gender identity; amend KRS 344.400, relating to prohibited discrimination in certain credit transactions, to include sexual orientation and gender identity; make various technical amendments; amend KRS 18A.095 to conform.  
(Prefiled by the sponsor(s).)

**BR49** - Representative Lisa Willner, Representative Kim Banta, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Attica Scott, Representative Buddy Wheatley  
(6/1/2021)

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 18 years of age or a person who is 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 “Youth Mental Health Protection Act”; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR53** - Representative Danny Bentley, Representative Patti Minter  
(8/4/2021)

AN ACT relating to the establishment of emergency insulin programs and declaring an emergency.  
Create various new sections of KRS Chapter 211 to define terms; establish the Urgent-Need Insulin Program and the Continuing Access to Insulin Program; establish eligibility guidelines; establish the application process; establish the process by which insulin is dispensed to eligible individuals; establish the responsibilities of insulin manufacturers; establish the responsibilities of the Kentucky Board of Pharmacy for administering the program; require manufacturers to annually report certain information to the board; require the board to report certain information to the General Assembly upon request; establish penalties; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR60** - Representative Joseph Fischer, Representative Melinda Prunty, Representative Lynn Bechler, Representative Mark Hart, Representative Kim King, Representative Savannah Maddox, Representative Felicia Rabourn, Representative Brandon Reed, Representative Richard White  
(6/1/2021)

AN ACT relating to public education and declaring an emergency.  
Amend KRS 158.183 to require a local board of education or board of a public charter school to ensure that no public school or public charter school offers any classroom instruction or discussion that incorporates designated concepts related to race, sex, and religion; provide that a school district employee that violates the prohibition is subject to disciplinary action; authorize the Attorney General to enforce the prohibition; authorize a penalty of \$5,000 for each day a violation persists after the Attorney General issues notification that a violation has occurred; require the commissioner of education to deduct the penalty from funds distributed to a school district; create a new section of KRS Chapter 164 to provide that no student enrolled at a public postsecondary education institution shall be required to engage in any form of mandatory gender or sexual diversity training or counseling; title the Act the “Education Non-Discrimination Act”; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR61** - Representative Phillip Pratt  
(8/11/2021)

AN ACT relating to crimes and punishments.  
Amend KRS 519.010 to add definition of “emergency response”; amend KRS 519.040 to increase the penalties for falsely reporting an incident that results in an emergency response; create a new section of KRS Chapter 41 to provide for a civil cause of action for damages arising from the false reporting of an incident; amend KRS 134.127 to conform.  
(Prefiled by the sponsor(s).)

**BR65** - Representative Brandon Reed, Representative Lynn Bechler, Representative Jennifer Decker, Representative Thomas Huff, Representative Savannah Maddox, Representative Felicia Rabourn  
(6/10/2021)

AN ACT relating to SARS-CoV-2 documentation.  
Create a new section of KRS Chapter 61 to prohibit a governmental body from requiring persons to provide vaccine passports to enter or obtain service from the governmental body; create a new section of KRS Chapter 160 to prohibit a school from requiring persons to provide vaccine passports to enter or obtain service from the school; create a new section of KRS Chapter 164 to prohibit a university board from requiring persons to provide vaccine passports to enter or obtain service from the university; create a new section of KRS Chapter 214 to prohibit a business entity from requiring persons to provide vaccine passports to enter or obtain service from the business entity; create a new section of KRS Chapter 214 to allow the Cabinet for Health and Family Services to impose of fine not to exceed \$5,000 per violation of this Act.



(Prefiled by the sponsor(s).)

**BR69** - Representative Matt Lockett, Representative Shane Baker, Representative Lynn Bechler, Representative Josh Calloway, Representative Jennifer Decker, Representative Ryan Dotson, Representative Daniel Fister, Representative Jim Gooch Jr., Representative Mark Hart, Representative Thomas Huff, Representative Kim King, Representative Norma Kirk-McCormick, Representative Jerry Miller, Representative Melinda Prunty, Representative Felicia Rabourn, Representative Nancy Tate, Representative Walker Wood Thomas, Representative Bill Wesley, Representative Richard White  
(6/4/2021)

AN ACT relating to prohibited instruction and declaring an emergency.

Amend KRS 158.183 to require a local board of education or board of a public charter school to ensure that no public school or public charter school offers any classroom instruction or discussion that promotes designated concepts related to race, sex, and religion; provide that a school district employee that violates the prohibition is subject to disciplinary action; amend KRS 164.348 to prohibit classroom instruction or discussion that incorporates designated concepts related to race, sex, and religion at public postsecondary education institutions; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR91** - Senator Reginald Thomas  
(9/2/2021)

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 and to define “small employer” and “large employer”; amend KRS 337.275 to incrementally raise minimum wage for small and large employers to \$12.00 an hour and \$15.00 an hour respectively; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.

(Prefiled by the sponsor(s).)

**BR96** - Representative Patti Minter, Representative Attica Scott  
(8/19/2021)

AN ACT relating to student loan servicers.

Establish Subtitle 12 of KRS Chapter 286 and create sections thereof to define terms; establish licensing requirements for certain student loan servicers; establish requirements for student loan servicing activities; require student loan servicers to comply with applicable state and federal law; establish fines for violations of the subtitle; establish a private right of action for violations of the subtitle; permit the commissioner of the Department of Financial Institutions to monitor risk to consumers relating to servicing student loans; require the commissioner to designate a student loan ombudsman; set forth requirements for student loan ombudsman; amend KRS 452.005 to conform; state that provisions of this Act shall be severable.

(Prefiled by the sponsor(s).)

**BR97** - Representative Patti Minter, Representative Joni Jenkins, Representative Rachel Roberts, Representative Buddy Wheatley  
(6/1/2021)

AN ACT relating to civil rights.

Amend KRS 344.010 to include definitions for “sexual orientation” and “gender identity”; amend KRS 344.020, relating to the purpose of the Kentucky’s civil rights chapter, to prohibit discrimination on the basis of sexual orientation or gender identity; amend KRS 344.025, 344.040, 344.050, 344.060, 344.070, and 344.080, relating to prohibited discrimination in various labor and employment practices to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.100 and 344.110 to conform; amend KRS 344.120 and 342.140, relating to prohibited discrimination in places of public accommodation and advertisements therefor, to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.170, 344.180, 344.190, 344.300, and 344.310, relating to the state and local human rights commissions, to include prohibition of discrimination on the basis of sexual orientation or gender identity in the scope of their powers and duties; amend KRS 344.360, 344.370, 344.380, and 344.680, relating to prohibited discrimination in certain housing, real estate, and other financial transactions, to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.367, relating to prohibited discrimination in certain insurance sales, to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.400, relating to prohibited discrimination in certain credit transactions, to include discrimination on the basis of sexual orientation or gender identity; make various technical amendments; amend KRS 18A.095 to conform.

(Prefiled by the sponsor(s).)

**BR98** - Representative Patti Minter, Representative Pamela Stevenson, Representative Rachel Roberts, Representative Buddy Wheatley  
(6/10/2021)

AN ACT relating to Women Veterans’ Appreciation Day. Create a new section of KRS Chapter 2 to designate June 12 as Women Veterans’ Appreciation Day in the Commonwealth.

(Prefiled by the sponsor(s).)

**BR102** - Representative Patti Minter, Representative Cherlynn Stevenson, Representative Rachel Roberts  
(6/17/2021)

AN ACT relating to state benefits for veterans.

Amend KRS 12.245, 12.354, 14A.1-070, 16.040, 40.010, 40.310, 40.650, 42.0146, 148.0211, 158.105, 158.140, 161.048, 164.512, 164.515, 186.041, and 186.416 to make certain LGBTQ and qualifying veterans eligible for state veterans’ benefits.

(Prefiled by the sponsor(s).)

**BR106** - Representative Savannah Maddox, Representative Mark Hart, Representative Shane Baker, Representative Kim Banta, Representative Lynn Bechler, Representative Josh Calloway, Representative Jennifer Decker, Representative Ryan Dotson, Representative Joseph

Fischer, Representative Daniel Fister, Representative Regina Huff, Representative Thomas Huff, Representative William Lawrence, Representative Matt Lockett, Representative Felicia Rabourn, Representative Nancy Tate, Representative Bill Wesley, Representative Richard White  
(6/21/2021)

AN ACT relating to immunization disclosure.

Create a new section in KRS Chapter 336 to prohibit public entity employers from requiring employees and applicants from disclosing his or her immunization status; create a new section in KRS Chapter 164 to prohibit postsecondary schools from requiring a student, staff, or faculty member to disclose his or her immunization status; amend KRS 344.120 to include the discrimination on the basis of “immunization status” as an unlawful practice; create a new section in KRS Chapter 365 to prohibit a business from requiring customers to disclose his or her immunization status as a condition for service or entry upon the premises; create a new KRS Chapter 214 to prohibit a public entity from creating standardized documentation with the purpose of certifying vaccination status; amend KRS 214.036 to allow objection to immunization on the basis of “conscientiously held beliefs”.

(Prefiled by the sponsor(s).)

**BR119** - Representative Lisa Willner, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Attica Scott  
(6/1/2021)

AN ACT relating to health education.

Repeal and reenact KRS 158.1415 to require each school district to provide healthy relationship education instruction to all public school students; establish minimum requirements for the instruction; establish minimum requirements for the healthy relationship curricula and instructional materials; prohibit a school or school district from restricting the ability of an instructor to answer a question related to the instruction; require that a school make the healthy relationship curricula and instructional materials available upon the request of a parent or guardian and establish a procedure for a parent or guardian to opt a student out of the instruction; require the Kentucky Board of Education to promulgate administrative regulations necessary to implement, administer, and enforce this section; require the Kentucky Board of Education to promulgate administrative regulations requiring that each school district submit a report on healthy relationship instruction in the district biennially; require the Kentucky Department of Education to maintain a list of recommended healthy relationship curricula and instructional materials; permit a parent or guardian to file an enforcement action in Circuit Court.

(Prefiled by the sponsor(s).)

**BR125** - Representative Danny Bentley, Representative Patti Minter  
(8/4/2021)

AN ACT relating to coverage for diabetes treatment. Amend KRS 304.17A-148 to require that cost sharing for noninsulin drugs and certain equipment and supplies

necessary for the treatment of diabetes not exceed certain cost-sharing thresholds; EFFECTIVE January 1, 2023.  
(Prefiled by the sponsor(s).)

**BR128** - Representative Danny Bentley  
(10/7/2021)

Proclaim April 26, 2022, to be Diabetic Ketoacidosis Awareness Day in Kentucky.  
(Prefiled by the sponsor(s).)

**BR133** - Representative Kim Banta  
(6/2/2021)

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).)

**BR134** - Representative Kim Banta  
(6/14/2021)

AN ACT relating to CPA licensure.  
Amend KRS 325.240 to give the State Board of Accountancy the authority to establish a scholarship program; grant former and current members of the board, its agents, and employees immunity from suit for performing discretionary acts when performed in good faith; amend KRS 325.280 to allow CPAs from other states who did not obtain a license in their home state within five years of passing the CPA exam to get a Kentucky license.  
(Prefiled by the sponsor(s).)

**BR135** - Representative Kim Banta  
(6/8/2021)

AN ACT relating to boating safety.  
Amend KRS 235.285 to require individuals born on or after January 1, 1975, to possess a safe boating certificate prior to operating a personal watercraft or motorboat on the waters of the Commonwealth; provide for exemption certificates; delay enforcement and require courtesy warnings for violations until July 1, 2023; amend KRS 235.990 to conform.  
(Prefiled by the sponsor(s).)

**BR137** - Senator Ralph Alvarado  
(10/13/2021)

AN ACT relating to long-term care facilities.  
Amend KRS 194A.700 to delete, amend, and add definitions; amend KRS 194A.703 to replace “client” with “resident” and to include requirements for living units in a dementia care unit; amend KRS 194A.705 to allow assisted living communities to provide additional services; amend KRS 194A.707 to change the administrative procedure process of assisted living communities, to add a biennial review process, and to change the certification process to a licensure process; amend KRS 194A.709 to

remove the requirement of reporting to the Division of Health Care and to make technical language changes; amend KRS 194A.711 to revise the criteria to be met by residents in an assisted living community; amend KRS 194A.717 to include staffing needs pursuant to an assisted living community’s service plan; amend KRS 194A.719 to require orientation education prior to independently working with residents; amend KRS 194A.727 to clarify which businesses can be licensed as an assisted living community; create multiple new sections of KRS 194A.700 to 194A.729 to provide requirements for the cabinet to consider when an applicant is seeking a license as an assisted living community with dementia care; for when a licensee chooses to voluntary relinquishment of a license as an assisted living community with dementia care; to list the responsibilities of an assisted living community with dementia care; to require continuing education training for assisted living managers of an assisted living community with dementia care; to require assisted living communities with dementia care to develop and implement additional policies; to provide staffing requirements for individuals employed in assisted living communities with dementia care; to include additional services an assisted living community with dementia care must provide; to list training requirements for staff working in dementia care units; to establish two categories of licensure for assisted living communities and to require assisted living communities to obtain a license from the cabinet to operate as a dementia care unit; to allow licensed personal care homes, under specific circumstances, to be licensed as an assisted living community or assisted living community with dementia care; to establish the rules for fines and violations of an assisted living community; amend KRS 216.510 and 216.535 to expand the definition of “long-term care facilities” to include assisted living communities; amend KRS 216.535 to amend the definition of “long-term care ombudsman” to exclude assisted living communities; amend KRS 216.530 to amend the inspection period for assisted living communities, personal care homes, and specialized personal care homes; amend KRS 216.557 to exclude assisted living communities from receiving citations as type A or type B violations; amend KRS 216.515, 216.560, 216.563, 216.565, 216.577, 216A.030, and 218A.180 to exclude assisted living communities; amend KRS 216.765 to require a specific medical examination in the admission into assisted living communities; amend KRS 216.573 to broaden the cabinet’s power to institute injunctive proceedings; create a new section of KRS Chapter 216 to create new definitions; to establish rules for residence in a personal care home or a specialized personal care home; to allow a personal care home or specialized personal care to provide additional services in certain situations; to establish staffing requirements in personal care homes or specialized personal care homes; to require the cabinet to promulgate administrative regulations to regulate an initial and biennial licensure review process and to establish additional procedures; and to allow the cabinet to request information and to conduct on-site visits; amend KRS 216B.015 to expand the definition of “health facility”; amend KRS 216B.155 to add the exemption of assisted living communities from specific standard requirements; amend KRS 216B.160 to allow a manager’s designee in an assisted living community to conduct an ongoing assessment; amend various sections of KRS Chapter 194A and KRS 216.595 to make technical corrections and changes; repeal KRS 194A.723 and 194A.724.

(Prefiled by the sponsor(s).)

**BR140** - Representative Chris Freeland, Representative Kim Banta, Representative Tina Bojanowski, Representative Kevin Bratcher, Representative McKenzie Cantrell, Representative Jennifer Decker, Representative Ken Fleming, Representative Kelly Flood, Representative Thomas Huff, Representative Joni Jenkins, Representative C. Ed Massey, Representative Patti Minter, Representative Phillip Pratt, Representative Melinda Prunty, Representative Rachel Roberts, Representative Steve Sheldon, Representative Cherlynn Stevenson, Representative Killian Timoney, Representative Susan Westrom, Representative Richard White, Representative Lisa Willner  
(6/8/2021)

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).)

**BR142** - Representative Attica Scott  
(6/17/2021)

AN ACT relating to the taxation of feminine hygiene products.  
Amend KRS 139.010 to define “feminine hygiene products”; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of feminine hygiene products; apply to sales or purchases made on or after August 1, 2022.  
(Prefiled by the sponsor(s).)

**BR147** - Representative Rachel Roberts, Representative Patti Minter  
(8/3/2021)

AN ACT relating to maternal mental health.  
Create a new section of KRS Chapter 211 to require all hospitals or alternative birthing centers offering obstetric services or licensed health care providers, including nurse midwives or certified professional midwives, to provide each maternity patient with information on maternal depression and available resources; require the Cabinet for Health and Family Services to post on its Web site information about providers who assist with maternal depression.  
(Prefiled by the sponsor(s).)

**BR152** - Representative Rachel Roberts  
(10/8/2021)

AN ACT relating to medical order for scope of treatment.  
Amend KRS 311.621 to add new definitions and amend current definitions; amend KRS 311.6225 to expand the scope of who can complete a MOST form; to require an electronically fillable version of the MOST form to be accessed online; to require a Spanish translation of the MOST form; to accept out of state versions of the form as long as certain conditions are met; and amend various sections of KRS 311 to include physician assistants and advanced practice registered nurses.

(Prefiled by the sponsor(s).)

**BR153** - Senator Reginald Thomas  
(11/19/2021)

AN ACT relating to the screening of tenants.  
Create new sections of KRS Chapter 383 to limit applicant screening charges for charges made within a 60 day period; prohibit landlords from charging screening fees without notice to the applicant; require screening criteria from landlords; require landlords to return charges if the dwelling is filled before the screening; disallow landlords from considering applicant's certain previous actions, arrests, or criminal charges; require landlords provide denied applicants with a written statement pursuant to specific criteria putting forth one or more reasons for the denial.  
(Prefiled by the sponsor(s).)

**BR154** - Representative Ryan Dotson, Representative Melinda Prunty, Representative Shane Baker, Representative Josh Calloway, Representative Jennifer Decker, Representative Daniel Fister, Representative Thomas Huff, Representative Norma Kirk-McCormick, Representative Brandon Reed, Representative Scott Sharp, Representative Bill Wesley, Representative Richard White  
(6/11/2021)

AN ACT relating to athletics.  
Amend KRS 156.070 to require KHSAA to promulgate administrative regulations or bylaws requiring schools to designate all interscholastic athletics based upon the biological sex of the students eligible to participate; prohibit male students from participating in girls' athletics; establish how to designate biological sex; prohibit designated agencies from entertaining complaints or investigations of policies; create a cause of action against a school that violates these provisions; create a new section of KRS Chapter 164 to require a public postsecondary education institution or private postsecondary education institution that is a member of a national intercollegiate athletic association to designate all intercollegiate and intramural athletics authorized by the institution based on biological sex of students eligible to participate; require that institutions prohibit male students from participating in womens' athletics; prohibit designated agencies from entertaining complaints or investigations of policies; create a cause of action against a postsecondary institution that violates these provisions; title the Act "Fairness in Womens' Sports Act."  
(Prefiled by the sponsor(s).)

**BR159** - Representative Daniel Fister  
(6/29/2021)

AN ACT relating to food products.  
Amend KRS 217.015 to add dried coffee and tea to the definition of home-based processor.  
(Prefiled by the sponsor(s).)

**BR171** - Representative Josh Bray, Representative Kim Banta, Representative Daniel Fister, Representative Thomas Huff, Representative Brandon Reed, Representative Steve Riley, Representative Russell Webber  
(6/25/2021)

AN ACT relating to prohibiting the enforcement of a

federal ban or regulation of firearms and declaring an emergency.  
Create a new section of KRS Chapter 237 to prohibit identified entities from enforcing federal firearm bans; prohibit identified entities from adopting rules, regulations, or ordinances that require enforcement of federal firearm bans; and prohibit identified entities from allocating public resources or moneys in the enforcement of federal firearm bans; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR172** - Representative Josh Bray, Representative Josh Branscum  
(7/2/2021)

AN ACT relating to biometric data collection practices.  
Create a new section of KRS Chapter 369 to define terms; require private entities to develop and comply with a retention and destruction schedule for biometric identifiers and information; prohibit private entities' collection, trade, and disclosure of biometric information with limited exceptions; create a standard of care for private entities collecting biometric information; create a civil cause of action for violations.  
(Prefiled by the sponsor(s).)

**BR180** - Representative Rachel Roberts  
(8/27/2021)

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 164.2871 to require self-insured employer group health plans provided by the governing board of a state postsecondary education institution to comply with the mental health wellness examination coverage requirement; amend KRS 205.522 to require the Medicaid benefits to comply with the mental health wellness examination coverage requirement; amend KRS 205.6485 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; require the Cabinet for Health and Family Services to seek federal approval if they determine that such approval is necessary; EFFECTIVE, in part, January 1, 2023.  
(Prefiled by the sponsor(s).)

**BR185** - Representative Bobby McCool, Representative Lisa Willner  
(8/4/2021)

AN ACT relating to student mental health.  
Amend KRS 159.035 to require a local school district's attendance policy to include provisions for a student's mental or behavioral health status.  
(Prefiled by the sponsor(s).)

**BR191** - Representative Richard White  
(9/8/2021)

AN ACT relating to assisted reproduction.  
Create a new section of KRS Chapter 510 to create the crime of fraudulent assisted reproduction; define terms; authorize a civil action; establish penalty; amend KRS 311.597 to add fraudulent assisted reproduction to the list of violations that may cause a doctor to lose his or her medical license.  
(Prefiled by the sponsor(s).)

**BR192** - Representative Adam Bowling, Representative DJ Johnson  
(8/5/2021)

AN ACT relating to resource recovery.  
Amend KRS 224.1-010 to redefine "disposal," "municipal solid waste disposal facility," "waste site or facility," "waste," and "solid waste management facility"; define "advanced recycling," "advanced recycling facility," "depolymerization," "gasification," "post-use polymer," "pyrolysis," "recovered feedstock," and "solvolysis"; amend KRS 109.012 to redefine "solid waste," "solid waste management," and "solid waste management facility."  
(Prefiled by the sponsor(s).)

**BR201** - Representative Attica Scott, Representative Buddy Wheatley  
(6/30/2021)

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).)

**BR203** - Senator Gerald Neal  
(6/18/2021)

AN ACT relating to state holidays.  
Amend KRS 2.147 and 18A.190 to make June 19, also known as "Juneteenth National Freedom Day," a state holiday for state employees.  
(Prefiled by the sponsor(s).)

**BR208** - Representative Daniel Fister, Representative Norma Kirk-McCormick, Representative William Lawrence, Representative Richard White  
(7/19/2021)

AN ACT relating to the taxation of firearms and ammunition.  
Amend KRS 139.010 to add definitions of "firearm" and "ammunition"; amend KRS 139.480 to exempt firearms and ammunition from sales and use tax and require reporting related to the exemption; amend KRS 131.190 to allow reporting by the Department of Revenue; EFFECTIVE August 1, 2022.  
(Prefiled by the sponsor(s).)

**BR209** - Representative Richard White

(7/28/2021)

AN ACT relating to transportation.

Amend KRS 189.030 to require the illumination of headlamps on motor vehicles during any period of precipitation that necessitates the use of windshield wipers by motorists; specify that there will be a courtesy warning period until January 1, 2023.

(Prefiled by the sponsor(s).)

**BR210** - Representative DJ Johnson

(9/2/2021)

AN ACT relating to limited X-ray machine operators. Amend KRS 311B.020 to redefine "limited X-ray machine operator" and "medical imaging technologist" to provide limited exemptions from the place-of-employment restrictions on limited X-ray machine operators.

(Prefiled by the sponsor(s).)

**BR211** - Representative Shane Baker, Representative Walker Wood Thomas

(8/4/2021)

AN ACT relating to religion.

Amend KRS 39A.100 to exclude houses of worship from emergency condemnation authority; prohibit a governmental entity from prohibiting religious services during an emergency to a greater extent than imposed on other organizations or businesses that provide essential services; require a compelling governmental interest to place a burden on a religious organization; prohibit a governmental entity from taking any discriminatory action against a religious organization on the basis that the organization is religious; define "discriminatory action," "governmental entity," "religious organization," and "religious services"; allow a religious organization to assert a violation of this section as a claim against a governmental entity or as a defense and waive sovereign, governmental, and qualified immunity to the extent of liability under the section; set out remedies available to a religious organization; require construction in favor of protecting free exercise of religion; require a religious organization to bring an action no later than two years from the date the person should have known of the discriminatory action.

(Prefiled by the sponsor(s).)

**BR215** - Representative Bill Wesley, Representative Mark Hart

(10/22/2021)

AN ACT relating to mental health.

Amend KRS 15.518 to include telecommunicators as eligible participants in the Law Enforcement Professional Development and Wellness Program; amend KRS 15.550 to require the telecommunicator basic course training to include instruction on and provide resources for treatment of post-traumatic stress disorder and work-induced stress; require the Kentucky Law Enforcement Council to incorporate PTSD mental health treatment into the telecommunicator training program and provide treatment resources to telecommunicators and their supervisors; amend KRS 15.560 and 15.565 to require each in-service training to include a mental health component on PTSD and work-induced stress; amend KRS 15.590 to require the Kentucky Law Enforcement Council to include

training and resources for post-traumatic stress disorder and work-induced stress during each telecommunicator in-service training, provide guidelines and a resource list to all telecommunicators and their supervisors, and allow telecommunicators to access the Law Enforcement Professional Development and Wellness Program; this Act shall be known as the Lifeline's Act.

(Prefiled by the sponsor(s).)

**BR226** - Representative Josh Branscum

(7/6/2021)

AN ACT relating to school facilities.

Amend KRS 157.455 deleting the Kentucky efficient school design trust fund; delete reporting requirement for efficient design; amend KRS 198B.060 to allow local plan review, inspection and enforcement of educational facilities; repeal KRS 162.062, which requires new public school buildings to provide sufficient water bottle fillings station and drinking fountains.

(Prefiled by the sponsor(s).)

**BR228** - Representative Susan Westrom

(10/21/2021)

AN ACT relating to bereavement medical leave for loss of an infant.

Create a new section of KRS Chapter 337 to allow use of leave time for parents to grieve the loss of a child under the age of one year.

(Prefiled by the sponsor(s).)

**BR238** - Representative Kim Banta

(7/9/2021)

AN ACT relating to medicaid coverage for individuals with mental illness.

Create a new section of KRS 205.565 to 205.647 to allow treatment for adults under age 65 in psychiatric residential facilities and hospitals to be claimed as a service; and require the Cabinet for Health and Family Services or the Department for Medicaid Services to request federal authorization for a waiver if necessary.

(Prefiled by the sponsor(s).)

**BR243** - Representative Kevin Bratcher

(10/21/2021)

AN ACT relating to radon safety.

Repeal and reenact or repeal, reenact, and amend KRS 211.9101 to 211.9135 as new sections of KRS Chapter 309 to change the name of the Kentucky Radon Program Advisory Committee to the Kentucky Board of Radon Safety; adjust the number of members to the board; establish the responsibilities of the board; attach the board to the Department of Professional Licensing in the Public Protection Cabinet for administrative purposes; change the name of the radon mitigation and control fund to the radon control fund; increase the cap on fines to \$1,000 per occurrence.

(Prefiled by the sponsor(s).)

**BR251** - Representative Randy Bridges, Representative Kim Banta

(11/16/2021)

AN ACT relating to workforce and housing development.

Create a new section of KRS Chapter 198A to establish the nonrefundable Kentucky affordable housing credit for taxable years or periods beginning on or after January 1, 2025, for a period of five years; allow the credit to be applied to the income and insurance taxes, in an amount equal to the amount of federal low-income housing tax credit; provide that the aggregate amount of tax credit for any year shall not exceed \$12.5 million; create a new section of KRS Chapter 141 to allow the credit to be applied to income and limited liability entity taxes; amend KRS 141.0205 to order the income tax credit; create new sections of KRS Chapter 136 to allow the credit to be applied to insurance tax; order the insurance tax credits; amend KRS 131.190 to conform.

(Prefiled by the sponsor(s).)

**BR254** - Representative Attica Scott

(7/20/2021)

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).)

**BR255** - Representative Attica Scott

(7/20/2021)

AN ACT relating to pregnant inmates.

Amend KRS 196.173 to allow an inmate who is known to be pregnant or who has given birth in the last six weeks access to reasonable accommodations for the provision of available certified professional midwifery services or doula services.

(Prefiled by the sponsor(s).)

**BR256** - Representative Attica Scott

(7/20/2021)

AN ACT relating to Medicaid coverage for doula services.

Create a new section of KRS Chapter 205 to require the Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services to provide coverage for doula services; establish training and education requirements for doulas; permit the department to promulgate administrative regulations; require the Cabinet for Health and Family Services or the Department for Medicaid Services to seek federal approval if they determine that such approval is necessary.

(Prefiled by the sponsor(s).)

**BR257** - Representative Attica Scott

(7/14/2021)

AN ACT relating to Medicaid coverage for lactation support services and breastfeeding equipment.

Create a new section of KRS Chapter 205 to require the Department for Medicaid Services and Medicaid managed care organizations to provide coverage for lactation

counseling, lactation consultation, and breastfeeding equipment; require the Cabinet for Health and Family Services or the Department for Medicaid Services to request federal authorization for a waiver if necessary. (Prefiled by the sponsor(s).)

**BR267** - Representative Shawn McPherson  
(8/9/2021)

AN ACT relating to the promotion of organ and bone marrow donation.  
Create a new section of KRS Chapter 141 to establish the employers' organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; amend KRS 131.190 to allow disclosure of certain information on the credit to the Legislative Research Commission; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act of 2022.  
(Prefiled by the sponsor(s).)

**BR274** - Representative James Tipton  
(11/16/2021)

AN ACT relating to dual credit scholarships.  
Amend KRS 164.786 to increase the dual credit tuition rate ceiling amount; add eligibility for high school freshmen and sophomores; add career and technical education courses to the Dual Credit Scholarship; amend KRS 164.787 to delete the dual credit provisions from the Work Ready Kentucky Scholarship Program.  
(Prefiled by the sponsor(s).)

**BR275** - Representative James Tipton, Representative Steve Riley, Representative Kim Banta, Representative Tina Bojanowski, Representative Jennifer Decker, Representative Kim King, Representative C. Ed Massey, Representative Bobby McCool, Representative Melinda Prunty, Representative Josie Raymond, Representative Attica Scott, Representative Lisa Willner  
(9/9/2021)

AN ACT relating to full-day kindergarten.  
Amend KRS 158.060 to remove language that allows for half-day kindergarten programs; amend KRS 157.320, 157.360, and 158.030 to conform.  
(Prefiled by the sponsor(s).)

**BR287** - Representative Nancy Tate  
(10/14/2021)

AN ACT relating to motor vehicle taxes.  
Amend KRS 138.470 to exempt motor vehicles purchased by members of the Armed Forces on duty in Kentucky and motor vehicles titled and registered in Kentucky by members of the Amed Forces on duty in Kentucky from motor vehicle usage tax.  
(Prefiled by the sponsor(s).)

**BR290** - Representative Kim Banta, Representative Cherlynn Stevenson  
(9/29/2021)

AN ACT relating to animal cruelty.  
Create new sections of KRS Chapter 525 to define terms; require peace officers and animal control officers to serve notice of seizure of an animal subjected to cruelty; create procedure for seizing agencies to petition a court to order

payment of animal care costs by owner; establish penalties; prohibit the destruction of seized animals, except for humane reasons determined by veterinarian.  
(Prefiled by the sponsor(s).)

**BR301** - Senator John Schickel  
(9/1/2021)

AN ACT relating to the Kentucky Educational Excellence Scholarship.  
Amend the definition of "KEES Award" in KRS 164.7874 to include a dual credit course award amount; amend KRS 164.7879 to provide a dual credit course award amount to high school students who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education.  
(Prefiled by the sponsor(s).)

**BR306** - Representative Buddy Wheatley, Representative Attica Scott  
(9/15/2021)

AN ACT relating to elections.  
Amend KRS 117.087 and 118.035 to extend the ending voting hours from 6 p.m. to 7 p.m.  
(Prefiled by the sponsor(s).)

**BR307** - Representative Buddy Wheatley  
(9/24/2021)

AN ACT relating to elections.  
Amend 118.025 to remove straight ticket voting as a ballot option in an election; amend KRS 63.200, 117.125, 118A.090, and 118A.100 to conform.  
(Prefiled by the sponsor(s).)

**BR322** - Representative Attica Scott  
(10/27/2021)

AN ACT relating to income assistance and making an appropriation therefor.  
Create a new section of KRS Chapter 205 to define "eligible recipient" "gross income," "taxable year," and "universal basic income"; create the universal basic income fund within the State Treasury and provide that money remaining in the fund at the end of the fiscal year shall not lapse but will be carried forward into the next fiscal year; establish a universal basic income of \$1,000 per month payable from the fund to any eligible recipient unless his or her reported gross income exceeds 100% of the median per capita income for his or her county of residence; establish a Kentucky workers' transitional income of \$500 per month payable from the fund to any person who was receiving the universal basic income but became ineligible because his or her reported gross income exceeds 100% of the median per capita income of his or her county of residence for up to 24 months or until his or her reported gross income exceeds 200% of the median per capita income of his or her county of residence; require; that receipt of the universal basic income shall not be considered taxable income or be considered in calculating state tax credits or offset any liabilities or preclude the recipient from receiving other public assistance; amend KRS 141.019 to exclude the universal basic income in calculating a taxpayer's adjusted gross income; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR334** - Representative Norma Kirk-McCormick  
(9/9/2021)

AN ACT relating to the Licensed Professional Counseling Compact.  
Create a new section within KRS Chapter 335.500 to 335.599 to declare the purpose of the Licensed Professional Counseling Compact; establish definitions; establish requirements for states that want to enter the compact; recognize a multistate licensure privilege to practice for licensed professional counselors; establish provisions for active duty military personnel or their spouses; recognize a multistate licensure privilege to practice for licensed professional counselors in any member state via telehealth; establish procedures for adverse actions a home and member state can take against a licensed professional counselor; create the Counseling Compact Commission; establish and elect an executive committee; provide immunity for party states, officers, employees, or representatives of the commission who act in accordance with the compact; require the commission to create, maintain, operate and use a coordinated 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; allow the compact to go into effect on the date the compact is enacted into law in the tenth member state; establish withdrawal procedures for a member state that withdraws from the compact; provide 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 to any government, agency, person, or circumstance.  
(Prefiled by the sponsor(s).)

**BR341** - Representative Jerry Miller  
(10/20/2021)

AN ACT relating to actuarial investigations.  
Amend KRS 21.440, 61.670, 78.784, and 161.400 to require the Legislators' Retirement Plan, the Judicial Retirement Plan, the Kentucky Retirement Systems, the County Employees Retirement System, and the Teachers' Retirement System to perform an actuarial investigation of economic assumptions once every two years rather than once every five years while retaining a review of demographic assumptions once every five years; amend KRS 78.784 to require the County Employees Retirement System 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; require the first actuarial investigation of economic assumptions to occur prior to 2023 actuarial valuations.  
(Prefiled by the sponsor(s).)

**BR348** - Representative Norma Kirk-McCormick  
(8/6/2021)

AN ACT relating to the operation of a motor vehicle using a bioptic device.  
Amend KRS 186.578 to provide options for in-state and out-of-state drivers coming to Kentucky regarding the



removal of a daytime-only restriction in the licensee’s previous state for drivers using a bioptic device; amend KRS 186.579 to comply and to specify the evaluations must be performed by the Office of Vocational Rehabilitation.  
(Prefiled by the sponsor(s).)

**BR353** - Representative Felicia Rabourn, Representative Savannah Maddox, Representative Shane Baker, Representative Lynn Bechler, Representative Kevin Bratcher, Representative Josh Calloway, Representative Jennifer Decker, Representative Ryan Dotson, Representative Mark Hart, Representative Regina Huff, Representative Thomas Huff, Representative William Lawrence, Representative Matt Lockett  
(8/23/2021)

AN ACT relating to workers’ compensation and declaring an emergency.  
Amend KRS 342.0011 to define “COVID-19”; create a new section of KRS Chapter 342 to establish workers’ compensation liability in instances where employers require vaccination against COVID-19 as a condition of employment and the employee develops an adverse reaction to the vaccine; create a rebuttable presumption that an adverse reaction was caused by the COVID-19 vaccine if it was not present prior to and arises within 14 days of receipt of the vaccine; retroactive to December 14, 2020; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR358** - Representative Lynn Bechler, Representative Mark Hart, Representative Thomas Huff  
(8/18/2021)

AN ACT relating to immunizations.  
Amend KRS 344.010 to define “immunization”; amend KRS 344.040 to prohibit employers from discriminating against an individual who declines immunization or requiring immunization as a condition of employment or inquiring as to the employee’s immunization status; create a new section of KRS Chapter 338 to prohibit an employer from requiring an employee or applicant for employment to be immunized or inquiring regarding immunization status.  
(Prefiled by the sponsor(s).)

**BR359** - Representative Lynn Bechler, Representative Mark Hart, Representative Thomas Huff, Representative Savannah Maddox, Representative Felicia Rabourn  
(8/16/2021)

AN ACT relating to facial coverings in educational settings.  
Amend KRS 199.896 to provide that the license or certification of a child-care center shall not be refused or revoked for refusing to require facial coverings; amend KRS 199.898 to provide that parents and guardians of children enrolled in licensed, certified, or publicly funded child care facilities have a right to refuse facial coverings on behalf of their children without any retribution; create a new section of KRS Chapter 158 to prohibit requiring facial coverings on any public school premises, on school-sponsored transportation, or at a school-sponsored event; create a new section of KRS Chapter 164 to prohibit requiring facial coverings on property owned, leased, or operated by public postsecondary education institutions; provide exceptions for healthcare licensing

board requirements imposed prior to January 1, 2020, and clinical research settings.  
(Prefiled by the sponsor(s).)

**BR360** - Representative Attica Scott  
(10/26/2021)

AN ACT relating to school food programs.  
Establish a new section of KRS Chapter 158 to require the Kentucky Department of Education to pay for any costs not reimbursed by federal funds for the operation of the federal school breakfast and lunch programs.  
(Prefiled by the sponsor(s).)

**BR362** - Representative Jim Gooch Jr.  
(11/16/2021)

AN ACT relating to liability protection in emergencies.  
Amend KRS 39A.275 to eliminate certain liability protections if an owner requires employees to receive a vaccination against COVID-19 and an employee suffers a severe adverse reaction as a result.  
(Prefiled by the sponsor(s).)

**BR365** - Representative Chris Freeland, Representative DJ Johnson  
(10/28/2021)

AN ACT relating to the ad valorem taxation of mobile home inventories.  
Amend KRS 132.200 to exempt mobile homes held in a retailer’s inventory from local property taxes.  
(Prefiled by the sponsor(s).)

**BR367** - Representative Kim King  
(8/13/2021)

AN ACT relating to pari-mutuel tax.  
Amend KRS 138.510 to impose a 1.5% surtax on historical horse races, on or after October 1, 2022; amend KRS 138.513 to impose a 2.5% surtax on advance deposit account wagers; amend KRS 138.530 and 230.750 to conform.  
(Prefiled by the sponsor(s).)

**BR370** - Senator David Yates  
(9/1/2021)

AN ACT relating to theft of mail matter.  
Amend KRS 514.140 to include common carriers and delivery services in protection against theft of mail matter.  
(Prefiled by the sponsor(s).)

**BR376** - Representative Cherlynn Stevenson  
(9/1/2021)

AN ACT relating to chronic pain treatments.  
Create a new section of Subtitle 17A of KRS Chapter 304 to establish that any health benefit plan issued or renewed in the Commonwealth that provides coverage for hospital, medical, or surgical expenses shall include coverage for chronic pain treatments provided by a licensed professional; create a new section of KRS Chapter 205 to require Medicaid and Medicaid managed care organizations to include coverage for chronic pain treatments provided by a licensed professional; amend KRS 218A.172 to require that a health care practitioner

discuss and refer or prescribe alternative chronic pain treatments before initially prescribing or dispensing a controlled substance; EFFECTIVE January 1, 2023.  
(Prefiled by the sponsor(s).)

**BR377** - Representative Cherlynn Stevenson, Representative Buddy Wheatley  
(9/1/2021)

AN ACT relating to family care leave.  
Amend KRS 337.010 to define “family care leave,” “family member,” “health care provider,” “same employer,” and “serious health condition”; create a new section of KRS Chapter 337 to prohibit employers from preventing an employee to take family care leave; to entitle employee to family care leave for the birth of a child or to take care of a family member and establish parameters.  
(Prefiled by the sponsor(s).)

**BR379** - Representative Cherlynn Stevenson, Representative Rachel Roberts  
(9/1/2021)

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 and implementation 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; permit the executive director to make an application for a grant under 42 U.S.C. sec. 247d-11; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR384** - Representative Mark Hart, Representative Lynn Bechler, Representative Felicia Rabourn  
(9/1/2021)

AN ACT prohibiting vaccination requirements for postsecondary education students.  
Create a new section of KRS Chapter 164 to prohibit a public postsecondary educational institution from requiring a student to receive certain vaccinations unless the student is participating in an educational program that involves the delivery of health care services.  
(Prefiled by the sponsor(s).)

**BR407** - Representative Nima Kulkarni, Representative Samara Heavrin  
(10/29/2021)

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; amend KRS 341.550 to prevent benefit payments from pooled account from impacting an employer's experience rating; and create a new section pf KRS Chapter 341 to direct the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations.  
(Prefiled by the sponsor(s).)

**BR427** - Representative Attica Scott  
(9/13/2021)

AN ACT relating to curriculum.  
Amend KRS 156.160 to require public middle and high school curriculum to include instruction on the history of racism.  
(Prefiled by the sponsor(s).)

**BR430** - Representative Thomas Huff, Representative Lynn Bechler, Representative Kevin Bratcher, Representative Jennifer Decker, Representative Ryan Dotson, Representative Russell Webber, Representative Richard White  
(8/30/2021)

AN ACT relating to death benefits for first responders, making an appropriation therefor, and declaring an emergency.  
Amend KRS 61.315 to create a presumption that first responders who die of COVID-19 do so while in the line of duty and thus qualify for death benefits; apply subsection retroactively; APPROPRIATION; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR432** - Representative Richard White  
(9/2/2021)

AN ACT relating to workers' compensation and declaring an emergency.

Amend KRS 342.0011 to define "COVID-19"; create a new section of KRS Chapter 342 to establish workers' compensation liability in instances where employers require vaccination against COVID-19 as a condition of employment and the employee develops an adverse reaction to the vaccine; create a rebuttable presumption that an adverse reaction was caused by the COVID-19 vaccine if it was not present prior to and arises within 14 days of receipt of the vaccine; retroactive to December 14, 2020; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR440** - Representative Kevin Bratcher, Representative Ken Fleming, Representative Jerry Miller, Representative Jason Nemes  
(9/2/2021)

AN ACT relating to school resource officers.  
Amend KRS 158.4414 to require the assignment of school

resource officers to schools by August 1, 2022.  
(Prefiled by the sponsor(s).)

**BR482** - Senator John Schickel  
(10/28/2021)

Direct the Transportation Cabinet to designate a portion of KY Route 8 in Boone County in honor and memory of SP5 Edward A. Barlow; install appropriate signage.  
(Prefiled by the sponsor(s).)

**BR483** - Senator John Schickel  
(10/28/2021)

AN ACT relating to school bus lighting.  
Create a new section of KRS Chapter 156 to allow the installation of auxiliary lighting on school buses; establish auxiliary lighting use restriction; require the Kentucky Department of Education to establish standards and specifications.  
(Prefiled by the sponsor(s).)

**BR490** - Senator John Schickel, Senator Paul Hornback  
(10/7/2021)

AN ACT relating to labeling requirements for fresh produce.  
Amend KRS 217.015 to create a definition for "fresh produce"; create a new section of KRS 217.005 to 217.215 to require retail food stores to provide state of origin and season of harvest information for fresh produce.  
(Prefiled by the sponsor(s).)

**BR496** - Representative John Blanton, Representative James Tipton, Representative Buddy Wheatley, Representative Lisa Willner  
(9/22/2021)

AN ACT relating to occupational exposure to COVID-19 and declaring an emergency.  
Extend the provisions of paragraph 3 of 2020 Executive Order 2020-277, related to temporary disability from occupational exposure to COVID-19 from September 7, 2021, to January 31, 2023; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR826** - Representative Mary Lou Marzian, Representative Lisa Willner  
(9/29/2021)

AN ACT relating to reproductive privacy and declaring an emergency.  
Create new sections of KRS Chapter 311 to establish legislative findings; to provide every individual the right to choose or refuse contraception, sterilization, to carry a pregnancy to term, give birth to a child, or terminate a pregnancy; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR832** - Representative Danny Bentley, Representative Joseph Fischer  
(10/19/2021)

AN ACT relating to DNA.  
Create a new section of KRS Chapter 311 to regulate the collection, use, and transfer of human DNA samples;

create penalties for violations of the prohibitions; state the Act shall be known as the Protecting DNA Privacy Act.  
(Prefiled by the sponsor(s).)

**BR853** - Representative Attica Scott  
(11/22/2021)

AN ACT relating to historical instruction.  
Create a new section of KRS Chapter 158 to require African history instruction in certain middle and high school world history and civilization courses; require Native American history instruction in certain middle and high school United States history courses; require the Kentucky Board of Education to promulgate administrative regulations establishing academic standards for the required historical instructions; require local school boards to adopt curricula for required instruction; require the Department of Education to collaborate with the Kentucky African American Heritage and the Kentucky Native American Heritage Commission to develop recommended curricula and instruction guidelines for the required historical instruction, elective high school course offerings in African history and Native American history, and relevant professional development materials.  
(Prefiled by the sponsor(s).)

**BR954** - Senator Brandon Smith  
(11/5/2021)

AN ACT relating to special purpose depository institutions.  
Create a new Subtitle 12 of KRS Chapter 286 to establish special purpose depository institutions that engage in a nonlending banking business; establish findings and purposes for subtitle; provide for the organization, powers, and chartering of the institution; require directors to take oaths; establish capital, bonding, contingency, and insurance requirements; establish requirements for offering depository accounts and other services; provide that certain provisions of Subtitle 3 of KRS Chapter 286 shall apply to the institutions; establish branching requirements for in-state and out-of-state institutions; provide for administrative appeals; require the commissioner of financial institutions to adopt administrative regulations to implement the subtitle; establish administrative penalties and procedures for violations of the subtitle; establish when the commissioner shall close an institution for liquidation; establish procedures for voluntary dissolution; amend KRS 286.1-011 and 286.2-685 to conform; amend KRS 286.2-040 to allow the commissioner to examine special purpose depository institution service providers; require the commissioner to promulgate administrative regulations to implement the Act on or before October 1, 2022; EFFECTIVE, in part, on October 1, 2022.  
(Prefiled by the sponsor(s).)

**BR955** - Senator Brandon Smith  
(11/5/2021)

AN ACT relating to digital assets.  
Establish KRS Chapter 355A and create new sections thereof to define and establish property classifications for digital assets; supplement and modify provisions of the Uniform Commercial Code, KRS Chapter 355, relating to the classification, perfection, and priority of digital assets; allow debtors located in Kentucky to file a financial statement with the Secretary of State to perfect a security

interest in a digital asset; establish when a transferee takes a digital asset free of any security interest perfected by filing; for purposes of Article 9 of KRS Chapter 355, establish when digital assets are located in Kentucky; classify open blockchain tokens with certain characteristics as intangible personal property; require developers and sellers of certain open blockchain tokens to file a notice of intent with the Secretary of State, and pay a filing fee, prior to sale in this state; require the Secretary of State to promulgate forms and make the forms accessible to filers; require facilitators of certain open blockchain tokens in the resale market to comply with certain requirements; establish penalties for violation of the section; provide that the Secretary of State may make referrals to law enforcement agencies; provide that section may be cited as the Kentucky Utility Token Act; create a new section of Subtitle 2 of KRS Chapter 286 to permit certain Kentucky financial institutions to elect to provide custodial services of customer currency and digital assets in accordance with the provisions of the section; establish internal control and customer contracting requirements for providing custodial services under the section; provide that digital assets held in custody under the section are not depository liabilities or assets of the financial institution; require the commissioner of financial institutions to establish a supervision fee; create a new section of Article 1 of KRS Chapter 355 to conform; amend KRS 369.103 to include transactions involving digital assets; provide that the Secretary of State and the commissioner of financial institutions shall promulgate administrative regulations to implement the Act on or before October 1, 2022; EFFECTIVE, in part, October 1, 2022.  
(Prefiled by the sponsor(s).)

**BR961** - Representative Matt Lockett, Representative Jason Petrie, Representative Walker Wood Thomas (11/18/2021)

Apply to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraint on the federal government, limit the powers and jurisdiction of the federal government, and limit the terms of office for its officials and members of Congress; direct the Secretary of State to send copies of the joint resolution to certain federal and state officials; state that the application should be continuing until the legislatures of at least two-thirds of the states have made applications on the subject.  
(Prefiled by the sponsor(s).)

**BR1046** - Representative Thomas Huff (11/19/2021)

AN ACT relating to the control of vehicular traffic. Amend KRS 56.580 to prohibit closing portions of Capital Avenue in Frankfort.  
(Prefiled by the sponsor(s).)

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\* - denotes primary sponsorship of BRs

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2021 Interim  
**LEGISLATIVE  
RECORD**

Published monthly by the Legislative Research Commission, the *Interim Record* is designed to inform the citizens of Kentucky of the between-sessions work of the General Assembly.

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