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# INTERIM RECORD

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A SUMMARY OF INTERIM ACTIVITIES

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## Lawmakers hear testimony on COVID-19's impact on child abuse cases

by Jordan Hensley

FRANKFORT— Over the summer, lawmakers on the Child Welfare Oversight and Advisory Committee expressed concern over reported incidences of child abuse and child abuse court cases.

During an Oct. 14 meeting, the committee received an update on both.

According to Kentucky Court of Justice data, in March 2019, 2,191 dependency, neglect and abuse cases were filed in Kentucky courts and 2,002 were filed in April 2019. In March 2020 and April 2020, 1,476 and 903 cases were filed, respectively.

Marcus Vanover, a family court judge in Lincoln, Pulaski and Rockcastle Counties, shared with lawmakers that although COVID-19 safety protocols have changed how court operates, courts did not close.

“The judicial centers continued to allow physical access for those that were seeking emergency orders for domestic violence, dating violence and child welfare,” Vanover said. “... Our courts scrambled to learn how to do hearings remotely, however, child welfare cases have been held even on the first day of COVID limitations.”

Vanover also told lawmakers that child welfare cases have remained a priority for courts across the state.

After the presentation, Rep. Lynn Bechler, R-Marion, asked if the pandemic is the reason why the amount of court cases filed in March and April dropped this year.

“Frankly, with children having to stay at home, there just were fewer eyes on them that would be reporting potential abuse or neglect,” Vanover said, adding he believes the COVID-19 pandemic is a contributing factor to the lower amount of cases filed in March and April 2020.

Bechler responded by saying he believes this data is an argument to open schools back up since so many reported incidences of suspected abuse comes from teachers and daycare workers.



Rep. Lynn Bechler, R-Marion, asks a question about the COVID-19 pandemic's impact on child abuse court cases.

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# Committee focuses on substance abuse treatment programs

by Jordan Hensley

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FRANKFORT— The opioid epidemic facing the nation sadly has not left Kentucky untouched.

Over the last eight years, the Kentucky General Assembly has allocated funding and passed several bills to combat the crisis and hold those who make the issue worse accountable.

During the Oct. 13 meeting of the Substance Use Recovery Task Force, Van Ingram, executive director for the Kentucky Office of Drug Control and Policy, kicked off the conversation with lawmakers on what Kentucky is doing to combat the substance abuse epidemic.

He also told lawmakers these programs need reliable funding sources and more funding, if possible.

“These core dollars that we’re receiving are crucial,” Ingram said. “... It’s difficult for states and organizations to plan when we have these one-year grants.” Ingram told committee co-chair Sen. Ralph Alvarado, R-Winchester, that there is a bipartisan bill working its way through the U.S. Congress that could guarantee up to six years of funding.

“Co-chair Alvarado and I may be working together on some solutions to help you with your request to Congress,” committee co-chair Rep. Russell Webber, R-Shepherdsville responded.

Representatives from treatment centers across the Commonwealth also shared the challenges and needs facing their facilities and patients with lawmakers.

Mike Cox, president of Isaiah House, shared research with lawmakers that shows money invested in addiction treatment reduces drug related-crime, judicial costs and medical costs.

“The article continues by stating good outcomes are contingent on adequate treatment length,” Cox said.

Cox said that many health insurance companies will only pay for short-term treatment rather than long-term treatment and many people cannot afford to pay for long-term treatment on their own.

“The deeply rooted issues of addiction as we know are not solved quickly,” Cox said. “Trying to treat addiction in 21 days is like treating cancer with Tylenol: It doesn’t work.”

Cox added that the biggest issue facing Kentuckians isn’t that there aren’t enough beds for patients, but that access to the beds available is hindered by patients not being able to afford quality care.

Dr. Tuyen Tran and Dr. Marvin Bishop with 2nd Chance Center for Addiction Treatment shared with lawmakers that in rural areas it’s more difficult for patients to seek care due to lack of transportation.

Continued on next page



Rep. Russell Webber, R-Shepherdsville, responds to a comment by Van Ingram, executive director of the Kentucky Office of Drug Control and Policy during a Substance Use Recovery Task Force Meeting.





Although telehealth access and services expanded recently due to the COVID-19 pandemic, Tran said there are still some barriers when it comes to substance abuse treatment.

“The DEA has a clause, the Ryan Haight Act, which requires that the initial visit be an in-person, face-to-face visit if you wish to prescribe a controlled substance,” Tran said.

According to Tran and Bishop’s presentation, many people seeking substance abuse treatment require the use of controlled substances to treat their addiction.

Tran also agreed with Isaiah House’s claim that insurance providers, including Medicaid, hinder access to quality treatment.

According to Tran, there are restrictions in place on mental health counseling services and how many drug screenings a patient can have and what type of screenings.

“I know it’s very difficult to articulate language and verbiage to draft in a piece of legislation, but instead of having hard, arbitrary (language), allow the clinicians to do what we normally do and what we were trained to do, which is use our judgement,” Tran said.

Alvarado responded that he believes there’s some legislation in the works to make the expanded access to telehealth due to COVID-19 permanent, however, there may be some federal restrictions.

# Child abuse, from page 1

In response to Bechler’s comment, Sen. Reginald Thomas, D-Lexington, said he does not believe it is wise for children to return to schools due to the rising number of COVID-19 cases across the state.

Committee co-chair Rep. David Meade, R-Stanford, also weighed in on the issue. “That is an issue that there are several varying opinions on,” he said. “I appreciate each and every person’s opinion... I do think, however, as we just saw with these slides with the dependency, neglect and abuse cases that are filed going down... there are sometimes things worse than this virus for children.”

Although COVID-19 has had an impact on child welfare, the Department for Community Based Services (DCBS) testified that staff is still working to assess for safety, risks, and the needs of the families they serve. Video conferencing has been utilized and in-person visitation has been permitted if needed, according to the presentation.

DCBS Division of Protection and Permanency Director Christa Bell said that at the beginning of the pandemic, there were concerns on how that would impact foster family availability.

“We were very pleasantly surprised that nearly all foster families surveyed were willing to accept more children and even more than half of the families surveyed were willing to accept children that had potentially been COVID exposed or COVID positive,” Bell said.

Bell also testified that the amount of intakes of children during the summer months was close to how it usually is during a normal, COVID-19-free year.



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## INTERIM JOINT COMMITTEE ON AGRICULTURE

### Minutes of the 4th Meeting of the 2020 Interim September 17, 2020

#### Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Agriculture was held on Thursday, September 17, 2020, at 8:30 AM, in Room 171 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 Stan Humphries, Robby Mills, Dennis Parrett, Damon Thayer, Stephen West, and Whitney Westerfield; Representatives George Brown Jr, Kelly Flood, Joe Graviss, Mark Hart, Kim King, Matthew Koch, Phillip Pratt, Brandon Reed, Rachel Roberts, Steven Rudy, Dean Schamore, John Sims Jr, Wilson Stone, Nancy Tate, Walker Thomas, James Tipton, and Susan Westrom.

Guests: Julie Brooks, Regulation Coordinator, Department for Public Health; Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services; Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services; Dr. Chad Lee, Director, Grain and Forage Center of Excellence, UK College of Agriculture, Food, and Environment; Laura Knoth, Kentucky Small Grain Growers Association; Billy Van Pelt, American Farmland Trust; Sam Halcomb, Walnut Grove Farms; Chris Poynter, Woodford Reserve; Chris Morris, Master Distiller, Woodford Reserve; Brian Brandt and Scott Franklin, American Farm Land Trust; and Keith Rogers, Chief of Staff, Kentucky Department of Agriculture.

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

The August 27, 2020 minutes were approved without objection, upon motion made by Representative Reed and seconded by Representative Koch.

#### Update of Administrative Regulation Related to Food Establishments

Julie Brooks, Regulations Coordinator, Department for Public Health explained the timeline in the regulation process for food service establishment fees. An amendment was filed to 902 KAR 45:110 in June and the public comment period ended August 31. The Department is working through the statement of consideration that will be filed with the Legislative Research Commission (LRC) by October 15, 2020. She said the language in House Bill 129 gave the Department until December 31, 2020, to file an amendment to the regulation to raise food service establishment fees by 25 percent. The other part of the amendment removes the food manufacturing fees from that regulation and those fees will be promulgated through 902 KAR 45:180 (a new administrative regulation). The new regulation was filed on June 4, 2020, and the Department

received approximately 450 comments on that regulation. A statement of consideration will also be filed with the LRC. Ms. Brooks stated that once the statements of considerations are filed, the regulations will go before the Administrative Regulations Review Subcommittee in November, and then move on to the second committee either this December or March, 2021. Ms. Brooks said the food manufacturing fee structure is being changed to a risk model that will include income brackets for manufacturers.

In response to Representative Graviss, Ms. Brooks said the authority to increase fees for food processing establishments is in KRS 217.125 (2). The authority to increase food service and establishment fees is in KRS 217.125 (4). The authority to change to a risk based model, goes back to the Food and Drug Administration's (FDA) classification of food manufacturing.

Representative Graviss said he was concerned about the Cabinet going against the intent of House Bill 129 from the 2020 regular session. Some of the fees contained in the proposed fee structure will be more than some farmers make in a year. Ms. Brooks stated that the Department would take another look at the proposed fee structure.

In response to Representative King, Ms. Brooks said the Department would address all comments received, and those would be listed in the statement of consideration for both 902 KAR 45:110 and 902 KAR 45:180.

In response to Representative Reed, Ms. Brooks said that there are 176 firms that fall within the income level of \$100,000 and \$1,000,000. She said she would provide to staff the number of firms listed under the income level of \$100,000 and income greater than \$1,000,000.

Senator West stated that there should be fee decreases instead of increases, especially in light of food shortages during a pandemic.

Senator Hornback stated that the Department should be focused on the health and well-being of all Kentuckians, which means the availability of fresh produce. The proposed fee increases work against the producers and consumers.

Representative Graviss said that even though this proposal was much better than the first proposal, it is still inappropriate to promulgate administrative regulations that go beyond the limitations set in House Bill 129. Representative Graviss asked if the co-chairs would consider doing a letter to the Department listing the concerns and comments of the committee.

Ms. Brooks stated that the comment period on the regulation ended in August. Although, she said the Department would take a look at the written comments already received and the comments made in today's meeting and possibly make some changes.

Ms. Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, stated that the committee's comments would not be included in the record, but could be considered in making changes to the regulation. The Statement of Consideration deadline is October 15, 2020, therefore there is not enough time to revise and add comments.

In response to Representative Tate's question about why the fee increases are so important to do right now, other



than generating additional revenue, Ms. Brooks stated that House Bill 129 has a time limit of December 31, 2020, in order for the Department to file a fee increase.

In response to Representative Tate, Ms. Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, stated that House Bill 129 contains language that changes to the regulations must be done by the end of 2020.

Senator Thayer asked the Department to consider what consumers are dealing with in this pandemic before implementing massive fee increases. He also asked the co-chairs to send a joint letter to all the interested parties to formalize, in writing, the bipartisan concerns discussed by the committee.

Senator Parrett stated that if the Department decides to apply the three-tiered structure, then apply the rules of House Bill 129.

In response to Senator West, Ms. Rodman stated that she will have to review the legislation to see if a fee increase is mandated.

In response to Senator West, Ms. Rodman said that increased fees would not go into effect until 2022, pending agreement of the committee of jurisdiction.

Representative Pratt stated that increasing fees from \$125 to \$2,500 would devastate small businesses. Ms. Rodman said that the proposed fee structure was being looked into.

Representative Tate said that she would be willing to do an amendment to the bill in order to eliminate this type of activity in the future.

**Overview of the Kentucky Commercial Rye Crop Initiative**

Mr. Billy Van Pelt, Senior Director of External Relations, American Farmland Trust (AFT), stated that AFT was founded in 1980. AFT speaks for the land and the people who grow the nation's food. The AFT has three priorities: protecting agricultural land, promoting sound farming practices, and keeping farmers on their land. Mr. Van Pelt explained that commercial quality rye was once widely cultivated in Kentucky. Over the years, the production of rye almost ceased because farmers decided to produce row crops like corn and soybeans. Due to recent research, funding, and interest of farmers and distillers, growing cereal rye could provide additional revenue for the farmers and provide rye for making bourbon. The Kentucky Commercial Rye Cover Crop Initiative had two goals: to determine how to best grow cereal rye as a high-quality grain crop and to develop a network of farmers and buyers of cereal rye. The AFT would be partnering with the Kentucky Agricultural Development Fund, the University of Kentucky, the Kentucky Small Grain Growers Association, and Dendrifund. The goal is to enroll 20 farmers for the 2020-2021 season who will grow over 500 acres of rye. Mr. Van Pelt said that AFT and its partners have raised cash and in-kind contributions of \$450,429 to support the ongoing success of the project.

In response to Senator Hornback, Laura Knoth, Executive Director, Kentucky Small Grain Growers Association, said that farmers from across the state are interested in the Rye Crop Initiative. She said that farmers would be required to install weather stations, have their crops tested, send in samples, and provide feedback. She confirmed that the mentioned farmer from Hickman County does not have a relationship with the distillers.

Dr. Chad Lee, Director, Grain and Forage Center of Excellence, UK College of Agriculture, Food and Environment, said that last year Brown Forman Reserve

bought three loads of rye from three different farmers, and are looking to expand to other distilleries. If rye can be grown successfully at a high quality, it would be fitting to see rye move into the distillers market and expand into other markets. The University of Kentucky is in the process of developing genetics that would produce seeds conducive to growing conditions in Kentucky. If Kentucky can have wheat and rye crops for cover crops and both crops are able to bring in cash flow, then that would be great for farmers to sell at local markets.

Mr. Chris Morris, Master Distiller, Woodford Reserve, said that their corn supply is being purchased from local farmers, but their purchase of rye is being purchased from outside of Kentucky. The Rye Crop Initiative is a good project, but distillers are more interested in the flavor of the rye.

Sam Halcomb, Walnut Grove Farms, said that the project would help farmers to diversify crop rotation, help with soil health, and add to market diversity.

In response to Representative King, Dr. Lee said he was not aware of rye being an added product for human consumption, other than bourbon. Ms. Knoth said that there is rye bread.

In response to Senator West, Dr. Lee and Ms. Knoth stated that the distilleries currently get rye from Canada and Europe. Ms. Knoth stated that the Small Grain Growers Association is working to help research on breeding and developing a Kentucky Rye that grows well in Kentucky and that will provide the flavor profile desired by the distilleries.

In response to Representative Flood, Dr. Lee said that the biggest challenge for growing rye in Kentucky is high temperatures. The seeds obtained from Germany are for cooler weather conditions. He said the need for water is not that great since wheat and rye have long root systems.

In response to Representative Koch, Dr. Lee stated that it was possible to harvest rye and still use for straw bedding.

**Comments regarding Administrative Regulations**

In response to Representative Graviss, Keith Rogers, Chief of Staff, Kentucky Department of Agriculture, reminded members that it is a federal law for hemp to contain no more than 0.3 percent THC. Chairman Heath noted that he agreed that the THC level should be raised from 0.3 to 1 percent especially when even poor quality marijuana is near 10 percent THC.

Co-Chairman Hornback responded by saying that no matter the set percentage, there would always be a farmer who would be just barely over the allowed percentage. In response to Senator Hornback, Mr. Rogers explained that the United States Department of Agriculture (USDA) released the interim final rule on October 31, 2019, putting in place the process by which a state would submit a state plan for approval by the USDA. KDA worked through November, December, and January to get the state plan submitted, but there were some issues that would have negatively impacted the Kentucky hemp industry – such as post-harvesting testing. At the last minute, KDA decided to not submit a state plan and to continue operating under the old plan of the pilot program. The regulations were redone in order to operate the 2020 hemp program, which are listed on the agenda. Mr. Rogers said KDA had submitted a new state plan and filed new regulations that would take effect in 2021. He said KDA is waiting for a response from the USDA on the 2021 plan.

In response to Senator Hornback, Mr. Rogers said that under new legislation from the 2019 session, KDA was authorized to use the Breathitt Diagnostic Center for testing

along with the University of Kentucky.

In response to Representative Graviss, Mr. Rogers said that the fee structure for farmers, included in the regulations, were lower if farmers applied online. He also stated that the hemp program, as of July 1, 2019, has been self-sufficient.

In response to Representative Sims, Mr. Rogers said that there are several hemp farmers who did not get paid for their crop last year, but he did not know the exact number of farmers who did not get paid.

Meeting adjourned.

Review of Referred Regulations

Kentucky Department of Agriculture

**302 KAR 022:050** Stockyards

**302 KAR 050:012** Repeal of 302 KAR 50:040 and 302 KAR 50:050

**302 KAR 050:020** Policies and procedures for hemp growers

**302 KAR 050:030** Policies and procedures for hemp processors and handlers

**302 KAR 050:055** Sampling and THC testing; post-testing actions; disposal of noncompliant harvests

**302 KAR 050:060** Fees for the Hemp Licensing Program

**INTERIM JOINT COMMITTEE  
ON APPROPRIATIONS AND  
REVENUE  
Minutes of the 4th Meeting  
of the 2020 Interim  
September 16, 2020**

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 16, 2020, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Michael Adams, Secretary of State; Kate Shanks, Vice President of Public Affairs, Kentucky Chamber of Commerce; Cookie Crews, Commissioner, Kentucky Department of Corrections; Randy White, Deputy Commissioner of Adult Institutions, Kentucky Department of Corrections; Hilary Dailey, Deputy Commissioner of Support Services, Kentucky Department of Corrections; and Lisa Lamb, Deputy Commissioner of Community Services and Local Facilities, Kentucky Department of Corrections.

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

**Approval of Minutes**

A motion was made by Senator Parrett, seconded by Senator Nemes, to approve the minutes from the August 19, 2020, meeting. The minutes were approved by voice vote.

**Election Expenses and Other Concerns**

Michael Adams, Secretary of State, discussed election

expenses and other concerns.

Secretary Adams testified that during the primary elections this year in Kentucky, voters were given options, there was high voter turnout, there was no spike in COVID-19 cases, and there was no evidence of vote fraud.

For the general election, absentee voting will be scaled back some. Absentee balloting will be encouraged for those who need it. Normally, only two percent of Kentucky voters vote absentee. In the primary, roughly 75 percent voted absentee. Secretary Adams testified that while this worked in a primary election, it could be disastrous if three quarters of voters voted absentee in a general election. The Secretary of State's office has received 321,000 requests for absentee ballots. This is 80,000 less than were requested at the same point before the primary election.

There will be three weeks of early in-person voting in the general election. No excuses or appointments will be necessary to vote early. Early in-person voting will start October 13. There will be many more voting locations on November 3 than there were on June 23. Secretary Adams has approved 48 county plans. Only one approved county plan has just one voting location. Great strides have been made to facilitate in-person voting on November 3.

Congress has paid the vast majority of election costs. Following the primary, almost \$2,000,000 was left in 'Help America Vote' Act dollars earmarked for election equipment upgrades. Another \$2.5 million was left in CARES Act funding, which is much more flexible. Secretary Adams reviewed the budget for the general election, which he said would cost \$9.74 million. Four million dollars are needed for absentee ballot postage. Additional county staffing will cost another \$2.2 million. Election equipment upgrades will cost \$2 million. Other expenses include funds for a state board of elections call center, public service announcements, and other miscellaneous costs.

Senator McDaniel commented on how younger people were beginning to volunteer to serve as poll workers. In response to a question from Senator McDaniel, Secretary Adams stated that county clerks will be reimbursed for election costs primarily based on utilization of absentee ballots. Secretary Adams discussed the challenge of getting younger poll workers.

In response to a question from Representative Stone, Secretary Adams testified that he has confidence in the election system. He continued to say that county clerks will be allowed to process absentee ballots more quickly than normal. The absentee voting and early voting phases will be staged separately. Secretary Adams predicted that 75 to 80 percent of the votes will be counted on election night. Results will be unofficial, but will be enough to project some outcomes.

In response to a question from Representative Bentley, Secretary Adams stated that the State Board of Elections call center will presumably use Board of Elections staff.

Representative Nemes discussed the need for an adequate number of voting locations in Jefferson County. Secretary Adams responded that his office had not yet received plan proposals from Jefferson, Fayette, Boone, Daviess, Pulaski, and other large counties. He added that he did not have a particular number of voting locations in mind to apply to any one county. Jefferson County typically has 239 locations to vote at on election day. Secretary Adams added that one location per metro council district, which would total 26 locations, may be the minimum amount of locations that Jefferson County should have. Secretary Adams concluded by saying that he would not approve a plan from Jefferson County that contained only four voting

locations, and that he and Governor Beshear both have the ability to veto a plan.

In response to a question from Representative Prunty, Secretary Adams expressed his support for having a permanent place in each county where any voter in the county can vote. In response to another question, Secretary Adams stated that a voting center doesn't have to be a large facility.

Representative Dossett discussed how the county clerk in Hopkins County will use a mobile voting precinct across the county so that individuals can vote in person. Secretary Adams added that Anderson County used drive-thru voting.

In response to a question from Representative Rudy, Secretary Adams testified that the \$2 million for equipment are funds matched by the counties rather than the state. Upgrading machines has improved the security of the ballot. Secretary Adams discussed how paper scanners which are capable of processing paper ballots improve security and voter confidence. In response to another question from Representative Rudy, Secretary Adams stated that it is a Class D felony in Kentucky to vote more than once, and that it is not possible to do. Because of e-Poll books, there is an instantaneous recording of any time a ballot is received. Federal dollars were used to buy e-Poll books.

In response to a question from Representative Bechler, Secretary Adams testified that this general election will cost roughly \$5 million dollars more than what the General Assembly has already allocated to the State Board of Elections and to local governments to reimburse county clerks. Normally, it costs the state \$10 million to run an election. This election will cost about \$20 million. Roughly \$5 million dollars will be covered by the federal government. This leaves \$5 million dollars for the state to cover in extra costs exceeding what the General Assembly already appropriated. In response to another question, Secretary Adams said that votes are recorded electronically and instantaneously. If someone votes once, they cannot vote again. He continued to say that no one voted twice in the primary election.

In response to a question from Representative Prunty, Secretary Adams stated that the Center for Voter Information is a shady group, and advised Kentuckians to disregard any contact they get from the group.

In response to a question from Senator Nemes, Secretary Adams testified that September 30 is the deadline for every county to produce a plan for the election. He continued to say that his office is providing the information for each county on [www.sos.ky.gov](http://www.sos.ky.gov). In response to another question, Secretary Adams said that his goal is to resolve any differences with counties on their plans before October 1.

In response to a question from Senator Wheeler, Secretary Adams testified that any incident of an individual attempting to vote twice will be referred for prosecution.

#### **Kentucky Chamber of Commerce Request for CARES Funding for Unemployment Insurance Loan Repayments**

Kate Shanks, Vice President of Public Affairs, Kentucky Chamber of Commerce, discussed the Kentucky Chamber of Commerce request for CARES funding for unemployment insurance loan repayments.

Ms. Shanks testified that the Kentucky Chamber of Commerce understands the importance of the Unemployment Insurance (UI) program, stating that it is an important safety net for those who become unemployed through no fault of their own. The Chamber is concerned

with the status of the UI trust fund. Benefits are even more important during the pandemic. The Chamber is concerned with the tax increase that will come early next year to replenish the fund.

The trust fund was at a much healthier state at the start of the pandemic. Businesses were at tax rate schedule A, which is the most favorable schedule. After the great recession, the trust fund was depleted and businesses were at schedule E, the highest cost tax schedule. Similar circumstances are faced now. The Chamber expects to move from the lowest cost to the highest cost tax schedule at the beginning of next year. The Chamber along with other organizations have urged the Governor to provide some of the CARES Act federal dollars to the state trust fund. This is an allowable expense under the CARES Act.

Ms. Shanks discussed how businesses have stepped up during the COVID-19 pandemic. She continued to say that the significant tax increase coming next year will stall the recovery. Employers are hiring and people are trying to get back into the workforce. The labor force has decreased significantly. For July, the workforce was down more than 200,000. Ms. Shanks stated that financial difficulties in businesses also means financial difficulties in state government, since the largest portion of the state general fund comes from income and sales taxes remitted by businesses. The Chamber has reached out to Kentucky's congressional delegation and asked for help. For the 2021 regular session, the Kentucky Chamber of Commerce will be focused on a recovery agenda.

In response to a question from Representative Rudy, Ms. Shanks stated that Governor Beshear's office is considering the Chamber's request.

Senator McDaniel asked that Ms. Shanks provide the committee with a chart of the different UI tax rate schedules. He continued to discuss the number of unemployment insurance calls members of the general assembly receive from the public. Senator McDaniel also discussed the difficult situation businesses are facing.

Representative Tipton encouraged members of the committee to let their constituents know that come January 1, businesses will see a significant increase in unemployment insurance premiums. In response to a question from Representative Tipton, Ms. Shanks stated that her understanding was that CARES Act funding would expire at the end of this year unless congress takes additional action to extend it. The Chamber understands that some of the CARES Act funds have already been spent, and that there is not enough money to solve the UI trust fund issue. The Chamber has been informing its members of the coming rate increase.

Senator West stated that it is the administration's obligation to help businesses. He continued to say that information he received from State Budget Director John Hicks shows that there is \$768 million left available from the Coronavirus Relief Fund. In response to a question from Senator West, Ms. Shanks testified that the Kentucky Chamber of Commerce believes those funds can be used for the UI trust fund. In response to another question, Ms. Shanks stated that she did not know whether those funds had already been spent down.

In response to a question from Senator Givens, Ms. Shanks testified that businesses pay into the UI trust fund rather than employees. She continued to say that it took a while for the fund to reach schedule A after the great recession, which took significant investment over time. As the economy expands, businesses pay more into the UI trust fund. Senator Givens discussed how business closures



impact trust fund rates and the trust fund balance.

**Budgetary Impacts Related to Prisons and Jails**  
Cookie Crews, Commissioner, Kentucky Department of Corrections; Randy White, Deputy Commissioner of Adult Institutions, Kentucky Department of Corrections; Hilary Dailey, Deputy Commissioner of Support Services, Kentucky Department of Corrections; and Lisa Lamb, Deputy Commissioner of Community Services and Local Facilities, Kentucky Department of Corrections, discussed budgetary impacts related to prisons and jails.

Deputy Commissioner Hilary Dailey testified that for fiscal year (FY) 2020 the Department of Corrections saved \$10 million due to a lower than forecasted inmate population. This is the first time in 10 years that the department has not had to make a Necessary Government Expense (NGE) request. In FY 2020, the department received \$3.5 million from the CARES Act to replace state costs. The department needs additional prison beds due to the level of controlled intake, which stands at roughly 2,000 inmates per day who are awaiting admission to a state facility. The department will be working with the Office of State Budget Director on an updated inmate population forecast.

In response to a question from Senator McDaniel, Commissioner Cookie Crews stated that she was fairly certain the inmate population would return to pre-COVID levels at some point in the next fiscal year.

In response to a question from Representative Prunty, Deputy Commissioner Lisa Lamb stated that the department will be able to report how many individuals who have been commuted come back in with a new felony conviction.

In response to a question from Representative Nemes, Deputy Commissioner Lamb testified that the Department of Corrections does not have the ability to track arrests, but that she would check with the Administrative Office of the Courts to see how many early releases have since been rearrested.

In response to a question from Representative Tipton, Ms. Dailey stated that there were 645 commutations in August. She continued to say that it was too early to determine the amount of savings for FY 2021. In response to another question, Ms. Dailey stated that controlled intake refers to individuals waiting to come into a state institution because they cannot serve time in a county jail.

With no further business before the committee, the meeting was adjourned at 2:19 p.m.

**INTERIM JOINT COMMITTEE  
ON APPROPRIATIONS AND  
REVENUE**  
**Budget Review Subcommittee on Economic  
Development, Tourism, and Environmental  
Protection**  
**Minutes of the 4th Meeting  
of the 2020 Interim**  
September 16, 2020

**Call to Order and Roll Call**  
The 4th meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 16, 2020, at 8:30 AM, in Room 154 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 Lynn Bechler, Co-Chair; Senators Morgan

McGarvey and Max Wise; Representatives Terri Branham Clark, David Hale, Savannah Maddox, Bart Rowland, Dean Schamore, and Russell Webber.

Guests: Kasey Maier, President, Waterfront Botanical Gardens.

LRC Staff: Sara Rome, Kevin Newton, Joseph Holt, and Benjamin Thompson

**Approval of Minutes**  
Representative Webber made the motion to approve the minutes from the August 19, 2020 meeting. Representative Hale seconded the motion, and the minutes were approved without objection.

**Waterfront Botanical Gardens**  
Ms. Maier provided a short video of the Waterfront Botanical Gardens facilities along with testimony for future plans. The Waterfront Botanical Gardens are requesting \$350,000 for a pedestrian walkway into the property.

In response to a question from Representative Webber, Ms. Maier confirmed that the Waterfront Botanical Gardens opened in October of 2019. Ms. Maier noted that between October of 2019 and March 14 of 2020, the gardens had received over 100,000 visitors and that there is no fee to enter.

There being no further business before the subcommittee, the meeting was adjourned at 9:09 AM.

**INTERIM JOINT COMMITTEE  
ON APPROPRIATIONS AND  
REVENUE**  
**Budget Review Subcommittee  
on General Government,  
Finance, Personnel, and Public Retirement**  
**Minutes of the 2nd Meeting  
of the 2020 Interim**  
August 19, 2020

**Call to Order and Roll Call**  
The second meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 19, 2020, at 8:30 AM, in Room 149 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:  
Members: Senator Robby Mills, Co-Chair; Senators Julie Raque Adams, Dennis Parrett, Reginald Thomas, and Phillip Wheeler; Representatives Kevin D. Bratcher, Jim Gooch Jr., Joe Graviss, Mark Hart, Adam Koenig, Michael Meredith, Suzanne Miles, Jerry T. Miller, Phillip Pratt, and Nancy Tate.

Guests: Robin Morley, Executive Director, Legislative and Intergovernmental Affairs, Finance and Administration Cabinet (FAC); Ruth Day, Commissioner, Commonwealth Office of Technology (COT), FAC; Gerina Whethers, Secretary, Personnel Cabinet; and Mary Elizabeth Bailey, Commissioner, Department of Human Resources Administration, Personnel Cabinet.

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

**Approval of Minutes**  
A motion was made by Representative Koenig to approve the minutes of the July 8, 2020 meeting. The motion was seconded by Representative Hart, and the minutes were approved without objection.

**Presentations**  
Presentations were provided by Robin Morley,

Executive Director, Legislative and Intergovernmental Affairs, FAC; Ruth Day, Commissioner, COT, FAC; and Gerina Whethers, Secretary, Personnel Cabinet.

**Questions**  
In response to a question from Representative Koenig regarding the functionality of Workers' Compensation claims relating to the COVID-19 pandemic, Secretary Whethers said claims can be processed from home or office, and the same investigative policies are in place. She will provide more detail at a later date.

In response to a question from Representative Miles regarding CARES Act funding, Ms. Morley said the FAC is seeking reimbursement for Virtual Personal Network (VPN) software licenses and is waiting for approval. Ms. Day agreed that is what the Personnel Cabinet is seeking as well.

In response to a question from Representative Miles regarding the role of Unemployment Insurance (UI), Ms. Day said the COT provides support for both hardware and software, but they do not oversee other applications and their operations. Representative Miles asked about a Request for Proposal (RFP) bid package in November or December 2019 for UI software, and Ms. Day said that was not within the purview of the COT, and the RFP had instead been issued by the UI office.

In response to a question from Representative Hart regarding the possibility of the workforce becoming 100 percent remote and the projected cost savings involved, Ms. Morley said the FAC does not have a plan in place for a permanent teleworking model. There remains much work that cannot be performed remotely. Ms. Bailey agreed that some positions could never be performed remotely.

In response to a question from Representative Miller regarding changes in the need for office space, Ms. Morley said input from across the Executive Branch relating to agencies' needs for office space will be provided at a later date.

Representative Graviss expressed his appreciation for the work the FAC, COT and Personnel Cabinet perform, and Senator Wheeler agreed with his sentiments.

In response to a question from Chair Mills regarding the RFP for Unemployment Insurance, Ms. Morley said responses are due from vendors by late September or early October, and she will follow up with a formal response at that time.

**Adjournment**  
There being no further business before the subcommittee, the meeting was adjourned at 9:52 AM.

**INTERIM JOINT COMMITTEE  
ON APPROPRIATIONS AND  
REVENUE**  
**Budget Review Subcommittee on Human  
Resources**  
**Minutes of the 3rd Meeting  
of the 2020 Interim**  
September 16, 2020

**Call to Order and Roll Call**  
The 3rd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 16, 2020, at 10:30 AM, in Room 149 of the Capitol Annex. Representative Danny Bentley, Chair, called the meeting to order, and the secretary called the roll.

Present were:  
Members: Representative Danny Bentley, Co-Chair;

Senators Morgan McGarvey and Stephen Meredith; Representatives Adam Bowling, Deanna Frazier, Kimberly Poore Moser, Melinda Gibbons Prunty, Josie Raymond, Steve Sheldon, Cherlynn Stevenson, Susan Westrom, and Lisa Willner.

Guests: Lisa Lee, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS); Steve Bechtel, Chief Financial Officer, DMS, CHFS; Eric Lowery, Executive Director, Office of Finance and Budget, CHFS.

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

#### **Approval of Minutes**

Representative Gibbons Prunty moved to approve the minutes of the July 8, 2020, meeting. Senator Meredith seconded the motion, and the minutes were approved without objection.

#### **Medicaid Budget Update: Fiscal Year 2020 Year-End Report and Fiscal Year 2021 Outlook**

Commissioner Lee and Mr. Bechtel provided an overview of the budget for the Department for Medicaid Services (DMS) for Fiscal Year 2020.

In response to questions from Representative Gibbons Prunty, Commissioner Lee stated that DMS was not having issues with retaining medical providers. Commissioner Lee said that disenrollment is only being limited during the governor's declared state of emergency. Mr. Bechtel noted that Medicaid is the payer of last resort, so if a member were to have other insurance, the member's claim would be paid through the other insurance policies first.

In response to a question from Representative Moser, Commissioner Lee noted that 60 percent of those enrolled in Medicaid are at or below 100 percent of the federal poverty level.

In response to questions from Senator Meredith, Mr. Bechtel noted that DMS was working with the Office of the State Budget Director to project budgetary needs for Fiscal Year 2021 and Fiscal Year 2022.

In response to a question from Representative Frazier, Commissioner Lee stated that a redesign of the Michelle P. waiver was paused due to the COVID-19 pandemic.

In response to a question from Representative Sheldon, Mr. Bechtel noted that DMS cannot disenroll members without losing the increased Federal Medical Assistance Percentages (FMAP) rates provided as part of the federal coronavirus funding. Mr. Bechtel stated that without the 6.2 percent increase in the FMAP, DMS' restricted funds would have been depleted.

#### **Update on Funding and Expenditures for COVID-19 Related Services**

Mr. Lowery provided an overview of the Cabinet for Health and Family Services' (CHFS) COVID-19 response and the costs related, as well as funding that has been received by the federal government for COVID-19 response purposes.

In response to a question from Representative Bowling, Mr. Lowery noted that the various coronavirus funds have different expiration dates.

In response to questions from Representative Gibbons Prunty, Mr. Lowery stated that CHFS operates on a cash basis, meaning that expenditures will not appear until an invoice is received from the vendor or provider.

#### **Update on Status of 2020 Regular Session Senate Bill 50**

Commissioner Lee provided a brief update on the progress that DMS has made in implementing 2020 Regular Session (RS) Senate Bill (SB) 50.

In response to questions from Chair Bentley, Commissioner Lee stated that DMS plans to have a provider contract in place by January 1, 2021. Commissioner Lee said that she could not go into detail on the contract, but noted that DMS intends to meet all requirements outlined in 2020 RS SB 50.

In response to questions from Senator Meredith, Commissioner Lee said that it is included in the contract that Medicaid Managed Care Organizations (MCOs) could not claw back a \$2 medication filling fee that goes to pharmacists. Commissioner Lee noted that occasionally providers will reach out to their legislators before contacting DMS with an issue. Commissioner Lee stated that she didn't have information with her regarding whether the \$2 fee was considered an administrative fee or part of the medical loss ratio.

In response to questions from Representative Sheldon, Commissioner Lee noted that while DMS plans to have a contract in place by January 1, 2021, system changes will need to take place prior to full implementation.

There being no further business before the subcommittee, the meeting was adjourned at 11:53AM.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Justice and Judiciary Minutes of the 3rd Meeting of the 2020 Interim September 16, 2020**

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

The 3rd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 16, 2020, at 8:30 AM, in Room 149 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Jason Nemes, Co-Chair; Senators John Schickel and Whitney Westerfield; Representatives Daniel Elliott, Angie Hatton, and Jason Petrie.

Guests: Cookie Crews, Commissioner, Department of Corrections (DoC); Hilarye Dailey, Deputy Commissioner of Support Services, DoC; Kirstie R. Willard, Director, Division of Local Facilities, DoC; Lisa Lamb, Deputy Commissioner of Community Services and Local Facilities, DoC; Amy Burke, Assistant Deputy Attorney General, Criminal Division, Office of the Attorney General (OAG); and Heather Wagers, Executive Director, Office of Child Abuse and Human Trafficking Prevention and Prosecution, OAG.

LRC Staff: Zachary Ireland, Savannah Wiley, and Amie Elam.

#### **Approval of Minutes**

The minutes of the August 19, 2020 meeting were approved without objection.

#### **Prison and Jail Facility Health Care**

Commissioner Crews, Deputy Commissioner Dailey, and Ms. Willard provided information on health care in correctional facilities.

In response to a question from Representative Hatton, Deputy Commissioner Lamb noted that reentry continues to be a priority for the department. Deputy Commissioner Lamb stated that a reentry services division exists within the

Department of Corrections (DoC).

In response to a question from Senator Schickel, Commissioner Crews said that DoC plans to safely move forward with reimplementing services that had been paused since beginning COVID-19 restrictions

In response to questions from Chair Nemes, Commissioner Crews noted that the DoC would commit to follow the rules regarding Requests for Proposal (RFP).

In response to a question from Senator West, Commissioner Crews confirmed that other states do have ten year contracts in place for jail and prison facility health care.

In response to a question from Senator Schickel, Commissioner Crews stated that 13 inmates and one staff member had died due to COVID-19.

In response to a question from Chair Nemes, Deputy Commissioner Dailey noted that it was not the DoC's intention to issue an RFP for jails only regarding a substance abuse pilot project, but that she would provide more information at a later date.

In response to a question from Senator West, Deputy Commissioner Dailey stated that if the RFP was not issued for a month, the DoC would be happy to reissue for a longer period.

#### **Human Trafficking and Grant for Child Abuse Prevention**

Ms. Burke and Ms. Wagers spoke about a grant that the Office of the Attorney General (OAG) is seeking from the Justice and Public Safety Cabinet to help combat Child Abuse and Human Trafficking.

In response to a question from Senator West, Ms. Burke noted that the OAG has great relationships with the Federal Bureau of Investigation and Homeland Security but that no federal agencies had approached them about additional funding for human trafficking prevention.

In response to a question from Chair Nemes, Ms. Burke noted that the OAG only has one investigator in the Criminal Division. Ms. Wagers stated that the demand is there for an additional 15-20 investigators.

There being no further business before the subcommittee, the meeting was adjourned at 9:44 AM.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Transportation Minutes of the 4th Meeting of the 2020 Interim September 16, 2020**

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

The fourth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 16, 2020, at 10:30 AM, 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 Sal Santoro, Co-Chair; Senators Chris McDaniel and Dennis Parrett; Representatives Chris Fugate, Chris Harris, Samara Heavrin, Thomas Huff, Brandon Reed, John Sims, and Ken Upchurch.

Guests: Secretary Jim Gray, Transportation Cabinet (KYTC); James Ballinger, State Highway Engineer, KYTC; and Robin Brewer, Executive Director, Office of Budget



and Fiscal Management, KYTC.

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

#### **Approval of Minutes**

A motion was made by Representative Fugate to approve the minutes of the August 19, 2020 meeting. The motion was seconded by Co-Chair Santoro, and the minutes were approved without objection.

#### **Road Project Prioritization Methodology**

Secretary Gray provided an overview of the prioritization methodology of road projects.

Chair Higdon thanked Secretary Gray for the work he is doing for the KYTC and expressed his appreciation that James Ballinger is the newly appointed State Highway Engineer. He also commented that Kenny Bishop is doing a great job as the Legislative Liaison for the KYTC.

In response to a question from Co-Chair Santoro regarding the development of road projects, Secretary Gray said it is an ongoing process but is more robust during the month of September.

Chair Higdon commented that the KYTC wants more legislative involvement at the local level, but those meetings are historically held during the first quarter of the calendar year when legislators are in session and cannot attend. Secretary Gray said adjustments need to be made to the process as a part of ongoing improvements.

In response to a question from Chair Higdon regarding actual revenues received to fund projects, Secretary Gray said projects are over-programmed by several million dollars and the fiscal year began with a large backlog of projects, which they are working on now.

#### **Road Fund to Non-KYTC Agencies**

##### **Road Fund Cash Management**

Robin Brewer provided an overview of the amount of Road Fund monies that go to agencies besides KYTC, as well as Road Fund Cash Management.

In response to a question from Chair Higdon regarding drivers' education, Ms. Brewer said she is not familiar with the program, but will research and provide information to the subcommittee at a later date.

In response to a question from Chair Higdon regarding August typically being the lowest in cash than other months, Ms. Brewer said it is typical due to more cash outflow during that time, such as significant debt service payments and revenue sharing payments.

In response to a question from Chair Higdon regarding the requirement that cash not drop below \$100 million, Ms. Brewer said they can drop below that amount, but must have enough coming in to get the tax balance back up to acceptable levels. Some of the revenues normally come in during the last part of the month.

In response to a question from Representative Upchurch regarding schools paying motor fuels taxes, Ms. Brewer said that information will be provided to the committee at a later date.

In response to a question from Co-Chair Santoro regarding how monies are spent, Secretary Gray said obligations are paid first, then projects that are underway, then more projects that are short-term, with emergency safety and maintenance projects a priority as well.

In response to a request from Chair Higdon, Ms. Brewer will provide a chart showing revenues for the past 10 to 15 years at a later date.

#### **Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 11:23AM.

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

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

September 15, 2020

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

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

Present were:

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

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

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

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

Ballard Cassady, President and Chief Executive Officer of the Kentucky Bankers Association (KBA) stated that banks were deemed an essential business at the beginning of the pandemic. Some businesses that are necessary for banking operations, offered their services online, scheduled appointments, and provided drop boxes available to the public. According to a meeting of the legislature's special committee involving county clerks, electronic filing of official documents can be available statewide by December 31, 2021.

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

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

The federal relief plan known as the Coronavirus Aid, Relief, and Economic Security (CARES) Act included the Payroll Protection Plan (PPP). The PPP is a Small Business Administration (SBA) program but banks are creating, funding and underwriting these loans. Many think PPP

loans are coming from Washington D.C. but this will only occur when PPP loans are forgiven or paid off. Thus far, banks have not been reimbursed despite banks loaning \$650 billion to American businesses. Mr. Cassady also discussed the SBA's administration and oversight of the PPP. He expressed how changing the rules when dealing with PPP loans puts a hindrance on banks because rules were being changed daily or retroactively.

By June 30, 2020, banks statewide made about 47,000 PPP loans which protected around 592,000 jobs. There was \$4 billion, of the banks' money, loaned out with an interest rate of one percent over a two year maturity. All other lenders such as credit unions, farm credit, and others made a total of 1,393 loans during the pandemic.

John P. Cooper, Governmental Affairs Consultant with the KBA, stated they had been working with county clerks and others in fee structures to encourage electronic filings. A coalition composed of the KBA, the Bluegrass Bankers Association, Mortgage Bankers Association, Kentucky title agents, automobile dealers, Kentucky Association of Realtors, Kentucky Association of Home Builders, etc. to work on the electronic filing process. Mr. Cooper hopes to start on the electronic filing legislation during the 2021 session.

Co-chair Carpenter commented that he has observed people moving from larger cities to more rural areas because of the pandemic and financial services during COVID-19 have been more personal.

In response to Representative Branham Clark, Mr. Cooper responded that there are several states that are further along in the different stages of modifying their filing systems.

Representative Meredith stated that the challenge banks are seeing is there is not a way to get yield in the bond portfolio. Banks are having to go out seven or eight years to get a one percent return on the bonds to back up the rest of the portfolio. He also commented about audits conducted by the SBA and U.S. Treasurer. Mr. Cassady responded and said it would be easier for the government to audit loans over \$150,000 than to audit every PPP loan given.

In response to Senator Thomas, Mr. Cassady explained that since the Black Lives Matter movement, many banks have set aside a \$3 million fund to lend to people of color and black and brown owned businesses. The KBA is currently working with the regional president of the Federal Reserve in Louisville and are creating panels to talk about institutional racism and how to fix that issue.

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

Christy Carpenter, Director of the BCBA, discussed challenges community banks had during the pandemic. At the beginning, many banking employees had to become an SBA lender, if they were not one before. Communication between the BCBA and the SBA was also lacking, as rules were changing constantly and reported issues of logging on the portal provided by the SBA. As a result, customers questioned why their loans had not yet been processed while PPP loans at other banks were getting approved. Ms. Carpenter also stated that no one was turned away for a PPP loan despite them belonging to another bank.

As community banks start entering the forgiveness phase of the PPP loans, Ms. Carpenter states that banks are still waiting on a final directive from Congress on the forgiveness portion of these loans. Banks are also collecting origination fees and assisting clients with the Complex Forgiveness Application. There is no time frame or indication of forgiveness given when completing the application.

Ms. Carpenter believes that the SBA PPP loans have made a difference in her community by approving around 135 loans and loaning around \$8 million. She recalled several local businesses, firms, and independent contractors that were protected because of the PPP loan. Community banks have also built a strong network by helping each other during the pandemic as well as gaining new customers and improving relationships with current customers.

Lastly, she expressed what legislators could do to help community banks with SBA PPP loans, including encouraging the Kentucky Department of Financial Institutions, the FDIC, the Federal Reserve, and Office of the Comptroller of the Currency to support banks during this process. Legislators can also ease any regulatory burdens regarding SBA PPP loans that banks may encounter moving forward. Finally, committee members can help by sharing Ms. Carpenter's testimony with other members of the General Assembly to educate them on this process.

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

Debbie Painter, President and Executive Chief Officer of the Kentucky Credit Union League (KCUL) discussed what a credit union was and how many credit unions serve in Kentucky. The credit unions in Kentucky are also well capitalized at a nationwide 10.5 percent. Credit unions' assets in the state go from less than \$1 million up to \$1.8 billion.

At the beginning of the pandemic, many credit unions in the state closed their lobbies and increased drive thru services, as well as broadened work and call center hours. To date, no employees at a Kentucky credit union have been laid off or furloughed. Many credit unions offered employee assistance programs to staff whose spouse was laid off or furloughed. She discussed several instances of Kentucky credit unions outside of their normal responsibilities, like providing meals to first responders and NTI materials for over 400 students.

Ms. Painter stated that credit unions do not usually do commercial loans, as they specify in consumer loans, unsecured loans, auto loans, and mortgages. However, four Kentucky credit unions do participate in business loaning. As of the end of August, those four combined made a total of 273 PPP loans and loaned about \$5.5 million. The average loan for credit unions in Kentucky was around \$20,000.

The financial impact of COVID-19 has not been determined for Kentucky credit unions yet. Many credit unions went into payment deferrals. Some deferrals were 60-90 days while others were up to 180 days, and this could have a financial impact on credit unions in the future.

Similar to the KBA, KCUL would also like the county clerk system to switch over to electronic filing. An issue KCUL has encountered is the Transportation Cabinet issued 200 car titles without liens perfected. Many of the financial institutions across the state then have to assess what customer or member's title that did not get the lien perfected. Another issue with the clerks filing system during COVID-19 is bankruptcy court. Because normally a lien would be filed within 30 days, the Governor released two executive orders delaying the county clerk filings for 90 days and the second extended the date to October 2020. If

a lien is stripped for the title, leaving the loan unsecured, credit unions are at risk of losing money. Ms. Painter ended by stating that county clerks, financial institutions, and bankruptcy trustees need to work together on the electronic filing issue.

There being no further business the meeting adjourned.

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

### **Minutes of the 4th Meeting of the 2020 Interim September 24, 2020**

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

The 4th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, September 24, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Russell Webber, Co-Chair; Senators Karen Berg, Rick Girdler, Denise Harper Angel, Jimmy Higdon, Wil Schroder, Mike Wilson, and Max Wise; Representatives Kim Banta, Lynn Bechler, John Blanton, Adam Bowling, Kevin D. Bratcher, R. Travis Brenda, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Kathy Hinkle, Nima Kulkarni, Savannah Maddox, Jason Petrie, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Representative Jason Nemes; Josh Sweeney, Communications Workers of America; Jason De Valdivieso, Communications Workers of America; Mary Quinn Ramer, President, VisitLEX; Patricia J. Knight, Vice President of Finance and Operations, VisitLEX; Michelle Allen, Executive Director, Somerset/Pulaski County Convention and Visitors Bureau; and Ashli Watts, President and CEO, Kentucky Chamber of Commerce.

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

#### **Approval of Minutes**

A motion to approve the minutes of the August 27, 2020 meeting was made by Representative Adam Bowling, seconded by Co-Chair Danny Carroll, and approved by voice vote.

#### **Call Center Relocations**

Representative Jason Nemes; Josh Sweeney, Communications Workers of America; and Jason De Valdivieso, Communications Workers of America, discussed House Bill 13 from the 2020 Regular Session. The bipartisan bill would create a new section in KRS Chapter 337 to require call center employers that intend to relocate to a foreign country to notify the Secretary of the Labor Cabinet at least 120 days prior to relocation. It would also require the Secretary of the Labor Cabinet compile a list of call center employers that have relocated to another country. In addition, if the call center is placed on the Secretary's list, then they will not be eligible for any state tax incentive programs for five years. Failure to notify the Secretary would result in a civil penalty of not more than one thousand dollars for each day of violation. Also, if a call center employer begins working for the state of Kentucky, then the company must move any out of state call centers to

the state within two years.

Answering a question from Representative Adam Bowling, Representative Jason Nemes referenced the definition of call center in Section (1) (a) of HB 13 which states that a call center "means a facility or operation where workers receive incoming and make outgoing telephone calls, e-mail messages, or other electronic communication to provide customer assistance or other customer service." The bill only addresses call center related jobs and not any other jobs within a business or company. Representative Nemes stated he would be willing to add clarifying language if necessary.

Addressing concerns expressed by Representative Lynn Bechler, Representative Jason Nemes referenced Section (4) (b) of HB 13 which states "The secretary of the Labor Cabinet, in consultation with the appropriate state agency proving a loan or grant, may waive the ineligibility requirement provided under this subsection if the employer applying for the loan or grant has demonstrated that a lack of the loan or grant would result in substantial job loss" in the state.

#### **Economic Impact on Local Tourism**

According to Mary Quinn Ramer, President of VisitLEX, the hospitality industry was the first and one of the hardest hit industries in the state by the COVID-19 pandemic. The travel industry may be the last industry to recover, and pre-pandemic levels of travel business may not return until 2024. Additional relief is needed on the federal level, and although the CARES Act helped some travel businesses across the state, it not reach all including VisitLEX and Somerset/Pulaski County Convention and Visitors Bureau. In Lexington, 197 meetings and conventions have been lost which represent 78,000 hotel room nights that the city will not see filled in 2020.

Prior to the pandemic, VisitLEX was running 4.4 percent ahead on transient room tax receipts and was projected to end fiscal year 2020 with \$8.1 million in revenue. Due to the pandemic, the fiscal year ended with \$5.75 million in transient room tax revenue. The Occupancy rate is usually in the 65 to 73 percent range but plummeted immediately in March to 34 percent and to 16.1 percent in April. Campgrounds are currently doing well, but the transient room tax is not collected for those occupancies. The hospitality industry's employment rate has also been greatly affected. Patricia J. Knight, the Vice President of Finance and Operations for VisitLEX, stated that one downtown Lexington hotel has reported having 18 employees when it regularly employs 180. The average daily rate in Lexington is usually about \$100 but is currently about \$76 which translates to a loss of \$88 million in room revenue for Fayette County and a loss of \$3.5 million for VisitLEX. VisitLEX, a quasigovernmental entity, has not been eligible for any federal or state pandemic relief, has had to furlough some of its staff, and has permanently eliminated some of its staff positions. COVID-19 will still have impacts on Lexington and the state as a whole due to anxiety and fear of the public to travel and vendors to schedule meetings and conventions.

Michelle Allen, the Executive Director of the Somerset/Pulaski County Convention and Visitors Bureau, described how her destination marketing organization that is solely funded by a three percent transient room tax has been affected by COVID-19. In 2019, Pulaski County had an increase in economic growth of 6.4 percent which translated to \$126 million with a total economic impact of all five counties that surround Lake Cumberland totaling



\$305 million. The seasonally visited region has its peak season from October to May. There was a hotel occupancy rate of 94 percent on Memorial Day 2019. In contrast, at the start of the COVID-19 pandemic the area’s occupancy rate fell to 11 percent and the Memorial Day 2020 occupancy rate was 45 percent. With a budget of \$390,000, the Ms. Allen said the Somerset/Pulaski County Convention and Visitors Bureau lost about \$55,000 from March to May with a total projected loss of \$110,000 for summer 2020. The Somerset/Pulaski County Convention and Visitors Bureau does participate in a matching funds program through the Department of Tourism for advertising but those funds have been decreased to \$16,000 compared to the \$44,000 that was matched in 2019. Ms. Allen pointed out that the U.S. Travel Association ranked Kentucky 30<sup>th</sup> for tourism advertising funding.

Responding to Co-Chair Russell Webber, Ms. Ramer stated there are not many events scheduled for 2020, aside from a few sporting events. Vendors and meeting planners are apprehensive about scheduling events for the first and second quarters of 2021. VisitLEX has been in discussions with meeting planners for events to be scheduled for 2022 and beyond. There is a new convention center in Lexington that will be opening in the first quarter of 2022 that will be a possible meeting space. Ms. Ramer explained that she believes tourism will not fully recover and get back to pre-pandemic levels until at least 2024.

Replying to Representative Buddy Wheatley, Ms. Allen explained that her office does not cover the McCreary County area or the Big South Fork area, however, the Somerset/Pulaski County Convention and Visitors Bureau does partner with some small offices for travel shows. She stressed the power of advertising for the areas her office covers and for the much smaller destination marketing offices. Addressing a follow up, she explained that the southern region has had issues with insurance and topography for some outdoor recreational activities.

Answering a question from Co-Chair Russell Webber, Ms. Allen listed the five counties that surround Lake Cumberland which include the counties of Wayne, Clinton, Russell, McCreary, and Pulaski. For many years, the average number of visitors per year to the Lake Cumberland area has been about four million. The average number of visitors for 2020 has yet to be calculated, but Ms. Allen estimated that, thus far for 2020, there have been about two million visitors.

Representative Ashley Tackett Laferty further stressed how much the tourism industry in the state has been affected by COVID-19. She highlighted the tourism and outdoor recreation in her district in the counties of Pike and Floyd.

Representative Adam Bowling expressed his concerns for the industry and said the General Assembly will do what they can to assist in the industry’s recovery.

Addressing a question from Co-Chair Russell Webber, Ms. Ramer said she does not know of any Lexington hotels that have closed permanently but many are concerned about the making it through the next six months without their typical reserves that would normally get them through the winter months.

**Update on the Business Community**

Ashli Watts, the President and CEO of the Kentucky Chamber of Commerce, gave an overview of the current state of the Kentucky business community and some of the issues that the Chamber will be advocating for during the 2021 Regular Session. She also addressed the Unemployment Insurance Trust Fund, which was completely depleted to zero dollars after the pandemic began. As a result of the almost \$900 million loan taken out with the federal government

to pay unemployment insurance benefits, state employers will have increased rates in 2021 to repay the loan. In some cases, some businesses may see a 2000 percent increase in their unemployment insurance rates and the state has moved to the worst unemployment insurance rate schedule.

Ms. Watts also discussed the issue of workforce participation which has been a major problem in the state. Although Kentucky had improved over time before the pandemic, as of July 2020 the state ranks 49<sup>th</sup> in the nation for workforce participation. In partnership the Education and Workforce Development Cabinet, the Chamber has created an online database called “Who’s Hiring” in an effort to increase participation rates and display employers that are actively seeking employees. There are currently about 90,000 open positions listed on the “Who’s Hiring” webpage. In addition, Ms. Watts spoke about the issue of childcare for Kentucky employees and explained the need of more in-home and at work childcare options. Prior to the pandemic there were already childcare deserts across the state, but the pandemic has led to the possibility of 40 percent of childcare facilities across the state closing by the end of 2020 if relief is not provided to the industry. There have also been issues of legal liability due to the COVID-19 pandemic. Businesses have stepped up to protect their employees, customers, and consumers throughout the pandemic. A recent U.S. Chamber of Commerce study said that 80 percent of Americans support COVID-19 related legal liability reform unless there was gross negligence involved. Other issues that Ms. Watts said that the Chamber wants to address during the 2021 Regular Session include infrastructure investment and criminal justice reform.

Responding to Senator Jimmy Higdon, Ms. Watts explained that Kentucky was on an unemployment insurance rate Schedule A prior to the pandemic but is now on Schedule D. Although a 2000 percent rate increase is an outlier, employers’ rates for 2021 will be based on the total number of employees, total number of employees that were laid off, how much the employer has contributed to unemployment insurance trust fund, amongst other factors. This rate increase will be imposed on all Kentucky employers. Answering a follow up question, Ms. Watts explained that unemployment insurance benefits paid to independent contractors during the pandemic were paid out of federal funds and additional weeks of benefits paid most recently were paid out of the state UI trust fund.

Senator Mike Wilson spoke about the unemployment insurance surcharge not being paid back until 2023, the effect of the rate increase on employers, and the imperative need of childcare.

Responding to Senator Max Wise, Ms. Watts stated the Chamber has not stressed the reopening of state ran area technology centers but has made a push for reopening all schools across the state to the administration.

Co-Chair Danny Carroll spoke about childcare and adult services centers and stated childcare must be considered when discussing economic development.

There being no further business, the meeting adjourned at 9:56 a.m.

**INTERIM JOINT COMMITTEE ON EDUCATION**  
**Minutes of the 4th Meeting of the 2020 Interim September 15, 2020**  
**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Education was held on Tuesday, September 15, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and staff called the roll.

Present were:

**Members:** Senator Max Wise, Co-Chair; Representative Regina Huff, Co-Chair; Senators David P. Givens, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Gerald A. Neal, Michael J. Nemes, Reginald Thomas, Johnny Ray Turner, Stephen West, and Mike Wilson; Representatives Kim Banta, Tina Bojanowski, R. Travis Brenda, Randy Bridges, Jeffery Donohue, Mark Hart, Scott Lewis, Mary Lou Marzian, C. Ed Massey, Bobby McCool, Kimberly Poore Moser, Melinda Gibbons Prunty, Steve Riley, Attica Scott, John Sims Jr, James Tipton, Russell Webber, Richard White, and Lisa Willner.

**LRC Staff:** Jo Carole Ellis, Yvette Perry, and Christal White.

**Approval of Minutes – August 18, 2020.**

On a motion by Senator Wilson and a second by Representative Moser, the minutes of the August 16, 2020, minutes were approved by voice vote.

**Student Transportation Guidelines for Extracurricular Activities**

Robin Kinney, Associate Commissioner, Kentucky Department of Education (KDE) and Dr. Connie White, Deputy Commissioner, Kentucky Department for Public Health (KDPH) presented student transportation guidelines for extracurricular activities.

Ms. Kinney said the Centers for Disease Control (CDC) recommends social distancing on school buses. Social distancing recommendations are balanced with the ability of the districts to provide students access to education. KDE and KDPH provided compromises and deviated from the CDC requirements after considering operations, logistics, and fiscal impact challenges. They agreed changes were needed to ensure timely and efficient transportation of students while utilizing mitigating strategies to reduce the spread of COVID-19. Mitigation strategies for student transportation include wearing masks, loading students from the back of the bus to the front, temperature checks, the use of hand sanitizer, and rigorous cleaning between routes.

Extracurricular activity transportation guidance was released. With districts facing diverse challenges, KDE and KDPH encourages districts to use a good faith effort for social distancing when feasible and practical. For extracurricular activities, schools are balancing the use of the regular mitigation strategies with assigned seating and capacity charts. Logistics and fiscal impact are less burdensome with fewer students being transported. Neither KDE nor KDPH will police transportation but rely on the good faith efforts of districts based on each district’s unique circumstances. Districts are encouraged to use existing resources to achieve the best result for their district.

In response to a question from Senator Wise, Ms. Kinney said KDE and KDPH have been working with Commissioner Tackett of the Kentucky High School Athletic Association (KHSAA) in determining the transportation guidance. Prior to KHSAA’s final vote for sports participation, specific guidance for extracurricular transportation was not included in the initial transportation documentation. With the onset of questions, KDE, KDPH, and KHSAA amended the original document to include a guidance plan for student transportation to include extracurricular activities.

Responding to a question from Senator Meredith, Ms. Kinney said CDC guideline recommendations include one student every other seat on alternating rows. Because the recommendation was challenging for some districts, each district is given leeway in determining the feasibility and practicality with existing resources. Responding to a follow-up question, Ms. Kinney said districts have the flexibility to achieve some level of social distancing when full social distancing is unachievable. Ms. Kinney said KDE provided updated guidance along with a webcast presentation to all districts.

Representative Tipton expressed concern about changing mandates and recommendations released to local school districts and asked KDE to provide clear mandates and expectations going forward. Ms. Kinney said KDE provides a superintendent webcast from 2-4 every Tuesday as a communication tool and invites districts to participate. She said the flagship document, Healthy at Schools, provides expectations for districts. The recommendations are procedures districts may implement for additional protection. She said concessions were made since social distancing impacts transportation. Responding to another follow-up question, Dr. White said five requirements encompassing public health concerns include wearing masks, practicing social distancing, performing temperature checks, using hand sanitizer, and participating in contact tracing. She said “hands, face, and space” are the three most important requirements to practice.

Responding to a concern by Representative Willner as to whether parents and students will be informed that bus transportation does not meet CDC guidelines, Dr. White said a portion of the flagship document provided to districts includes the importance of communicating the content to parents and students. Ms. Kinney said communication to the parents is a local requirement since they can provide the best information based on the unique circumstances within each district.

In response to a question by Senator West, Ms. Kinney said districts unable to follow social distancing guidelines within their existing budget have access to use CARES funds and existing general funds but cautioned districts to prioritize and operate within the confines of their budget, given these uncertain times. In a follow-up question, Ms. Kinney said \$193 million of elementary and secondary funding is available to all school districts. While some districts have opted to use the funds, some are thoughtful about expenditures to support current efforts as the end of the virus is unknown.

#### **Access to Area Technology Centers during COVID-19**

Ms. Kinney said Kentucky has 51 Area Technology Centers (ATC) supported by KDE. A guidance document, COVID-19 Considerations for Reopening Schools: Welcoming Students for Orientation and Targeted Services, provides the best practices for bringing small groups of students into the building. ATC is working with the KDPH to have flexibility to bring small groups in to address specific needs because many ATC classes require hands on instruction. Ms. Kinney said ATCs began in-person instruction with small groups of 10 for a limited duration of two hours with one teacher/instructor and eventually increased to 15 students per class. Some ATCs allow no more than 15 students in the building for short orientation periods or to provide targeted services. While some ATCs allow groups of students on site, others are providing take-home kits to support virtual learning.

Leslie Slaughter, KDE, said eight ATCs have taken

advantage of small groups for in-person guidance over the last several weeks and allow small targeted groups in a variety of programs into the classrooms. She said seven other ATCs have finalized an implementation plan.

In response to a question by Senator Wise, Ms. Slaughter said locally operated career and technical centers (called LAVECS) are not under the same directives to limit in-person participation. The 51 ATCs that make up the Kentucky Tech District are operating under the NTI plan at the Governor’s recommendation. In response to a follow-up question, Ms. Slaughter said the treatment of the state-controlled ATCs as one district provides consistency and continuity but has created a disparity in access between ATCs and LAVECS; however, KDE has great relationships with the ATC feeder districts, which have allowed the small group development. Senator Wise stressed the importance of in-person instruction in specific pathways.

Mr. David Horseman, Associate Commissioner, KDE, said in a typical year ATC students complete safety and other training through videos during the first two or three weeks at the beginning of each semester. Given the times, students have virtually completed that portion of their curriculum and have been provided with hands-on experience kits. He said they are working closely with districts, understand the hardships, and are trying to best ensure students have access to the needed tools until in-person instruction is recommended.

Responding to a question by Senator Higdon, Mr. Horseman said eight centers have been taking advantage of in-person learning for more than a week and seven more are scheduled to begin next week. In response to a follow-up question, Mr. Horseman said three districts have applied to move from state to local control. Two of the processes have been completed and the third ATC decided against moving to local control.

In response to a question by Senator Givens, Mr. Horseman said KDE is working with local districts for returning to in-person instruction. Senator Givens stressed the need for students to return to critical paths to certification.

Responding to a question by Senator Wise, Dr. White said metrics presented (regarding in-person learning) during the 9-14-20 press conference by Dr. Stack and the Governor included a great amount of input from stakeholders, shareholders, and the education community. KDE provided guidance at the request of superintendents.

In response to a comment from Representative Gibbons Prunty regarding the ability to obtain insurance, Ms. Kinney said insurance carriers and providers view policies differently regarding COVID-19. Variances depend on the carrier, the policy in place, and the practicality of the activity involved. She said the goal of KDE is to provide flexibility for local school districts, to provide all students with safe transportation, and to maintain balance with the goals of public health in trying to mitigate the spread of COVID-19.

Responding to a concern by Senator Meredith regarding contingency plans if a district is not allowed to embrace in-person learning on September 28, Mr. Horseman said KCTCS staff will open labs as needed for small groups to allow for the completion of industry certifications and dual credit courses. He admitted classes requiring apprenticeships have suffered due to COVID-19, but KDE is doing everything possible to meet those needs should the recommended date be changed. In response to a follow-up question, Mr. Horseman said small groups will be allowed to receive hands-on experience in addition to

virtual learning.

In response to a question by Representative Bojanowski, Dr. White said the county incidence map is located on the COVID-19 ([kycovid19.ky.gov](https://kycovid19.ky.gov)) website. She referred to the map titled COVID-19 Current Incidence Rate in Kentucky on which more detailed information can be found. Dr. White said the K-12 School Public Health Report accumulates contact tracing work done by the local health departments and another chart gives the same information for colleges and universities.

#### **Addressing Racial Inequities in Jefferson County Public Schools**

Presenters included Dr. Marty Pollio, Superintendent; Dr. John Marshall, Chief Equity Officer; and Abby Piper, Executive Administrator of Government and Community Relations.

Ms. Piper said it is important to frame the conversation with the happenings across the country and throughout Kentucky districts to showcase the work and admit there is room to grow. There are significant challenges in educating students in Jefferson County. Students come from across the state to go to JCPS because of the services provided for students with significant needs. JCPS has 125 languages spoken in their schools, proving it is not a matter of racial equity but about a full-scale approach to ensure students have the necessary tools to succeed. She said last year JCPS had more than \$100 million college scholarships awarded to JCPS students.

Dr. Pollio said racial equity has been at the forefront of the JCPS board and administrative team for years but stressed the importance of closing the achievement gap and student achievement. He said the JCPS Board of Education adopted a racial equity policy and charged the district with implementation two years ago. JCPS was one of only 11 districts in the country to have passed such a policy at the time.

As a member of the Group of Great City Schools Task Force (GGCSTF), a collaborative group of the top 76 school districts in America based on enrollment, Dr. Pollio said JCPS is ranked in the top 30 for student enrollment. During the GGCSTF meeting on achievement for black males, superintendents from all over America were struggling with the same problem and were working to identify the problems and solutions. The conclusion on racial equity was to acknowledge the problem, specifically with disproportionality and achievement, which is common in other districts across the nation. The first step is acknowledging outside factors influence the achievement gap and the need to change the way things are done if different outcomes are expected. Secondly, there is a need to examine the way things are done. To get to the root of the problems, such as the achievement gaps in disproportionality, it is important to change and examine how kids are taught, the curriculum used, hiring practices, facilities, student assignment plans, and identifying gifted and talented students in every division and department. Finally, it must be done correctly and be sustainable for years.

Dr. Pollio hopes to have the plan implemented in 2021. If expected results are not achieved, needed changes will be determined during the summer for the school year 2021-2022. With continued improvement year after year, the outcomes will allow JCPS to become a model district.

After the board passed the racial equity policy, JCPS developed a racial equity plan within the district that was comprehensive in nature. The district is working to reduce disproportionality in academic achievement, access and



opportunity to career and technical education (CTE), student discipline, and enrollment in Advanced Placement and gifted and talented programs. He said it is necessary to ensure district policies are not exacerbating the problem.

Dr. Pollio said a comprehensive survey of parents, staff, and students has shown black students have a less sense of belonging than white students. Research shows a strong sense of belonging increases student achievement through CTE pathways, belonging in programs, having school choices, staffing of schools to reflect student population, increasing participation of minority-owned businesses, and instituting Black Student Unions at every middle and high school across the district to achieve a comprehensive approach. With racial tension mounting across the country in recent months, JCPS supports students and their sense of belonging. Two new district schools with an Afro-centric and gender-centric curriculum opened during the past three years, and JCPS has seen fantastic results for students. JCPS's goal of a comprehensive approach will improve student achievement.

Dr. Marshall said we need to make sure a racial equity analysis protocol is in place. He said staff is included in decision making regarding racial equity to ensure the issue is not marginalized, muted, or mistreated regarding student performance.

As work is being done, Dr. Marshall said communication with principals must ensure they are equipped and informed on what can be done, what cannot be done, or what needs to be done relating to racial equity. It is critical that conversation regarding racial tension be addressed and used as a teaching tool. He said JCPS has included certified staff in anti-racist training for each school, implicit bias training for all certified staff, and bi-annual equity institutes to discuss achievement, racial equity, cultural competency, anti-racism, and how to include this in the classroom so a school's culture and climate create a more conducive place for all students of color. JCPS has teacher recruitment and retention programs as well as partnerships with Simmons College and the University of Louisville (U of L).

In looking at the data, Dr. Marshall said suspensions continue to disproportionately impact black and brown students. As of March 13, black students were 2.9 times more likely to be suspended than white students. The winter 2019-2020 MAP test results show a 31-point achievement gap in projected proficiency rates between black and white students. In 2018, 51 percent of magnet enrollments were students of color and increased to 54 percent by 2020. Attrition rates for teachers of color reduced from 14 percent to 7 percent between 2018 and 2020. Dr. Marshall said while outcomes have improved, it is important to address the historical disproportionate and mismanagement issue and include a more honest, inclusive curriculum and course opportunity to explore black historical consciousness.

Dr. Marshall said improvement is needed in targeted recruitment, advancement, development, and equity in skilled trades. It is crucial to create a workforce mirroring the student population and expanding the number of skilled tradespeople from under-served and under-represented populations. JCPS has been intentional in improving facility bids and awards for minority contractors.

Dr. Pollio said the impact on education and achievement is undervalued across the country, specifically with the achievement gap in black students. He said the 2020s will be marked by responding and being more intentional on the impact of COVID-19 on students over the next decade and specifically students of color. JCPS students will have

greater needs than ever before for additional counselors, mental health professionals, and interventions in order to be successful in mitigating the students' time away from school and trauma created by the COVID-19 crisis. Student choice and family choice is an important part of the student assignment plan, and all JCPS families must be provided with that opportunity.

Dr. Pollio said JCPS has challenges ahead facing the condition of school buildings, with one in five nearing their end of life. Additionally, they are supporting students with 60,000 Chromebooks during NTI, providing more than 7,000 Wi-Fi Hotspots, advocating for an extension of USDA summer feeding programs, and supporting students experiencing trauma during 2020. JCPS provides one mental health practitioner per school, trauma-informed care, and wraparound supports through community partnerships.

In response to a question by Senator Thomas, Dr. Pollio said many JCPS students are faced with segregated housing issues beyond educators' control; however, early childhood education is an issue JCPS can impact. He said kindergarten-ready students are more likely to be proficient in reading, which is a key indicator for success. Students who are not reading proficiently by Grade 3 are at a great disadvantage and are likely to be behind the remainder of their educational career with an increased likelihood for dropouts and not attending college. Dr. Pollio said increased access to robust early childhood education and pre-school is critical. He said the Brigance kindergarten readiness model, based on 5 factors and reports from parents, is inadequate and not a true measure. Other kindergarten readiness models test 56 factors and predict at nearly 90 percent that kids will be prepared. Dr. Pollio said that while high-quality early childhood education costs nearly \$12,000 per child, a robust flagging system to recognize at-risk children and taking intentional steps to ensure young children are at a proficient reading level by Grade 3 is crucial.

Responding to a question by Representative Bojanowski, Dr. Pollio said the upcoming year will be challenging for school district budgets. He said last year mental health counseling was provided in every school but may have to be cut. JCPS is exploring ways to increase revenue, address instructional time, improve attendance, provide robust summer school opportunities, and focus on facilities and infrastructure. He said 2020 will be about making and attacking a plan around COVID-19.

Dr. Pollio applauded Fayette County Public Schools (FCPS) for adding a nickel tax and building 10 new schools within the last 10 years. JCPS, with two and one-half times the student population of FCPS, has built one school within the last decade. He said new schools are necessary for a major crisis to be avoided.

Responding to a question by Senator Meredith, Dr. Pollio said families in West Louisville should have choices and opportunities to attend schools close to their homes. JCPS has designed a "dual resides plan" for students to attend schools in their community or close to home. He said it is necessary to resource schools appropriately and to provide new schools to achieve this. With the last new high school in JCPS's district being built in 1952, he is working with the JCPS school board on a proposal to build new schools and provide great facilities and opportunities in West Louisville. Dr. Pollio said changing student assignment and increasing taxes are part of the Corrective Action Plan. Students should have the option to attend schools that meet their needs.

In response to a question by Representative Tipton, Dr. Pollio said data indicates students of color perform better academically with teachers of color. He said JCPS

employs 14 percent black teachers and 18 percent teachers of color, while students of color make up 35 percent of the enrollment. JCPS has an education pathway in their pathways model they are using to encourage students of color into the education profession. Over the last decade, teaching certificates have decreased drastically, leading to a potential national crisis. By partnering with Simmons College and U of L, JCPS has invested significantly in a teacher residency plan. Students who have earned a Bachelor's Degree will work with mastered teachers to fulfill classroom hours and become a certified teacher. This year, JCPS has 50 candidates, including 34 African American students. Their goal is to have 100 candidates per year.

Responding to a question by Senator West, Dr. Pollio said lack of in-person instruction will impact all achievement, especially for English language learners, black, and special-education students. JCPS is intentional with support, intervention, re-opening schools safely, and assessing students immediately and taking immediate action to ensure they are on task. Failure to implement safety measures now will result in a future shutdown that will impact students and parents and exacerbate the situation greatly.

In response to a question by Senator Givens, Dr. Pollio said JCPS will embrace racial inequities though acknowledgement, examination, sustainment, and measurement. He said the parameters of measurement include reading and math proficiency, identifying gifted and talented students, providing additional instruction time, and addressing the digital divide, especially among minorities. Student outcome measurements are necessary for the success of a racial equity plan.

Responding to a question from Senator Nemes, Dr. Pollio said students need a sense of belonging to explore their interests. He said every family in JCPS, other than in West Louisville, have the option to choose schools closer to their homes. Families in West Louisville do not have that option. If a student in that area applies for a magnet school but is not admitted, they cannot choose a school close to their home. JCPS is examining a school assignment plan for middle and high schools. He said every family should be provided the same choice.

#### **Other Business**

The next meeting of the IJCE will be October 20, 2020, at 10:30 a.m. in Room 171 of the Capitol Annex.

#### **Adjournment**

There being no further business before the committee, the meeting adjourned at 12:40 P.M.

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

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

#### **of the 2020 Interim**

**September 23, 2020**

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

The 4th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, September 23, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Tom Buford, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Alice Forgy

Kerr, Morgan McGarvey, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Tina Bojanowski, Adam Bowling, George Brown Jr, Tom Burch, Daniel Elliott, Deanna Frazier, Robert Goforth, Scott Lewis, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Steve Sheldon, Cherlynn Stevenson, Nancy Tate, Russell Webber, and Lisa Willner.

**Guests:** Adam Mather, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services; Keith Knapp, Senior Advisor, Office of the Secretary, Cabinet for Health and Family Services; V. Faye Jones, M.D., Ph.D., Associate Vice President, Health Affairs and Diversity Initiatives, Department of Pediatrics, University of Louisville; Anita F. Fernander, Ph.D., Associate Professor, Department of Behavioral Science, College of Medicine, University of Kentucky; Gerald Neal, State Senator; Dr. Brandy Kelly Pryor, Former Director, Center for Health Equity; Louisville Metro Department of Public Health; Morgan Ransdell, General Counsel of Board and Commissioner, Board of Nursing, Cabinet for Health and Family Services; Laura Begin, Staff Assistant, Department for Community Based Services, Cabinet for Health and Family Services.

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

#### **Approval of Minutes**

A motion to approve the minutes of the August 26, 2020 meeting was made by Representative Burch, seconded by Representative Frazier, and approved by voice vote.

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

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 020:065 Proposed** - Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder. Comments and concerns regarding the regulation were made by Senator Alvarado. On behalf of the Kentucky Board of Nursing, Morgan Ransdell, General Counsel of Board and Commissioner, Board of Nursing, Cabinet for Health and Family Services, agreed to defer the regulation. A motion to defer this administrative regulation was made by Representative Burch and seconded by Representative Bentley, and accepted. The administrative regulation **201 KAR 020:065 Proposed** was deferred.

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 006:100 Proposed** - Per Diem compensation of board members; **201 KAR 020:110 Proposed** - Licensure by endorsement; **201 KAR 020:411 Proposed** - Sexual Assault Nurse Examiner Program standards and credential requirements; and **922 KAR 001:490 Emergency** - Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements. The administrative regulations above have been reviewed by the committee.

The following administrative regulations previously deferred at the August 26, 2020 meeting, were placed on the agenda for review: **921 KAR 003:025 Proposed and Emergency** - Technical requirements. Comments regarding the regulation were made by Senator Alvarado, Representative Bojanowski, and Representative Moser. A motion to find the administrative regulations **921 KAR 003:025 Proposed and Emergency** deficient was made by Senator Alvarado and seconded by Representative Moser. After a roll call vote of 19 yes votes, 7 no votes, and 0

pass votes, administrative regulations **921 KAR 003:025 Proposed and Emergency** were declared deficient.

#### **Proposed Legislation: Health Care Disparity Reviews**

Gerald Neal, State Senator, stated that his 2021 Regular Session Bill Request 97, the Health Disparities Impact bill, has been prefiled. The health disparities impact methodology will work similar to how fiscal notes or other impact statements are prepared when needed for a bill. He stated that it has been historically documented that there are disparities in the health care system. This bill recognizes disparities and the inter-relationship between health status, race, ethnicity, gender, age, and other factors. BR 97 requires the Legislative Research Commission (LRC) staff to indicate that a bill, an amendment or a committee substitute may have a health disparity impact. A health disparity impact means the difference in health outcomes that impacts the rates of incidence prevalence, mortality, burden of disease, or other adverse health condition. The health disparity impact would notify the bill sponsor and Cabinet for Health and Family Services of the possible disparities. The Cabinet for Health and Family Services can make a judgement as to whether or not a health disparity review is appropriate.

Senator Neal stated that a health disparity review is an analysis that uses the best available, evidence-based information to estimate any health disparity impact of a bill, an amendment, or a committee substitute. There is a distinction between a review and an assessment. An assessment is a more involved, time consuming process than a review and would likely have a financial aspect as well. BR 97 would give more information before policy-makers act on a bill. BR 97 does not stop a bill from proceeding but there is a 30 day period for the information to be produced. BR 97 requires that review be completed before a vote on a bill is taken.

Dr. Brandy Kelly Pryor, Former Director, Center for Health Equity, Louisville Metro Department of Public Health, stated that health is more than just healthcare, our health consists of what is in the social environment and economic environment. There is 12.6 year life expectancy gap within Louisville. Dr. Pryor shared a graph displaying the life expectancy in each area of the city. The areas with the lowest life expectancy range have high populations of African Americans, other communities of color, and lower income. The area with the highest life expectancy has a high population of white individuals and high incomes. The 2017 report is the third Health Equity Report from the Center for Health Equity. The Health Equity Report reviews issues such as infant mortality, intimate personal violence and sexual assault, mental health, and substance use in the community and state. The reports looks at how the issues affect poverty rates and a person's interaction with their community.

Dr. Pryor stated that Kentucky's demographic is becoming more educated but history also shapes the community. The report studied the history of racism in Louisville along the Ninth Street Corridor. Health outcomes stem from root causes and are shaped by policies or practices. Health outcomes at younger ages impact health outcomes later in life. The report found that improving health in Kentucky requires changes to chronic disease outcomes. Dr. Pryor recommended that Kentucky increase and improve the systems for data collection, data sharing, and data analysis across all outcomes. She stated that interventions must happen at the individual, interpersonal, organizational, community, and policy levels to have the

biggest impact on health outcomes.

In response to questions and comments from Representative Gibbons Prunty, Senator Neal stated that in BR 97 a review could take up to 30 days to complete. He stated that a legislator would need to plan accordingly to allow for the 30 day review during session.

#### **Overview: Health Care Disparities**

V. Faye Jones, M.D. Ph.D., Associate Vice President, Health Affairs and Diversity Initiatives, Department of Pediatrics, University of Louisville, stated that health inequity is a disparity in health that are a result of systemic, avoidable, unjust social, and economic policies and practices that create barriers to opportunity. She clarified that health disparities are preventable differences in the burden of disease, injury, violence, or in opportunities to achieve optimal health experienced by socially disadvantaged racial, ethnic, communities, and other population groups. Health disparities exist in all age groups, including older adults. She stated that if one community is not thriving, the whole state pays the price through increased medical expenditures, a sicker workforce, premature death, and decreased opportunities for the next generation. Focusing on health disparities will improve overall health care for all.

Dr. Jones stated that the life expectancy in Kentucky ranks 45th at 75.8 years, compared to 78.6 nationally. Generally, black populations have a shorter life expectancy compared with white populations. She stated that location is critical to life expectancy and varies by county in Kentucky. In 2019, Kentucky ranked 43<sup>rd</sup> in health outcomes. Children in poverty are 23 percent of all children in Kentucky, with black and Hispanic disproportionately affected by poverty. She stated that the 2017 Health Equity Report provided evidence-based connections between health outcomes, root causes of disease, and historical context that creates inequity. She shared a list of health disparities in Jefferson County that occur in various populations. During the COVID-19 pandemic the same populations are disproportionately impacted with more hospitalizations and deaths in children and adults. Social inequities such as housing, transportation, air quality, education, access to healthcare and criminal justice, effect health inequities. She provided a graph that displayed the framework for the factors contributing to health outcomes.

Dr. Jones stated that the University of Louisville is working with area health education centers on investments in hospital systems and pipeline programs to continue research, make curriculum changes for health professionals, and further trainings regarding unconscious bias. She stated that using an equity lens in all health policies will improve accountability at all levels of policy-making and place an emphasis on the consequences of those public policies. She suggested that Kentucky create community and institutional policies that address social determinates of health, invest in research for and by at-risk populations, and to mandate cultural responsive care education as an ongoing requirement for healthcare providers.

Anita F. Fernander, Ph.D., Associate Professor, Department of Behavioral Science, College of Medicine, University of Kentucky, stated that racism is imbedded into the political systems and social structures within society and have created inequalities that lead to racial ethnic health inequities among African Americans. African Americans in Kentucky have shorter life expectancy due to higher rates of cerebrovascular disease, cancer, asthma, diabetes, and other chronic diseases. Scientific racism emerged in the late 18<sup>th</sup> century to validate existing racist ideas and prove a natural hierarchy of groups through a concept called



biological determinism. The effects of racist ideology on the biology and behavior of individuals and groups have been devastating within racial groups. Race has justified political and social inequalities as natural, standard, common, and acceptable. Political determinants of health inequities are legalized processes of structuring relationships, distributing resources, and administering power. Voting, government, and policy are three major drivers of political determinants.

Dr. Fernander listed social determinants of health inequities that account for up to 80 percent of health risk. Financial stability is a fundamental health risk factor. African Americans have the lowest median income of all ethnic groups in Kentucky. White Kentuckians have an average of 10 times the wealth of black Kentuckians. Black Kentuckians are twice as likely to be unemployed than their white counterparts. Early childhood education and development, high school graduation, and higher education impact education opportunities. African Americans have less access to high quality education at every stage of life.

Since 1930, red-lining has continued to shape the environment. Health is adversely effected by neighborhood characteristics such as air pollution, poor water quality, lack of green spaces, food deserts, substandard housing, limited access to hospitals and clinics, and disparate impact of climate change. Dr. Fernander shared a historical timeline of the lived experience of African Americans in the United States. African Americans have a history of unequal and inadequate health care facilities, access, and treatments. Racial disparities in medical care and treatment continue to impact health outcomes of African Americans. There were two periods in history where health reform was specifically addressed the correction of race-based health inequities. She stated that to eradicate health equities, it is not sufficient to only address healthcare. She stated that everyone must examine how racism and discrimination effect all the political and social determinants of health. A study estimated that eliminating health disparities would have reduced direct medical care expenditures by \$229.4 billion and indirect costs due to illness and premature death by approximately \$1 trillion in the period from 2003 to 2006.

#### **The Cabinet for Health and Family Services and the Department for Public Health Response to COVID-19: CARES Act Funding and Guidance for Long-Term Health Care Facilities**

Adam Mather, Inspector General, Office of the Inspector General (OIG), Cabinet for Health and Family Services (CHFS), stated that as of September 17, 2020, in Kentucky there were 3,950 cases and 609 deaths among long-term care (LTC) residents due to COVID-19. There was 2,486 cases and 5 deaths among LTC staff due to COVID-19. Keith Knapp, Senior Advisor, Office of the Secretary, Cabinet for Health and Family Services, stated that the Centers for Medicare and Medicaid Services (CMS) found that Kentucky is ranked 28<sup>th</sup> with the number of COVID-19 cases and 18<sup>th</sup> with the number of deaths due to COVID-19 among LTC facilities in the United States. Inspector General Mather stated that to reduce the cases of COVID-19, Kentucky is focused on rapid and sustained public health interventions, surveillance, infection control, and prevention then following up with mitigation efforts. Mr. Knapp stated that Kentucky created the Long-Term Care Task Force that serves CHFS Secretary as a professional resource on COVID-19 in LTC and recommends evidence-based policies, procedures, and protocol. The task force has 16 members and meets at least weekly.

Mr. Knapp shared a timeline of specific items and

issues that the task force discussed or worked in efforts to assist the LTC facilities in Kentucky. The task force gave guidance regarding the phased reduction of restrictions on visitation to LTC facilities. He shared the CMS guidelines for Phase II-III that affect adult day health centers and adult day training. He stated there will be a 14 day waiting period, with no new COVID-19 cases that were facility acquired, to be eligible to consider safe visitation programs.

Inspector General Mather stated that a comprehensive, baseline testing of all residents and employees of nursing facilities was completed July 15. CHFS partnered with Norton Healthcare and started a provider 24-hour helpline with the Kentucky Department for Public Health (DPH) and the Healthcare-Associated Infection (HAI) team. He stated that consistent with CMS guidance, CHFS is offering LTC facilities Coronavirus Aid, Relief, and Economic Security (CARES) Act funding to provide ongoing surveillance testing. Mr. Knapp stated that CHFS created Long-Term Care Strike Teams that can be deployed to help address staffing issues at LTC facilities due to symptomatic staffing.

Inspector General Mather stated that the federal government issued \$129 million provider relief funds and Kentucky Medicaid has created a COVID-19 specific Medicaid rate per day, expanded bed-hold days, expedited eligibility, and increased Medicaid payments to LTC facilities by 8.5 percent. The LTC Ombudsman program worked to identify, investigate, and resolve residents' problems and concerns. From March 13, 2020 to July 31, 2020 there were 7,753 telephone and virtual contacts made statewide with LTC residents, families, and staff. The CARES Act funding provided personal protective equipment (PPE) for ombudsman visits to LTC facilities and COVID-19 educational materials to LTC residents and families. The OIG created infection control surveys and received civil money penalty (CMP) funds to establish emergency grants for tablets and other devices to conduct tele-visits with family. He shared how the CARES Act funding was distributed to LTC facilities. Inspector General Mather stated that going forward the key anticipated issues are: residents' safety, the emotional toll of extended isolation, sufficient staffing, Polymerase chain reaction (PCR) testing, PPE, and the influenza season.

In response to questions and comments from Senator Alvarado, Mr. Knapp stated that he is proud that Kentucky is in the middle in regards to the rankings for the number of cases and in the top third for lowest number of deaths due to COVID-19. He stated that the provider community is stepping up to the plate and doing the best job possible in the situation. Inspector General Mather stated that the provider community has been collaborative with the HAI team and working to make sure they are following processes.

In response to questions and comments from Senator Danny Carroll, Inspector General Mather stated that his question regarding PPE would be able to be answered by the Department for Public Health. He stated that any type of price gouging issue would be investigated by the Attorney General's office. Mr. Knapp stated that he has heard that the supply of gowns is causing concern for providers. Mr. Knapp stated that discussions regarding adult day health centers are very similar to conversations regarding visitation in LTC facilities. There is a delicate balance between safety and services that are not being delivered during the interim. There is not a risk free solution but CHFS will need to find a middle ground that allows the centers to operate.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:00 PM.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

### **Minutes of the 4th Meeting of the 2020 Interim** September 17, 2020

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

The 4th meeting of the Interim Joint Committee on Judiciary was held on Thursday, September 17, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Jason Petrie, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Rob Sanders, Commonwealth's Attorney for the 16<sup>th</sup> Judicial Circuit; Martin Hatfield, Pulaski County Attorney; Damon Preston, Public Advocate; Rebecca Ballard DiLoreto, Legislative Agent.

LRC Staff: Katie Comstock and Yvonne Beghtol.

#### **Approval of Minutes**

A motion to approve the minutes of the August 20, 2020 meeting was made by Representative Reed, seconded by Representative Fischer, and approved by voice vote.

#### **Prosecutorial Issues and Concerns – COVID's Impact on the Criminal Justice System**

Rob Sanders, Commonwealth's Attorney for the 16<sup>th</sup> Judicial Circuit, stated that case backlog is a major issue across all 57 circuits. Circuit courts were shut down for three months, then opened for two months with no jury trials. Due to maintaining added precautions for Covid-19, cases now take almost twice as long. Social distancing requires some spectators to be in a separate courtroom, which limits the amount of cases that can be heard due to lack of available space. The technology in courtrooms is being updated to meet requirements. Mr. Sanders stressed the importance of Rocket Docket, which moves lower level cases through the system more quickly.

Mr. Sanders stated that 18 counties do not have a victim advocate on staff at the felony level. If Marsy's Law passes this November, it may require that every county have a victim advocate, and more than one may be necessary in the busier circuits.

Mr. Sanders stated that crimes against children have gone down due to children not being in schools and daycares or going to doctors, which are the prime reporting sources. The Commonwealth's Attorneys are working on suggestions to improve the protection of children.

Mr. Sanders stated that the Governor's commutations are becoming an issue. Some were done to deal with the corona virus, but there are ongoing commutations happening. The majority were for people who have other pending felony charges which becomes a cost dump to the county, because the state no longer pays for the inmate when the sentence is commuted.

Martin Hatfield, Pulaski County Attorney, stated that case backlogs are also an issue for district courts.

Individuals are not showing up for court or paying their court costs, which leaves no restitution for victims. The Covid-19 social distancing requirements turn a two hour trial into a two day trial. Mr. Hatfield agrees that Rocket Docket numbers have gone down due to Covid-19, which keeps individuals from getting the help they need. The drop in attending programs such as the Traffic Safety Program, the Delinquent Tax Program, and the Cold Check Program has lowered the revenue for county attorney offices, county school systems, and sheriff departments.

Mr. Hatfield stated that Administrative Release has had a negative effect on Rocket Docket by allowing individuals to be given a court date and released without the county attorney being able to meet and discuss the benefits of Rocket Docket. Administrative Releases are also keeping mental health evaluations from being completed, because the individuals are not staying in jail long enough for the process to be complete.

Mr. Hatfield addressed issues for the upcoming 2021 Session. Federal funding of the child support program may be cut or lost if the guidelines are not updated. Shared parenting is another issue that needs to be addressed. Mr. Hatfield emphasized that the child support pay scale has not been updated since the early 1990s. In addition, if passed, Marsy's Law will be costly by requiring additional personnel. 2020 SB 64, regarding indemnification of prosecutors, may be prefiled for the 2021 Session.

In response to Senator Carroll, Mr. Sanders stated that, while pardons do have a time, place, and case, Governor Beshear is not following the guidelines set by himself. The first batch of commutations were low-level, non-violent offenses, but the list is no longer limited to those offenses.

In response to President Stivers, Mr. Hatfield stated he would gather information regarding the increase in incarceration costs to counties and report back to the committee. Mr. Hatfield stated that the incarceration rate in Pulaski County is down from the pre-Covid rate due to the administrative releases.

In response to Senator West, Mr. Sanders stated that discussions of budget costs have been on a local level, rather than with the Administrative Office of the Courts. The Commonwealth's Attorneys have submitted a request to receive Covid funds in order to add additional prosecutors to help lessen the backlog, but the Governor's Office did not see the request as being in relation to the coronavirus. Mr. Sanders agrees that bringing on additional judges, prosecutors, and public defenders would help. However, some of the smaller circuits do not have enough courthouse space to bring on another judge.

In response to Chairman Petrie, Mr. Sanders stated that most circuits are being more generous about what they can do to resolve cases, without putting public safety at risk, to keep the backlog from growing. Mr. Hatfield added that county attorneys have more flexibility to dispose of cases and are looking at ways to be proactive in thinning out the docket.

In response to Senator Wheeler, Mr. Sanders stated that he is not aware of any cases where the Governor's Office has contacted a Commonwealth's Attorney for their input in the decision of who is deserving of or needs to have a commutation. The Governor has not released anyone that Mr. Sanders has asked not to be released. Some that have had their sentences commuted have committed additional crimes, sometimes bigger crimes.

In response to Senator Webb, Mr. Sanders stated that a federal judge or federal court of appeals could override the Supreme Court's rules and overturn a conviction. An

accused's right to a speedy trial could also be impacted by the backlog. Another concern is perspective jurors keeping their masks on during voir dire, making it hard to read their faces. In fact, some jurisdictions require witnesses to remove their face masks.

In response to Representative Moser, Mr. Hatfield stated that one positive change due to the Covid-19 pandemic that he can see continuing is the use of virtual arraignments. Mr. Sanders stated that technology is the only thing that has saved the criminal justice system from imploding. Almost all hearings are being done virtually, which has generated thousands of dollars in cost savings by not having to transport prisoners, expert witnesses, or witnesses.

#### **Criminal Defense Issues and Concerns – COVID's Impact on the Criminal Justice System**

Rebecca Ballard DiLoreto, Kentucky Association of Criminal Defense Attorneys (KACDL), emphasized that jails and prisons are still overcrowded. The Criminal Justice Forum reported that in February one-third of jails were operating at 170 percent above capacity, and another third were operating at an average of 128 percent over capacity. After Covid commutations, there are still 8,750 inmates serving state felony sentences in county jails. Current jail count sheets show that 39 of 76 jails are over capacity as of August 2020.

Ms. DiLoreto stated that Covid has presented many changes to consider. One is an opportunity to disassociate ourselves from our attachment to incarceration as the default choice for those who commit crimes. She urged the committee to raise the felony threshold for theft, to end our reliance on incarceration for drug offenses, and to address parental non-support in the civil arena rather than the criminal.

Regarding law enforcement integrity and accountability, Ms. DiLoreto stated that body cameras must be considered. Legislation must include mandatory standards that address when to turn the camera on and off, who has access to the footage, and under what conditions footage is to be shared or distributed. According to Ms. DiLoreto, this will protect law enforcement and the integrity of the process, as well as streamlining our ability to know what happened, requiring less litigation to get at the truth.

Under the category of law enforcement integrity and accountability, KACDL urges the termination of no-knock warrants. The U.S. Supreme Court recognizes that police have a right to enter a residence if exigent circumstances exist. Police can enter a residence if there is evidence of death or serious physical injury or the eminent destruction of evidence related to a crime.

Ms. DiLoreto stated that it is critical to amend state statutes to clarify the rights of all communities to establish civilian review boards. These review boards should confer with national standards and meet local needs. Board members need to have access to critical pieces of information, develop rapport between law enforcement and the community, and have the authority to look at police policies, training, and other systemic issues to secure change. Ms. DiLoreto further stated that the Second Amendment of the U.S. Constitution provides that local communities are entitled to have input and oversight regarding how they are policed.

Ms. DiLoreto stressed that the biggest challenge with respect to Covid is client communication. Virtual communication is being used and works well for hearings predominantly about scheduling. However, not being able to go to the jails or prisons to talk with clients, whisper in their ear during hearings, or take a break and go into a

separate room to have a conversation with them, increases the risk of clients being harmed due to not understanding what is happening. Covid has also increased the difficulty of completing an investigation due to the inability to enter a residence or workplace to gather information or have interviews. This will be further complicated if Marsy's Law passes, because the rights of defense attorneys to investigate will be compromised if victims can prohibit them from conducting investigations.

Ms. DiLoreto stated that she was encouraged by last session's pretrial release proposal. Many of the problems with pretrial release have been exasperated by Covid-19. Because Kentucky does not have a statutory speedy trial right, the interpretation of what it means generally cuts strongly against the accused.

Ms. DiLoreto agrees that requiring jurors and witnesses to wear face masks increases the difficulty of voir dire. Attorneys are generally not able to visit clients in jail, but can make phone calls and have Zoom meetings. Ms. DiLoreto stated that the greatest damage is to pretrial cases.

Damon Preston, Public Advocate, stated that during this pandemic there is a need for more public defenders, prosecutors, and court staff, though the DPA is looking at significant cuts. While case numbers will be down due to the pandemic, Mr. Preston believes the numbers will escalate as the backlog cases are brought to court.

Mr. Preston provided that DPA's top legislative priorities include jury empowerment, amendments to DPA organizational statutes, an adequate DPA budget to ensure the right to counsel, criminal justice improvements, and improving Casey's Law. Mr. Preston emphasized that jury empowerment gives jurors the option of showing mercy at the sentencing phase but does not reduce the penalty on any offense.

Regarding the impacts of Covid-19, Mr. Preston began by addressing constrained client communications. It is difficult to maintain adequate attorney-client communication during this time. Many jails prohibit in-person visits. Even for clients out of custody a safe, confidential in-person meeting is difficult to arrange, as many clients have health or transportation issues. Communications with clients in custody are particularly constrained as they are subject to recording. It is also difficult to share and review evidence, such as video, with clients. Due to very few hearings allowing an attorney and client to both be in the courtroom, the attorney cannot communicate in real time with the client during the hearing.

Mr. Preston reviewed the difficulty and inefficiency of preparing cases outside of court. Conducting effective investigations, obtaining records from institutions that have limited hours and staffing, and interviewing witnesses is nearly impossible. The workflow of defenders has changed as dockets are longer and less efficient and more frequent, leaving less time each day for in depth preparation of cases. Most public defenders in Kentucky are between the age of 25 and 45. During this pandemic, they have the additional stress of childcare and health concerns. The practice of law requires time to contemplate, strategize, research, and develop arguments.

Mr. Preston stated that state inmates are unable to participate in programs if transportation is not provided. The completion of some programs are required for release. After speaking with the Justice Cabinet, Mr. Preston believes transfers within corrections will be resuming soon. The more pressing problem at the moment is inmates not being transported from county to county. A Pretrial Services survey indicates that there are hundreds of inmates who are



housed in a county jail on a warrant or holder from another county who have no court date and no ability to access court. The Kentucky Jailers Association recently adopted a policy recommending that all jails participate in virtual hearings when an inmate cannot be transferred. However, not all jails, including Jefferson and Fayette County, are following the policy. Fayette County has over 70 inmates who are being held on out-of-county holders and have no access to court.

Chairman Westerfield commented that additional resources are needed to provide victims' advocates in every county. In regards to Marsy's Law, Chairman Westerfield stated that the victim has a right to be heard and should have more input. He noted that the 12 victims' rights listed in Marsy's Law do no impede the investigative authority, power, or opportunity for the defense bar to thoroughly investigate a case.

Chairman Petrie commented that he had hoped to hear of cost savings with the potential passing of Marsy's Law, as it would provide constitutional rights that the victims could enforce rather than the prosecutors.

Representative Blanton commented that he took comments made by Ms. DiLoreto during the meeting as an attack on the integrity of law enforcement. While inmates are sons, daughters, and fathers, so are law enforcement personnel. Officers put themselves at risk to ensure citizens have a safe environment and society. Representative Blanton opposes having a Civilian Review Board to investigate an officer who had to make a split second decision.

Senator Wheeler commented that he was taught in law school of the importance of the jury. If an officer violates someone's rights or commits a crime, they can be charged just like everyone else. A Civilian Review Board is just an extra committee that may or may not have certain prejudices, or be driven by the media rather than facts. The easiest way to avoid a confrontation with an officer is to comply and be respectful. Law enforcement officers should not have to be judged twice but should be allowed to go through the criminal justice system like any others.

There being no further business, the meeting adjourned at 12:10 PM.

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

### **Minutes of the 4th Meeting of the 2020 Interim**

October 5, 2020

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

The 4th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Monday, October 5, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Tom Buford, Denise Harper Angel, Jimmy Higdon, Christian McDaniel, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Al Gentry, Thomas Huff, Matthew Koch, Nima Kulkarni, C. Ed MChad McCoy, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt,

Rachel Roberts, Sal Santoro, John Sims Jr, Susan Westrom, and Buddy Wheatley.

Guests: Chris Crumrine, Director of State and Federal Relations, University of Kentucky (UK) College of Agriculture, Food and Environment; Dr. Seth DeBolt, Director, James B. Beam Institute for Kentucky Spirits, Professor of Horticulture, UK College of Agriculture, Food and Environment; Gabriel Brown, Mayor, City of Walton; J.D. Chaney, Executive Director/CEO, Kentucky League of Cities; Charles George, Executive Director, Wine & Spirits Wholesalers of Kentucky; Lester Sanders, President, Steve Stevens, Kentucky Association of Realtors; and J.D. Carey, Kentucky/Louisville Apartment Association.

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

#### **Consideration of Minutes from the October 5, 2020, meeting**

Senator Thayer motioned to approve the minutes from the October 5, 2020, meeting, and Representative Miller seconded the motion. The minutes were adopted by voice vote.

#### **Alcohol Production Minimums for Educational Programs**

Mr. Christopher Crumrine, Director of State and Federal Government Relations, College of Agriculture, Food and Environment, University of Kentucky, testified in person and introduced himself for the record. Dr. Seth DeBolt, Director, James B. Beam Institute for Kentucky Spirits and Professor of Horticulture, UK College of Agriculture, Food and Environment, testified remotely that the Beam Institute was formed in 2019, a partnership between the University of Kentucky and Jim Beam, created with the goal of facilitating the growth of Kentucky's spirits industry. By supporting the development of Kentucky's workforce, promoting Kentucky as the production and innovation capital of the bourbon industry, and building effective alcohol awareness initiatives, this partnership will promote the welfare, prosperity and sustainability of Kentucky's spirits industry for generations to come.

Dr. DeBolt said the research activities at the institute are designed to address tangible needs of Kentucky's spirits industry. Experts from fields such as engineering, chemistry, business, law, horticulture, forestry, food science, and entomology are drawn together with the common goal of maintaining the welfare, prosperity and sustainability of Kentucky's spirits industry for generations to come. He said the goal is to elevate education and research and align their missions with Kentucky economy.

Mr. Crumrine said that in late March, the institute began manufacturing hand sanitizer for health care workers to help meet the need for this vital product. Those efforts have expanded, and to date more the \$150,000 in sanitizer has been produced for the University of Kentucky campus and greater community.

UK President Eli Capilouto provided bottles of sanitizer to all new university faculty and all SEC school presidents, including athletic directors, basketball coaches and football coaches. UK Board of Trustees members received a bottle. He noted this is an incredible effort to put vital sanitizer into the hands of the people who are working so hard to fight this pandemic. He looks for future collaborations and partnerships in the future with the institute and it has been suggested that the bottles may become collector's items.

Dr. DeBolt said the institute will not meet the distilling requirements established in Senate Bill 99 in the 2020 legislative session. UK is requesting a statutory

exemption from the minimum distilling requirements, but not the licensing requirements. The reason for the exemption request is for education and research.

Responding to a question from Senator Thomas regarding distilling on campus or off-site, Dr. DeBolt said the distilling will be conducted on UK's campus close to the chemical and agricultural engineering departments on the corner of Cooper and Limestone.

Senator Higdon recognized his constituent, Brad Boswell, for his generous contribution to the project.

#### **Server Age Limits**

Mayor Gabriel Brown, City of Walton, testified in support of legislation that would lower the age for serving alcohol in restaurants from 20 to 18. The change would assist rural cities with sit down restaurants by allowing young adults under 20 to be able to waitress or waiter and earn a living. It is logical for a server to be able to take a beer from the bar and deliver it to the restaurant table.

Senator Schickel asked if there was representation in person or remotely from the Alcoholic Beverage Control (ABC) staff. The ABC department personnel was not in attendance. He expressed his disappointment and asked that they be represented at future meetings.

Responding to a question from Representative Wheatley regarding soliciting urban area input from businesses affected by this legislation, Mayor Brown said he has discussed this with many business owners and stakeholders all across the area. This is a good economic deal for the state. He also presented the bill to the Kenton County Mayor's group and it was openly discussed and there were no negative comments.

Responding to a question from Senator Higdon about other states' laws regarding alcohol serving ages, Mayor Brown does not know the particulars on this issue in other states. Senator Schickel said he would like a written report from the ABC agency to address any problems or issues that might arise with the legislation.

#### **HB 347 2020 RS - AN ACT relating to regulatory licensing fees**

Kentucky State Representative Phillip Pratt said House Bill 347 expands the authorization to approve a regulatory fee licensed to counties that contain a city with a population larger than 20,000 that imposed a regulatory license fee prior to January 1, 2019. Any city or county that held a local option election between July 15, 2014, and July 15, 2017, may enact a regulatory licensing fee. He noted his city and county are in support of the legislation.

Mr. Chaney, Kentucky League of Cities, said this legislation is a correction to Senate Bill 29 that passed in the 2019 legislative session. The cities thought they were getting rid of the remnants of the old classification system, but it also took away the ability for places like Scott County, and twelve other counties, to impose a regulatory fee because they moved to a population basis when it was based on the cities within the counties.

Mr. Chaney said it also removed the ability of about 30 cities to impose the regulatory fee because there was not a window created with a two-year contemporaneous requirement. In total, 30 cities and 12 counties were left out of the ability to impose a regulatory fee, and this bill corrects it, but does not expand upon it.

Chairman Koenig supports the bill, but would like to see this extended to everyone who has a wet territory so they could impose the fee and regulate the property properly. He hopes to expand the legislation in the future to include

property regulations of all alcohol sales in all areas. Senator Schickel asked if there was any opposition. There was no opposition to the legislation.

#### **Changes to Existing Alcohol Statutes**

Senator Higdon said 21 RS BR 254 allows the definition of quadricycle to be amended by removing the word “exclusively.” This would allow propulsion other than by human muscular power so they can use electric motors. There were no questions from committee members.

Senator Higdon said House Bill 415 seems to allow for more broad alcohol shipping than what was originally intended. The concept was to allow Kentucky producers and manufacturers to ship out-of-state, and out-of-state producers and manufacturers to ship in to the state of Kentucky. The retailers, wholesalers, and distributors asked to be excluded from the legislation at the time.

Charles George, Executive Director, Wine & Spirits Wholesalers of Kentucky, said the Wine & Spirits Wholesalers of Kentucky, the Kentucky Beer Wholesalers Association, the Kentucky Malt Beverage Council, Kentucky Association of Beverage Retailers, and the Kentucky Retail Federation seek clarification that importers are not allowed to directly ship foreign-made alcohol to Kentucky consumers pursuant to Kentucky’s new direct shipper law. Allowing importers to directly ship foreign-made products would greatly expand the intent of Kentucky’s direct shipping law, which should be limited to domestic manufacturers and domestic products.

Mr. George said House Bill 415 passed the General Assembly during the 2020 session, allowing the direct shipment of beer, wine, and spirits to Kentucky consumers. Throughout the committee and floor process, the bill was described as limiting shipments by an in- or out-of-state manufacturer or producer. In other words, any brewery, winery, or distillery located in the United States could obtain a Kentucky direct shipper license and ship products made at its facility to Kentucky consumers. In addition to specifically authorizing manufacturers to obtain a direct shipper license, HB 415 contained language allowing out-of-state suppliers to also qualify for a license. Suppliers include out-of-state manufacturers, wholesalers, distributors, and importers that are the primary source of supply for its products. In its proposed regulation, the ABC specifically allows importers to obtain a direct shipper license. Presumably, only out-of-state importers would be able to obtain a license, not those located in Kentucky. There are 79 entities that have an importer’s permit in Kentucky.

Mr. George said for a foreign-made alcohol product to be sold in the United States, it must be imported by a federally licensed importer. Kentucky wholesalers and distributors are required to purchase foreign products from an importer to sell those products to retailers.

Responding to a question from Chairman Koenig concerning European alcohol sales, Mr. George said a person would need to visit a retailer to purchase a European wine. Chairman Koenig said he does in fact know people who can order wines direct from other countries’ websites. He noted national laws take precedence and people order champagne directly from France and tequila from Mexico. Mr. George said state laws can be more restrictive than the federal allowance.

Mr. George said there is no allowance in Kentucky state law to receive shipments from foreign countries. He said federal law may not specifically prohibit, but there is no allowance in state law. Representative Koenig said there are no state law restrictions and alcohol is already being

shipped to Kentucky from Italy, France, and Mexico.

Responding to a question from Chairman Koenig regarding importer permits, Mr. George said he is referring to federal importer permits and not Kentucky importer permits. He also said this bill is a disadvantage for state wholesaler licensees and federal importer permittees. Mr. George said it was their wish to exempt wholesalers from the legislation. Chairman Koenig said it would be ideal for the in-state operations to be able to import alcohol from foreign countries to sell to Kentuckians. He noted they were removed from the bill against his better wishes. Mr. George clarified that the Wine & Spirits Wholesalers of Kentucky want this to be a domestic shipping bill.

Chairman Koenig said the bill was intentionally drafted to be different from any other state. While he respects the Wholesaler’s position, his intent is to represent the 3,000,000 consumers who live in wet territories in Kentucky and provide them with as many options as possible. He scaled back the original version of the bill in order to obtain the number of votes needed for passage.

Senator Thayer said the change in the quadricycle bill seems reasonable. He also said it was premature to discuss changes to the direct alcohol shipping bill when it still has not been implemented. The ABC Department is in the process of promulgating the administrative regulations. He expressed disappointment with no staff from the ABC were in attendance and will not tolerate any organization trying to slow walk the implementation of this legislation.

Senator Thayer noted Kentucky distilleries have been hit hard during the pandemic. He said tourism and on premise sales are down across the board, which affects everyone in the three-tier system. The alcohol direct shipping bill will generate a revenue stream that needs to be implemented for the distilleries as they fight to break out of this economic downturn resulting from the quasi lockdown and the pandemic.

Senator Higdon wanted the issue on the agenda to be vetted before the committee. He said this is a great bill for the bourbon industry, but there was concern about importers. It was his understanding that the intent of the legislation was for producers and manufacturers to ship out-of-state and for out-of-state manufacturers and producers to ship in-state. He reiterated that he is not complaining about the bill as it relates to the bourbon industry and the domestic production and manufacturing of spirits in Kentucky and across the country. His only concern was the adding of importers to the mix.

Senator Schickel said the wholesalers are always welcome before the committee. He expects the ABC department to be represented at future committee meetings.

Responding to Representative Miller regarding waiting on the ABC to promulgate the administrative regulations, Senator Schickel said he would be working on it. Representative Miller reiterated to Mr. George that he was always welcome before the committee. Mr. George said his organization is not trying to kill the bill. His changes are a good faith compromise to allow some levels of shipment and he does recognize the pain that some small distilleries are facing. Senator Schickel said the interim is for discussing these types of issues.

Senator Thomas said he is in support of on-line commerce as it pertains to alcohol. He thinks the bill will increase the future revenues for bourbon for the foreseeable future. He discourages any changes to the bill. It was also noted that federal law supersedes state law.

Jay Hibbard, Vice-President of Government Relations, Distilled Spirits Council of the United States, testified

remotely. He said House Bill 415 required that suppliers be included and the definitions in the statutes include importers as a supplier, because this is the only way to get their product through the U.S. market. He said the legislature was clear on the intent of the legislation. He would infer that ABC has not implemented the rules, and importers are entitled to participate in this program by statute. He also noted this legislation affects primarily specialty products, and wine accounts for a very small percentage of alcohol being shipped. It is usually limited edition spirits, engraved bottles, or very rare items that are not readily available in stores.

Senator Thayer said craft breweries and small farm wineries are also struggling due to the pandemic. He wanted to emphasize it is not just the bourbon industry that has suffered. He and Chairman Schickel are strong supporters of the entire alcohol industry. He said allowing the shipment of alcohol will be helpful to the revenue stream, especially during the downturn of this pandemic.

#### **The State of Real Estate in Kentucky**

Lester Sanders, President, Kentucky Association of Realtors, said the association is a group of real estate licensees in the state of Kentucky. There are 21,503 licensees across the state, but 11,600 realtors involved in all aspects of real estate. A licensee does not mean a person is a realtor. Realtors have to belong to 1 of 20 associations across the state. It is important because realtors are required to adhere to a certain level of professionalism and to a code of conduct that is over 100 years old.

Mr. Sanders said real estate is deemed an essential business in the Commonwealth. It is clearly understood the impact of real estate has on the quality of life for Kentucky residents to be home owners rather than renters. He said the challenges due to COVID-19 have been tremendous, but strict guidelines were implemented on how to conduct real estate business in the Commonwealth to keep everyone safe.

Steve Stevens, Chief Executive Officer, Kentucky Association of Realtors, said Kentucky realtors are performing well despite the pandemic. He said homes sales in Kentucky have hit all-time highs the last three of four years, which can make inventory scarce. He noted 51,000 homes sold in Kentucky in 2019, which is a record. Kentucky is on track for another record year despite the pandemic.

Mr. Stevens said Kentucky metro area house prices are forecast to track the national market. Current local conditions support an estimated 7.7 percent increase in the next twelve months. Kentucky’s housing market vitality, based on the nine metro housing markets which comprise it, is the same as that of the overall United States and ranks the state as twentieth in the nation. Recent changes in local conditions suggest the possibility of improvement in short-term performance. Housing affordability and first-time home ownership opportunities remain concerns.

Senator Schickel said the real estate industry has set an example of how a profession can operate during a pandemic and do so safely and successfully. He has been amazed at the volume of real estate being sold in Northern Kentucky. He noted each real estate agent is comparable to a small business. He understands the sacrifice and hard work it takes to be successful.

Responding to a question from Senator Thomas regarding changing opportunities for black realtors and black home ownership, Mr. Sanders said social injustice has opened the door for stark communication and educating the realtors of the inequities. There has been a group established



within the organization to work specifically on diversity and inclusion issues at the state level. They are responsible for educating buyers, sellers, and potential buyers and sellers, on what to identify and how to move forward so all Americans can share in the American dream.

Responding to a question from Representative Gentry regarding data reflecting first-time home ownership, Mr. Stevens said he cannot give the specific information as it is not broken down. He said certain states focus on first-time home buyers, but Kentucky needs to improve in this area. Kentucky needs to focus on lending incentives and first-time home buyer programs. Mr. Sanders noted as prices for homes continue to increase, it makes it more difficult for folks buying their first home to afford it. The price of home building materials increasing also affects housing affordability in a negative way.

J.D. Carey, Kentucky/Louisville Apartment Association, said property owners and landlords own over 350,000 rental units. Rental property contributes \$173 million in property taxes and provides many jobs for Kentuckians. He said rent collections have been stable, but since the pandemic, landlords are seeing a decline in rent payments received since unemployment and stimulus payments have stopped. Landlords and owners have seen a 3.1 percent decline in timely rental payments and have tried to implement flexible payment plans with renters, including waiving late fees, and helping the residents apply for financial assistance through non-profit agencies.

Mr. Carey said many landlords have gone without rental payments from tenants for up to seven months. This creates a significant hardship for landlords, especially as the percentage of tenants not being able to pay increases. Landlords are responsible for many operating expenses including federal, state, and local taxes; insurance; maintenance; and utilities that have to be paid whether they are receiving rental payments or not. He noted the multi-family apartment industry is the only sector of Kentucky's economy being asked to give away its product for free while still having to meet its obligations.

Mr. Carey said the number of families renting is at an all-time high. To meet demand, over 325,000 new apartment rentals would have to be built each year.

Senator Schickel said small landlords are in trouble and this is a crisis. He said this is the only industry being asked to give away its product for free and receive nothing in return. He said most landlords are not in a financial position to afford to do this.

Senator Higdon said there is a crisis in the rental industry and landlords are suffering because tenants cannot pay. Responding to his question, Mr. Carey said the ABCD classification system is based on rental prices from what the property generates from high-end living properties to affordable housing.

Senator Thayer said he would like for Governor Beshear's executive order allowing alcohol sales to go from restaurants to become permanent law. He will address the issue in statute in early January when the General Assembly convenes for legislative session.

With no further business before the committee, the meeting adjourned at 11:25 a.m.

## INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

### Minutes of the 4th Meeting of the 2020 Interim

September 22, 2020

#### Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Local Government was held on Tuesday, September 22, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Robby Mills, Michael J. Nemes, Damon Thayer, and Johnny Ray Turner; Representatives Danny Bentley, Randy Bridges, George Brown Jr, Jeffery Donohue, Larry Elkins, Deanna Frazier, Joe Graviss, Regina Huff, Kim King, Adam Koenig, Jerry T. Miller, Brandon Reed, John Sims Jr, and Ashley Tackett Laferty.

Guests: Senator Stephen West, 27<sup>th</sup> Senate District; Senator Julie Raque Adams, 36<sup>th</sup> Senate District and Senate Caucus Chair; Representative Kim Moser, 64<sup>th</sup> House District and Health, Welfare, and Family Services Committee Co-Chair; Representative Mark Hart, 78<sup>th</sup> House District; Cindi Batson, RN BSN; Dr. Jack Kall, DMD, Academy of General Dentistry; Mayor James Smith, City of Cynthiana; Dr. Boyd Haley, University of Kentucky Professor Emeritus; Dr. Darren Greenwell, Kentucky Dental Association; John Cox, Kentucky Chamber of Commerce; and Allison Adams, Foundation for a Healthy Kentucky.

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

#### Approval of Minutes

Senator Schroder approved the minutes from the August 27, 2020 meeting without objection.

#### Local Control of Water Fluoridation

Senator West told the Committee that the issue of local control of water fluoridation need to be looked into, and is getting national attention. The legislation he is sponsoring for the 2021 Session of the General Assembly is about clean water, and Kentucky's goal should be 100 percent access to the cheapest and safest water. The bill is not anti-dental care. Water fluoridation and its methods have been changed. The chemicals in the water are toxic. Eastern Kentucky has to be one of the main focuses of the issue in terms of dental care. One of the main reasons for discussing the issue now is because there are many studies coming out every day relating to the addition of fluoride to the water. The issue may be resolved on its own because of a lawsuit against the EPA over the use of fluoride.

Ms. Cindi Batson stated that there is no question that fluoride is harmful. She noted two research reports that contained research relative to the harmful effects of fluoride. She was distressed that the addition of fluoride to water systems was law in Kentucky—one of 13 states to mandate fluoridated water. Her daughter developed dental fluorosis, which is the hyper-mineralization of tooth enamel caused by ingestion of excessive fluoride during enamel formation. Emissions from smokestacks can elevate non-pharmaceutical grade fluoride levels in drinking water. She noted a bibliography in the meeting materials for additional studies on the topic. The goal is to appeal to the legislature for local control of water fluoridation. Current science is stifled because of the mandate.

Dr. Jack Kall, DMD and Fellow in the Academy of

General Dentistry, told the Committee that the state mandate for fluoride in the water should be removed. The core issue is freedom of choice, informed consent, and whether or not the state has a right to place children in harm. It is so much more than water fluoridation and the prevention of cavities. There is an oral-systemic connection—how conditions in the mouth affect conditions in the body. This provided a lens to look at the safety of materials and procedures used in dentistry. Given that fluoride is a known neurotoxin, the addition of fluoride in the water is questionable. Risk assessment in the public health field is a factor. The Wingspread Statement helps assess risk. The statement says, "When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically. In this context, the proponent of the activity, rather than the public, should bear the burden of proof." The precautionary statement and principle has been cited in a professional dental journal, and that fluoridation is a question that is right for applying this cautionary approach. The proponents of water fluoridation have not proven its safety. Until they do so, no government should require a neurotoxin to the water supply.

Mayor James Smith, City of Cynthiana, noted that the City of Cynthiana has its own water treatment facility. The experts are divided on the issue of water fluoridation. The issue is to have local control. The best government is local government—the closer you get to the people, the more responsive the government is for the people. The leadership of the water plant wants to produce the best product for its customers. Government produced water is the only product that is produced without any input from its customer base. Give local governments the chance to respond to the wants of the people.

Dr. Boyd Haley, Professor Emeritus Chemistry and Biology, University of Kentucky, told the committee that fluoride is toxic and induces oxidative stress in whichever tissues it gets into. Oxidative stress is the symptomatic end of every disease that is known. Fluoride also crosses the blood/brain barrier and gets into the brain. In Alzheimer's, Parkinson's disease, and other diseases the damage done is through oxidative stress in the brain by many factors. Fluoridation can be one of these factors. Kentucky should have a solid, scientific look at this. The Environmental Protection Agency should not be used as guidance in this issue. Anything that has been proven toxic to young children should be removed from the water supply.

Dr. Darren Greenwell, President of the Kentucky Dental Association (KDA), told the Committee that the KDA supports continuing the state mandate of water fluoridation. Fluoridation is the single most effective measure in preventing tooth decay. The Center for Disease Control has declared community water fluoridation one of ten great public health achievements in the 20<sup>th</sup> Century. Tooth decay has devastating effects on people. Fluoridation is effective, safe, and cheap in the prevention of tooth decay. People have died from tooth decay and abscesses resulting from tooth decay. There is good, peer-reviewed science on this issue showing the addition of fluoride is safe and effective. It is present in the environment. The cost of fluoride is minimal. The cost to fluoridate a person's water throughout their life is less than one dental appointment billing. Changing this during a pandemic where patients' access to care is difficult, because dentists cannot see the same number of individuals per day as they did prior to the pandemic. Dentists have been champions of preventive

medicine since the beginning, and fluoridation is another way to prevent disease before it needs to be treated. Studies say the current levels of fluoridation are safe, and effective, and considering the present sugar consumption levels among children, they would be greatly affected without fluoridated water. Alaska stopped fluoridation, and Medicaid dollars spent fixing children's teeth can be observed before and after the stoppage because of the lack of fluoride in the water system

Representative Hart, who has the companion bill to Senator West's in the House, reiterated that the legislation just calls for local control of water fluoridation and to undo an unfunded mandate.

Representative Bentley commented that there needs to be more studies done on the pharmaceutical grade use of fluoride in humans.

#### **Local Control of Tobacco Sales and Marketing**

Representative Moser, Co-Chair of the Interim Joint Committee on Health, Welfare, and Family Services, said that allowing local control of marketing of tobacco products is the next logical, cost free step for Kentucky to reduce tobacco related illnesses and the associated health care expenses as well as business productivity and losses in the Commonwealth. She pointed out that Kentucky ranks first in the nation for cancer deaths, and more than a third of those deaths are caused by smoking. Smoking also leads to heart disease, strokes and chronic obstructive pulmonary disease (COPD).

Annual health care costs in Kentucky directly caused by smoking is \$1.92 billion. Medicaid costs caused by smoking in Kentucky is \$590 million. Residents' state and federal tax burden from smoking-caused government expenditures is \$1,100 per household.

Regarding e-cigarettes (vaping), in 2020, about 1.8 million fewer U.S. youth are current e-cigarette users as compared to 2019. However, one in five U.S. youth still currently use e-cigarettes which is down from one in four in 2019. The middle schoolers' rate is at one in 20 this year versus one in ten in 2019. They use disposable flavored e-cigarettes. It is not known if these national trends are being reflected in Kentucky, but its youth vaping rate has been higher than the national rate every year. Kentucky has yet to solve its tobacco problem.

Mr. John Cox, Manager of Public Affairs with the Kentucky Chamber of Commerce, stated that compared with non-smoking employees, employees who currently smoked were 33 percent more likely to miss work and were absent from the workplace for an average of 2.7 more days per year. Absenteeism decreases when smokers quit, even among those who have recently quit. Smokers are also more likely than nonsmokers to take unsanctioned breaks. These breaks are the largest single cost from a smoking employee and result in eight to 30 minutes per day per employee in lost work time.

On average, employers pay an additional \$659 per year in medical and pharmacy costs for each employee who smokes. Across U.S. states, six to 18 percent of total health care expenditures are attributed to smoking-related illnesses. Tobacco use is also associated with increased risk of injury and property loss due to fire, explosions, and vehicular collisions. The Chamber supports the issue of local control of tobacco product marketing and sales in Kentucky.

Senator Raque Adams, Senate Caucus Chair, said tobacco use differs across Kentucky. Data from 2018 shows that smokeless tobacco use is higher in the eastern and southern parts of the state than it is in Greater Louisville

and western regions. Local leaders know the details and the reasons for these differences that sometimes state level leaders do not know.

There are demographic smoking disparities. Smoking rates are higher among Native Americans, persons with lower education and income levels, those who are uninsured, those on Medicaid, persons with disabilities, the LGBTQ community, and those who suffer with mental disorders.

There is only one measure that communities can adopt to reduce the health care risks and costs associated with tobacco use, which is through smoke-free laws. Many communities have done that, but some have not.

Local communities should have the right to adopt measures that their constituents want and that those communities are ready to enforce. Kentucky has made major progress in recent years at the statewide level by requiring schools to be tobacco free, and in raising the legal age to purchase tobacco products from 18 to 21. Allow communities to go even further should they so choose.

Ms. Allison Adams, Vice President for Public Policy with the Foundation for a Healthy Kentucky, stated that the local smoke-free laws prohibit smoking and vaping in indoor workspaces and public places. Fifty-six Kentucky communities in Kentucky have enacted local smoke-free laws protecting 36 percent of Kentuckians. State statutes prohibit city and county governments from regulating the use, display, sale and distribution of tobacco products.

Beginning in 1985, "Big Tobacco" began using preemption as a tactic to overturn existing—and block new—local laws. By getting these preemption laws at the state level, the companies could avoid lobbying local governments. The Foundation supports repealing the state law preventing local controls. Local control is a tool, not a mandate.

Representative Graviss noted his appreciation of the advocate's efforts. He anticipated assisting family farmers in moving to alternative crops.

There being no further business, the meeting was adjourned at 10:00 a.m.

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

### **Minutes of the 4th Meeting of the 2020 Interim September 17, 2020**

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

The 4th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, September 17, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Reginald Thomas, Johnny Ray Turner, Robin L. Webb, and Phillip Wheeler; Representatives John Blanton, Adam Bowling, Terri Branham Clark, R. Travis Brenda, Randy Bridges, Myron Dossett, Jim DuPlessis, Chris Fugate, Cluster Howard, Derek Lewis, Suzanne Miles, Melinda Gibbons Prunty, Josie Raymond, Cheryl Lynn Stevenson, Jim Stewart III, Richard White, and Rob Wiederstein.

Guests: Rodney Andrews, Ph.D., Director, Center for Applied Energy Research, University of Kentucky.

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

## **Instability in the Energy Markets During the Pandemic: Demand, Pricing, and Forecast**

Dr. Rodney Andrews stated that overall energy demand has dropped significantly with the economic slowdown, and demand has reached its lowest level since 1989. Both electricity and petroleum are affected. There are some positive indicators due to the shift from commercial and industrial usage and increased residential demand.

Petroleum consumption reached record lows in April 2020, which is significantly lower than the levels during the 2008 recession. Natural gas consumption was stable compared to other fuels due to fuel switching in electricity production and provided 39 percent of electricity generation in April 2020. Electric power consumption decreased, but there was an 8 percent increase in residential use. The energy burden was shifted from commercial and industrial sectors to residential due to consumers working from home.

Crude oil and liquid fuels production decreased in the beginning of March due to reduced demand. Worldwide petroleum storage was full and the Organization of the Petroleum Exporting Countries (OPEC) was still producing oil because reductions were not implemented until June. The demand for gasoline decreased significantly with reduced consumer travel; however, distillate demand remained fairly stable. Refiners switched from gasoline to distillate due to shifting demand for refined gasoline. Almost half of reduction for liquid fuels was due to decreased gasoline consumption when consumers began working from home and employment fell. The demand is predicted to recover as employment increases.

Refinery margins are recovering, and the prices for gasoline and diesel are converging. The difference in petroleum price and the refined product price for diesel and gasoline are coming back to parity.

There is a record low number of passenger flights, which caused a 43 percent decrease in jet fuel consumption.

In April 2020, coal demand was the lowest since tracking began in 1973 by the United States Energy Information Administration. Consumption was 27 percent lower than April 2019. Nearly all of the decline was due to reduced demand for coal in the power sector because of lower electricity demand, cheap natural gas, and fuel switching. Export markets for coal remain soft. Coal production is forecasted to increase 6 percent due to higher natural gas prices. Production in the Appalachian region is not projected to recover in proportion to its losses in 2020. Coal plants are running at 50 percent or less capacity. Coal-fired plants are not being used for baseload generation and are being powered on and off, as demand for electricity and prices shift.

In April 2020, the price of petroleum futures was negative due to very high worldwide production. World storage was saturated, and the demand for crude oil decreased due to the slowing economy. There was also a weakened demand for refined petroleum products. In April 2020, the US Oil Fund held approximately 25 percent of the crude oil futures for the month of May. These futures required the sale or delivery of crude oil by April 21, 2020. Traders, who normally do not own any storage capacity, would be forced to take the deliveries of crude oil. Normally, to take the oil traders would attempt to roll forward the delivery date to the next month; however, there were no buyers to take the oil due to low storage capacity and low international demand. Traders began paying others to physically take the oil which caused the futures price to go negative. This has never happened before.

In response to Senator Embry, Dr. Andrews stated



there were no significant drops in solar or wind production, because they are passive generation.

In response to Representative Gooch, Dr. Andrews stated Kentucky does not have any new electric generating units planned, but an existing plant is projected to be upgraded for conventional hydro-electric production. The main generating units are not changing. Kentucky has enough generating capacity to meet the energy demand, and projected energy demand, when the economy recovers.

In response to Representative Gibbons Prunty, Dr. Andrews stated the coal-fired power plants are not operating baseload generation. The plants are not operating at 80 or 90 percent; instead the plants are being turned off and on.

Representative Gibbons Prunty stated that coal is an important component of Kentucky's energy mix that helps keep the price of natural gas low. Dr. Andrews responded that coal and nuclear should be part of the energy mix to stabilize the grid.

In response to Senator Thomas, Dr. Andrews stated the utility companies in Kentucky have invested in solar energy generation. There are no economic drivers to invest in more solar energy generation, because the price of natural gas is low. There is technology to capture and scrub carbon dioxide to keep greenhouse gas emissions low.

In response to Senator Wheeler, Dr. Andrews stated the subsidies and tax incentives that renewable energy receives from the government vary state by state. There are subsidies and tax incentives in Kentucky; however, neither are not as significant as they once were.

There being no further business, the meeting was adjourned.

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

### **Minutes of the 4th Meeting of the 2020 Interim**

September 22, 2020

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

The fourth meeting of the Interim Joint Committee on State Government was held on Tuesday, September 22, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Representative Kim Moser; Laura Hendrix, Emily Dennis, and Dave Nicholas, Kentucky Legislative Ethics Commission; and Robert Jenkins, LRC Staff.

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

#### **Approval of Minutes**

A motion to approve the minutes of the August 27, 2020, meeting was seconded and adopted without objection.

#### **Discussion of HB 168 (2020 RS), Relating to**

#### **Legislative Ethics**

Representative Kim Moser discussed HB 168 (2020RS), which she sponsored to propose changes to the legislative code of ethics that were recommended by the Kentucky Legislative Ethics Commission (LEC). Laura Hendrix, LEC Executive Director, assisted in the discussion. Emily Dennis, LEC Counsel and LEC Chair Dave Nicholas were also present.

Representative Moser said that in 2018 she and former Representative Ken Fleming participated in a group that examined harassment issues in the legislature. They co-sponsored HB 9 (2018 RS) to specifically make sexual harassment or discrimination an ethical violation, as recommended by the LEC. During the 2020 regular session, in conjunction with LRC staff input, she and Representative Kelly Flood co-sponsored HB 168, to make recommended changes to the ethics code. That legislation passed the House, but due to timing and language issues, it did not pass the Senate. Some of the recommendations included in HB 168, however, were enacted in SB 157.

Representative Moser said that, currently, the ethics code contains no specific ethical prohibitions against sexual harassment or discrimination by legislators or lobbyists and no specific language to guide legislators or legislative lobbyists or legislative staff in making a complaint. The LEC has been applying general provisions of the code to address sexual harassment. Building on the provisions of HB 168 and input given during the 2020 session, she hopes to file legislation for the 2021 regular session that would make sexual harassment or discrimination by legislators or legislative agents against legislators, legislative agents, or legislative employees ethical misconduct. It would not include LRC directors, as done in previous bills, because it appears that issues relating to the director should be addressed by the LRC, as the employer. It would specifically define sexual harassment and discrimination as those acts that are unlawful under existing federal and state case law. It would give specific examples of prohibited conduct, such as unwanted or unwelcome sexual advances or sexually demeaning behavior. It would require, as with all other ethics complaints, a sworn complaint to be filed under penalty of perjury. The complaint would be investigated by the LEC and go through the same process as other ethics complaints—including a preliminary determination of probable cause; a hearing, if there is probable cause; and the right to counsel and ability of the alleged violator to be heard. The penalties for ethical misconduct would be the same as they are currently: a fine of \$2,000, public reprimand, and a possible recommendation to the House or Senate for further action such as censure or expulsion. For a lobbyist, the LEC could revoke the ability to lobby for up to five years. Representative Moser said it was recently brought to her attention that House leadership has been working on a human resources/anti-harassment policy that is geared toward personnel matters.

Ms. Hendrix thanked Representative Moser for agreeing to sponsor legislation for the LEC and for making it a bipartisan effort. She said that for many years the LEC has recommended that the ethics law be amended to include a specific provision to make discrimination and sexual harassment an ethical violation and to specifically prohibit such conduct by legislators and legislative lobbyists. The LEC feels that defining it specifically, rather than relying on “catch-all provisions,” would help the General Assembly, employees, and the public to understand that there is a standard. The legislation would require a formal complaint, signed under penalty of perjury that could be made against

a legislator or a lobbyist by another legislator, legislative staff, or lobbyist. The complainant could still go to the LRC, Senate or House leadership, the courts, the federal EEOC, or the Kentucky Human Rights Commission.

Ms. Hendrix said the legislation would not replace the LRC in-house personnel policy. The intent is to provide a safe and protected workplace, to ensure that concerns are addressed fairly and independently, and to ensure that everyone would be aware of the standard and know what is expected of them. The LEC feels that issues relating to the LRC director are not within its jurisdiction and should properly be addressed by the LRC.

Ms. Hendrix noted that SB 157, sponsored by Senator Schroder, adopted an LEC recommendation to change the annual ethics training for legislators from three hours to two hours, in recognition of the fact that they now have another one-hour training relating to workplace harassment and workplace issues. Concluding her opening statement, she said that the LEC is happy to continue working closely with the General Assembly and the LRC.

Representative Tipton said he appreciates the work of Representative Moser, Representative Flood, and former Representative Fleming, and he finds it troubling and somewhat embarrassing that their ethics legislation had not yet passed. He asked about the language issue that may have stalled HB 168 in the Senate. Representative Moser said she was not directly involved in the conversations and did not have full clarity regarding the language issue.

Representative Graviss said he is grateful for the effort and the perseverance of Representative Moser and Representative Flood. He believes it is the responsibility of elected officials to serve as role models for the type of behavior that constituents expect—and to work together in a bipartisan fashion to achieve results that make a difference. He suggested that the proposed changes to the ethics code could perhaps serve as a model to be adopted by other organizations.

Representative Burch said he worked for General Electric for 39 years and that any manager who was accused of sexual harassment was fired immediately. He likened members of the General Assembly to “managers” who are in positions of power. He said that no one—whether in the executive or the legislative branch—should have to work in fear of being harassed. He urged passage of the ethics legislation and suggested that a companion bill should be filed in the Senate.

Representative Miller thanked Representative Moser for her persistence and asked whether she is aware of any objections to the legislation in the Senate. She said she had not had any direct conversations in that regard. Representative Miller also expressed thanks to Representative Flood and former Representative Fleming.

Senator Schroder asked about the consequences of not paying the \$2,000 fine for a violation. Ms. Hendrix said that the LEC could take a violator to court for not paying a fine or failing to comply with rulings of the LEC. She believes that has happened in a couple of cases. She said the LEC would not have the power constitutionally to deem a legislator ineligible to run again for office. There could be a public reprimand, and the LEC could vote to recommend further action by the House or Senate, such as censure or expulsion. For violation by a lobbyist, the LEC could revoke the ability to lobby for up to five years.

There were no additional questions, and Senator Schroder thanked Representative Moser and Ms. Hendrix for their testimony.

#### **Overview of the Fiscal Note and Fiscal Statement**

## Process

Robert Jenkins, LRC staff, gave an overview of the fiscal note and fiscal statement process. His testimony included a PowerPoint presentation. He also provided a memorandum dated September 17, 2020, entitled “Overview of Fiscal Note and Fiscal Statement Process.” The memorandum explains the various types of fiscal impact statements and also includes a history of the process as it has evolved from its early roots.

Mr. Jenkins said that in 1969, LRC staff looked at what other states were doing in regard to fiscal notes, and in 1976 the General Assembly enacted its first rule on fiscal notes. The process has grown since then. Senate Rule 52 and House Rule 52 currently establish the system governing the fiscal statement process. The term “fiscal impact statement” refers to fiscal note (FN), actuarial analysis (AA), local mandate (LM), corrections impact statement (CI), and health benefit mandate (HM).

Mr. Jenkins explained in the summary sheet of his memorandum that a fiscal note identifies the monetary impact on state revenues and/or expenditures. An actuarial analysis identifies changes to benefits, participation in benefits, or the actuarial accrued liability of any state-administered retirement system. A local mandate identifies the estimated impact of a bill’s changes to local government revenues or expenditures. A corrections impact statement identifies the impact of a bill’s changes to incarceration at local and state correctional facilities, supervision, or treatment services provided by the Department of Corrections. A health benefit mandate identifies the fiscal impact on health benefit plans.

Mr. Jenkins said that bill sponsors have the obligation to request fiscal notes. Bill drafters, at the time of drafting, identify whether a bill needs an actuarial analysis, corrections impact statement, health mandate, or local mandate. If the sponsor does not ask for a fiscal note, or if the bill drafter does not indicate that a bill needs a fiscal statement, the committee chair, a majority of the committee, or a majority of the chamber can ask for completion of a fiscal note or one of the other fiscal statements. He described in detail the process to be followed by LRC staff, legislators, and legislative committees when requesting and creating fiscal impact statements. He explained that health mandate analyses are completed by the Department of Insurance, actuarial analyses for bills that affect the financial liability of the public retirement systems are completed by the systems’ actuaries, and corrections impact statements are prepared by the Department of Corrections.

Senator Schroder said he appreciates the time that Mr. Jenkins has devoted to assembling this information. He said that during the 2020 legislative session he spoke with both the House and Senate committee chairs about the need for a fiscal impact statement on a certain bill that was referred to their committees. He learned that the bill had already passed through committee and that it was too late for the chairs to request the statement. He asked whether there is written guidance that can be referenced regarding timing of requests for fiscal notes and fiscal statements. Mr. Jenkins said the only rule would be what is indicated in the House and Senate rules—that is, in the House, “the chair of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to posting”; in the Senate, “the chairman or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to final committee action.” He said he has heard several committee chairs say they would like to be able to request a fiscal note on bills that are not in their possession. He said that this

issue perhaps could be considered for possible clarification in the rules.

Senator Schroder asked about the cost associated with preparation of fiscal impact statements. Mr. Jenkins said the number of analyses requested has been increasing and that the retirement systems and the Department of Insurance have expressed some concern about the cost involved. He said he is not sure of the total dollars involved but that those costs are borne by the retirement systems and the Department of Insurance.

Representative Miller said that actuarial analyses are a big cost driver because they involve payment to an outside consultant. He advised the committee that he sponsored HB 194 during the 2020 session, relating to actuarial analysis on retirement bills. That bill passed the House but remained in a Senate committee. For 2021, he has prefiled BR 225, which also relates to actuarial analysis on retirement bills.

Senator Alvarado said he is concerned about the number of fiscal statements being requested during legislative sessions, the number that are actually completed and utilized, and the amount of staff time involved. Mr. Jenkins said he does not have those numbers with him but that they were higher in 2020 than during several previous sessions. There appears to be an upper trend over the last few years. He offered to get those numbers to share with the committee. He explained that five employees work on local mandates during a legislative session. Fiscal notes are completed in-house by the Budget Review staff and the Appropriations and Revenue staff. There is also a secondary level of review, coordinated by committee staff administrators, for health benefit mandates and local mandates.

Representative Tipton asked whether it is correct that fiscal impact statements are supposed to reflect the difference in fiscal impact between current law and the new legislation—whether it would be a plus or a minus. Mr. Jenkins said that is correct, generally speaking. The statements look at what currently happens and how that is either increased or decreased by the changes in the bill. Representative Tipton said he filed HB 143 during the 2020 session, dealing with pay increases for state employees. State law currently stipulates a five percent annual increase. HB 143 would have based that increase on the consumer price index (CPI)—the difference between the five percent and the projected CPI. However, the fiscal note based the amount of the increase on the precedent of what has been done in recent years. Mr. Jenkins said it would be based on existing law—the existing statute that calls for a five percent increase—but it would also be based on the most recent budget bill, which is also law. Representative Tipton thanked Mr. Jenkins for the clarification.

Senator Schroder said that a member who is attending remotely has asked why bill drafters do not identify bills that need fiscal notes. Mr. Jenkins said that, according to Rule 52 in both chambers, “the sponsor of a bill which, if enacted, would affect the revenues or expenditures of state government generally, may at any time by request cause the staff of the LRC to analyze and prepare a fiscal statement for the measure.” He said that if the General Assembly would ever want to give that responsibility to bill drafters, he believes it could be accomplished.

Senator Schroder asked whether there is any information on the General Assembly or another website regarding the cost of preparing actuarial analyses. Mr. Jenkins said he does not believe there is a link on the General Assembly website but that he could contact the retirement systems to get that information. Senator Schroder said he

would instead defer this question to the Public Pension Oversight Board, which is going to meet later today.

There were no further questions, and the meeting was adjourned at 11:25 a.m. (Earlier in the meeting, Senator Schroder announced that discussion of the 2021 Kentucky Employees’ Health Plan had been a late addition to the agenda but that the Personnel Cabinet requested that it be postponed until a future meeting.)

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

**Minutes of the 4th Meeting  
of the 2020 Interim  
September 24, 2020**

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

The 4th meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, September 24, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Danny Carroll, Co-Chair; and Representatives Phillip Pratt, Co-Chair; Senators Karen Berg, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Lynn Bechler, Tina Bojanowski, Terri Branham Clark, George Brown Jr, Jeffery Donohue, Deanna Frazier, Chris Freeland, Chris Fugate, David Hale, Richard Heath, Cluster Howard, Kim King, Adam Koenig, Bobby McCool, Michael Meredith, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Rachel Roberts, Steve Sheldon, Maria Sorolis, Cherlynn Stevenson, Ashley Tackett Laferty, Nancy Tate, Richard White, and Rob Wiederstein.

**Guests:** Nancy Galvagni, President, Kentucky Hospital Association; Shelia Currans, CEO, Harrison Memorial Hospital; Jeff Hohn, CEO, Kenergy Corporation; Leslye Krampe, Commercial Accounts and Economic Development Specialist, Kenergy Corporation; Sharla Wells, Director of Legislative Affairs and Government Relations, Big Rivers Electric Corporation; Robert L. Swisher, Commissioner, Department of Workers’ Claims; Jeff Borkowski, Chief Executive Officer, ClearPath Mutual; Amy Staed, Executive Director, Kentucky Association of Private Providers; and Jeremy Terry, Vice President of Policyholder Services, Kentucky Employers’ Mutual Insurance.

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

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

Nancy Galvagni, the President of the Kentucky Hospital Association, explained that the COVID-19 pandemic differs in many ways from previous pandemics. The disease has had rapid movement and the government has intervened much sooner than with the SARS pandemic in 2002 or with the Swine Flu in 2009. The first cluster of pneumonia like illnesses was reported in Wuhan, China in late December 2019 with a declaration by China to the World Health Organization on December 31, 2019. Within 24 hours the source of the outbreak had been identified and the virus was definitively identified by January 7, 2020. The first case was reported in the U.S. on January 21, 2020 and CDC test kits were available by January 27, 2020. Less



than a month later, multiple pharmaceutical companies and research facilities had already began the clinical vaccine trial process. A vaccine developed was initially sent to the National Institute for Allergy and Infectious Diseases on February 24, 2020. Ms. Galvagni stated that knowing the rapid timeline of COVID-19 is important in understanding how it was able to bring the economy to a sudden halt.

Hospitals have been effected by the pandemic just as much as all other industries have across the state. Kentucky's hospitals are the front line in fighting the pandemic and are important economic drivers. The hospitals have been willing partners in working with the state and federal government, including the shutdown of elective procedures which are the very procedures that hospitals derive their working capital. It is estimated that the hospital industry's total losses for 2020 will exceed \$2.6 billion due to the needed pandemic response, and federal relief funds have covered less than half of that amount. In addition, hospitals are facing ongoing losses due to the fear and anxiety of the public to return to the hospital. Inpatient services have returned to about 80 to 90 percent of pre COVID-19 levels but the use of emergency rooms has not risen above 70 percent. Ms. Galvagni also described scenarios in which patients' lost their lives, because they were too afraid to visit the hospital. She gave assurance that Kentucky hospitals are some of the safest places people can visit due to the extraordinary precautions that have been taken.

Many hospitals have requested advanced payments from Medicare to assist with cash flow when the elective procedures were halted. Under the federal CARES Act, these payments are treated as loans and have to be repaid within four months from the time the hospitals received the funds. The law also requires that 100 percent of the Medicare payments be recouped until the advances are repaid in full. Ms. Galvagni explained that the Kentucky Hospital Association has worked closely with its congressional delegation in an effort to have these recoupments delayed. The losses that hospitals are currently facing may cause some of the most critical economic drivers to shut down. The economic impact has already been seen with approximately 3000 workers being furloughed. If hospitals are forced to close in the future, it will be devastating to communities across the state.

Shelia Currans, the CEO of Harrison Memorial Hospital in Cynthiana, testified about her rural nonprofit hospital's struggles throughout the pandemic. Harrison Memorial Hospital is an independent hospital that services primarily the counties of Harrison, Robertson, and Pendleton and employs over 450 people. Harrison Memorial Hospital was the first Kentucky hospital to treat a COVID-19 positive patient in early March. The patient was not displaying all of the common symptoms and had not traveled outside of her home county of Harrison. Therefore, the hospital was not immediately sent a COVID-19 test from the state for the patient and treated the patient according to its normal protocol without the proper PPE. Once a positive result was confirmed, Ms. Currans explained that there was constant communication with the CDC and state officials, thorough sanitizing performed, and about 54 hospital staff members directed to quarantine. Being a relatively small hospital with that amount of staff members in quarantine, Ms. Currans made the decision to cancel elective procedures on March 7, 2020, 16 days before the entirety of the state was directed to do so, in an effort to have enough staff to adequately address emergencies. With the expectation of a surge in COVID-19 patients, the increase of testing that subsequently followed, the changes made to the hospital to create separate entrances

for possible positive patients, and the suspension of elective procedure, Harrison Memorial Hospital ended the month of April with a -159 percent operating margin. Ms. Currans is hopeful that the hospital will end the current fiscal year with a -22 to a -25 percent operating margin.

Answering a question from Co-Chair Danny Carroll, Ms. Galvagni stated alternate care facilities were considered by some hospitals during preparation for the surge of COVID-19 patients but that would be an option taken if there were no beds available. Ms. Currans added that telehealth capabilities have been helpful in some cases, especially with behavioral health. Responding to a follow up question, Ms. Galvagni said that hospitals and ICU's in Kentucky are not at capacity with COVID-19 patients.

Responding to Co-Chair Phillip Pratt, Ms. Galvagni explained that the number of COVID-19 patients varies across the state and some areas have become hotspots for a short period of time. Overall, Kentucky has not been labeled as a hotspot for COVID-19. Answering a follow up, Ms. Galvagni clarified that hospital are well below pre pandemic levels.

Addressing a question from Representative Lynn Bechler, Ms. Galvagni said more analysis of the data pertaining to Medicaid patients had to be done.

Replying to Representative Steve Sheldon, Ms. Galvagni pointed out that public service announcements have already been released to attempt to decrease the fear and anxiety related to the virus but said a broader campaign may be compiled that can reach more people across the state.

#### **Update on Expanding Broadband Services**

Jeff Hohn, the CEO of Kenergy Corporation; Leslye Krampe, the Commercial Accounts and Economic Development Specialist for Kenergy Corporation; and Sharla Wells, Director of Legislative Affairs and Government Relations for Big Rivers Electric Corporation, gave an overview of Kenergy and detailed their plan to expand broadband services in Kenergy's service area in Western Kentucky. Kenergy is an electric distribution co-op that services approximately 44,615 members in 14 counties. Big Rivers supplies wholesale electric generation and transmission service for Kenergy, Jackson Purchase Energy Corporation, and Meade County Rural Electric Cooperative Corporation. Big Rivers is a non-for-profit electric cooperative that is owned by the member-owners, or customers, it serves. Combined, members provide electric service for more than 122,000 retail homes and businesses in 22 Western Kentucky counties. Big Rivers and its member-owners are regulated utilities which includes oversight by the Kentucky Public Service Commission.

In 2014 Hancock County Industrial Foundation began approaching Kenergy to provide broadband services. Kenergy provides all of Hancock County's electric service. In 2019, Big Rivers agreed to provide a portion of the funds for a broadband feasibility study. After reviewing the results, in February of 2020 Kenergy's Board unanimously voted to pursue broadband services and began reviewing regulatory hurdles that need to be addressed. According to Ms. Krampe, the western part of the state is underserved when it comes to broadband. The Federal Communications Commission's definition of served is 25 megabits per second (Mbps) in download speed and three Mbps in upload speed. Many residents and businesses in Kenergy's service area utilize dial-up, satellite, and digital subscriber lines (DSL) for internet sources. Dial-up internet is connect through a phone line and has a download speed of up to 56 kilobits per second (Kbps). Satellite internet has wireless connection

and has a download speed of 400 kbps to two Mbps. DSL internet is also connected through phone lines and has a download range of 768 Kbps to six Mbps. None of these sources come close to the FCC's definition. Other faster sources include cable modem and fiber connections. Fiber is by far the best option with 100 Mbps to one gigabyte per second but is costly and has expensive infrastructure. The availability of fiber broadband service is scarce throughout the state but has a greater availability in the eastern part of the state compared to the western part. Kenergy's service area has virtually no current option for fiber broadband and some areas do not have internet option at all of any kind. Presently in Kentucky large telecoms such as AT&T, Charter Communications, and Spectrum can offer fiber along with municipals, telephone cooperatives, and TVA's electric cooperatives.

There are 19 electric cooperatives in the state that are regulated by the Public Service Commission (PSC) that cannot provide broadband under current state statute and Kenergy is one of those cooperatives. Kenergy has filed an application with the PSC for a waiver of KRS 278.2213(14). Current statute allows regulated entities to establish subsidiaries for the purpose of providing non-regulated services. In addition, the current statute does not allow cooperatives to provide funding for start-up costs. The project that Kenergy is proposing would be broken in six phases and each phase would require Kenergy Board approval. The electric cooperative would own the fiber and the operating entity would own the equipment. The entire project would be \$165,922,423, and Kenergy does not need any state funding to complete the project. Kenergy's project, that is to be completed over six years, would average 250 jobs per year and would increase economic activity measured by Kentucky's gross state product by \$140 million annually. That equates to an average of 1500 jobs and an economic impact of \$840 million.

Co-Chair Phillip Pratt expressed his support for the project.

Replying to Co-Chair Danny Carroll, Ms. Wells stated legislation is being drafted, and Kenergy has been working with the area telephone cooperatives. Answering a follow up question, Ms. Wells explained there are some concerns about pole attachments but PSC has jurisdiction over that area.

Answering a question from Representative Lynn Bechler, Mr. Hohn said that Kenergy would own the fiber but lease to the subsidiaries. The subsidiaries may then lease to whomever they choose. Ms. Wells added there are no boundaries for service providers for internet.

Responding to Co-Chair Phillip Pratt, Mr. Hohn said Kenergy's intent is to provide broadband for its entire current service area.

Addressing a question from Senator Karen Berg, Ms. Krampe said that the project's broadband service cost data has been gathered but cannot be disclosed, but she offered assurance that the costs will be fair and reasonable for customers. Answering a follow up question, Ms. Wells said that although assistance to those who may not be able to afford their broadband bill, there are other state entities that are addressing the issue.

Replying to Representative Steve Sheldon, Mr. Hohn explained Kenergy does has funds set aside in the event that the PSC does not approve its waiver application. Those funds would be seed money from the members' equity.

#### **Workers' Compensation and Independent Contractors**

At the center of the Workers' Compensation Act, KRS

Chapter 342, is the relationship between an employer and employee. Without that relationship, the Act does not apply and does not allow benefits to be provided for workplace injuries or occupational diseases. According to KRS 342.340 every employers shall “(a) insure and keep insured its liability for compensation in some corporation, association, or organization authorized to transact the business of workers’ compensation insurance in this state; or (b) furnish to the commissioner satisfactory proof of its financial ability to pay directly the compensation in the amount and manner and when due as provided in this chapter.” The statutory definition of an employee as it pertains to workers’ compensation is considered to be broad. It states that an employer is “(1) any person, other than one engaged solely in agriculture, that has in this one (1) or more employees subject to this chapter, (2) the state, any agency therefor” “or any other political subdivision or political entity of the state that has one (1) or more employees subject to this chapter.” In regard to employee, the statute says that an employee is any person “in the service of an employers under any contract of hire or apprenticeship, express or implied”. There are about 11 exemptions of classes of employees from coverage that can found in KRS 342.650. For workers’ compensation purposes, there has been a nine factor test used for determining whether an employer-employee or an independent contractor relationship exists beginning with *Ratliff v. Redmon (1965)*. The test was further refined with *Chambers’ v. Wooten’s IGA Foodliner (1969)* which narrowed the determination down to four main aspects that include the extent to which the employer controlled the work, the nature of the work as it relates to the work of the employer, the professional skill of the alleged employee, and the true intentions of both parties. Commissioner Swisher pointed out KRS 342.700 which states “A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer.” Commissioner Swisher said that it is very difficult to make a blanket statement about whether any group of employees that work for a particular employer or in a particular field are independent contractors.

Jeremy Terry, the Vice President of Policyholder Services for Kentucky Employers’ Mutual Insurance (KEMI) spoke about how his organization fits into the discussion of workers’ compensation and independent contractors. KEMI is the largest provider of workers compensation insurance in the state with over 21,000 insured businesses. The public school districts and the state’s public and private universities are insured through KEMI along with businesses in the thoroughbred, coal, construction, and manufacturing industries. Of the businesses that KEMI insures, about 18,000 pay less than \$5000 a year in premium. Mr. Terry explained that in offering coverage to policy holders, KEMI strives to provide a high level of customer service, fair premiums, and adequate coverage. Contract labor poses issues when determining a business’s final premium however, and is predominately seen by KEMI in the construction industry. KEMI does make an effort to work with businesses to determine if people are employees or independent contractors which will factor into the final premium. There is often times misclassification when it comes to determining if a person is an employee or independent contractor that can be intentional or unintentional.

Jeff Borkowski, the Chief Executive Officer at

ClearPath Mutual, discussed his company’s stance on the issue of workers compensation and independent contractors. ClearPath Mutual, formally known as KESA, is a self-insured fund that offers employers an option for workers’ compensation. ClearPath is the second largest workers’ compensation provider in Kentucky. KEMI and ClearPath Mutual handle 37 percent of all workers’ compensation premiums in the state. The use of independent contractors is estimated to have grown as much as 40 percent over the last few decades and most qualified under tests similar to the one Commissioner Swisher described as employees rather than independent contractors. Mr. Borkowski explained that legislation could help its claims and underwriting departments and would help make things easier for all parties involved through a consistent manner for determining whether a person is an employee or independent contractor. Ultimately, this will also make it easier for rate determinations for the state in the future.

Co-Chair Danny Carroll asked for clarification of the creation of the 2020 Classification of Workers in the Construction Industry Task Force, and Mr. Terry confirmed that the main purpose is to establish consistent standards amongst state agencies that deal with whether a person is an employee or independent contractor. Mr. Borkowski said that consistency is needed amongst insurance carriers as well.

Amy Staed, the Executive Director of the Kentucky Association of Private Providers, discussed her organization and a current issue regarding independent contractors. The Kentucky Association of Private Providers is a trade association that represents over 100 providers of services, generally through Medicaid waivers, to individuals with intellectual and developmental disabilities. The types of services offered vary from provider to provider and some specialize in one type of service while others offer numerous services. Some services include 24 hour care, community based care, and behavior services. In the past, certain types of Medicaid waivers services have utilized independent contractors such as family home providers or adult foster care providers. These independent contractors usually determine their own schedule, do not have much daily oversight, and sometimes work for multiple agencies. Ms. Staed stated she has been contacted recently by numerous independent contractors who have been audited and reclassified as employees of their providers. After contacting her provider membership, she found that this issue has been occurring for the last several years. In some cases carriers have also required member providers to carry workers’ compensation coverage on an independent contractor if the independent contractor does not have their own coverage even when it has been determined the person is not an employee. Ms. Staed said an unintended consequence of some individuals being reclassified as employees is worker retention. These reclassified employees may leave one provider and go to another organization where they can be classified as an independent contractor. It also puts an extra burden on providers who have to carry worker compensation coverage people who were reclassified.

In response to Co-Chair Danny Carroll, Commissioner Swisher said that workers compensation is typically a matter of state law, and the General Assembly does have the authority to make changes to the Workers’ Compensation Act if they see fit. Answering a follow up question, Mr. Terry explained that in some cases the insurance carrier has to consider if the intent of the provider is more important or the nature of the operation as a whole, especially when

a provider has half of their workers are employees and the other half are independent contractors.

Senator Karen Berg, a member of the 2020 Classification of Workers in the Construction Industry Task Force, offered her opinion of what has been discussed is task force meetings thus far. If an employer does not carry workers compensation on a worker who does carry their own policy, then ultimately the state is left to pay for any costs associated with a workplace injury. Addressing a question from Senator Berg, Mr. Borkowski described a process used in Maryland as a resolution. Maryland requires independent contractors to complete a form attesting to being an independent contractor that is choosing not to be covered because the law does not require it. A solution such as this may aid in separating independent contractors from employees in the event of a workplace injury.

Replying to a question from Co-Chair Phillip Pratt, Mr. Terry said independent contractors that work with companies such as Mary Kay and Pampered Chef have not been a concern of his organization. Answering a follow up question, Commissioner Swisher explained that an independent contractor that is injured at a customer’s home would be responsible for paying to their own care and treatment unless the homeowner intentionally did something to create or cause the injury.

Representative Terri Branham Clark, a member of the 2020 Classification of Workers in the Construction Industry Task Force, clarified that the task force has only been examining issues concerning misclassification of workers in the construction industry. Addressing a question from Representative Branham Clark, Mr. Terry said misclassification does have an impact on rates and a majority of the misclassification issues that KEMI sees is in the private sector and not the public sector. Commissioner Swisher added, in the scenario of an injured worker, if an independent contractor is deemed by an administrative law judge to be an employee of an employer who is uninsured, then benefits are paid by the Uninsured Employers’ Fund. The fund’s revenue source is part of the special fund assessment on workers’ compensation premiums.

There being no further business, the meeting adjourned at 3:25 p.m.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION Minutes of the 4th Meeting of the 2020 Interim September 15, 2020**

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

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 15, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll. The minutes for the August 18, 2020 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, C.B. Embry Jr., Stephen Meredith, Johnny Ray Turner, and Mike Wilson; Representatives Terri Branham Clark, Randy Bridges, Chris Fugate, Al Gentry, Robert Goforth, David Hale, Samara Heavrin, Kathy Hinkle, Thomas Huff, Derek Lewis, Savannah Maddox, Sal Santoro, Maria Sorolis, Cherlynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, and Walker Thomas.

Guests: Matt Cole, Acting Commissioner. Department



of Vehicle Regulation, Kentucky Transportation Cabinet (KYTC); Major Nathan Day, Director Commercial Vehicle Enforcement Division, Kentucky State Police (KSP); Captain Marshall Johnson, Commander Driver Testing Branch, KSP; Carlos Cassady, Executive Director Kentucky Motor Vehicle Commission; Doug Dotson, Chairman, Kentucky Motor Vehicle Commission; Ray Cottrell, Member Kentucky Motor Vehicle Commission; Chuck Coldiron, Member Kentucky Motor Vehicle Commission; and Ron Jackson, Member Kentucky Motor Vehicle Commission

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

#### **Driver's License Issuance and Testing**

Matt Cole, Acting Commissioner, Department of Vehicle Regulation, KYTC, gave a brief overview of driver's license issuance and testing procedures since the beginning of the Covid-19 pandemic. Commissioner Cole stated there are eight regional offices and five temporary field offices open that are issuing credentials at this time. The open regional offices are in Elizabethtown, Frankfort, Lexington, Madisonville, Morehead, Paducah, Prestonsburg, and Somerset. The open field offices are in Bowling Green, Catlettsburg, Florence, KYTC Bowman, and Owensboro. There will be three more regional offices opening in three to four weeks in Columbia, Jackson, and Richmond. Two more regional offices will begin operating in Bowling Green and Burlington near the end of October.

Commissioner Cole stated KYTC continues to evaluate new credential sites for areas that can best serve the Commonwealth by continuing to review the needs of populations, as well as ensuring evenly spaced offices throughout the state. Many locations are still being considered, but KYTC hopes to have 16 or 17 locations up and running by the end of 2020 and 25 to 28 regional offices by the conclusion of the construction of all credential offices.

Commissioner Cole stated that masks are required to be worn at all times in each office, and social distancing is strictly enforced. A full sanitizing of all equipment between customers is also completed. The required level of safety precautions does come with a cost, which is the efficiency and the total number of people that can be assisted daily is reduced. KYTC is happy to take on the additional costs needed, as it is the right thing to do.

Commissioner Cole stated citizens are able to get their standard ID credentials by either going to the Circuit Court Clerk in their county of residence (if that office is available for walk-in traffic), or they could also use the mail-in form for renewals or duplicates. The mail-in form can be found at the Administrative Office of the Courts' website and should be sent to the person's Circuit Court Clerk's office. The Circuit Court Clerk's office will then process payment from the information provided and will mail the new license or ID card to the applicant in the mail.

Another way to get an ID or license, including REAL ID compliant documents, is to go to any conveniently located KYTC regional office or temporary field office in the state. Appointments for the application of an ID are currently offered on the Drive.ky.gov website. Walk-in slots are also available as daily capacity allows at the KYTC regional offices. Due to their smaller capacity, the KYTC temporary field office locations are by appointment only in order to help control the flow of traffic. Commissioner Cole stated the options available are necessary for KYTC to provide during the Covid-19 pandemic, and the Cabinet will continue to offer them for the foreseeable future.

Commissioner Cole addressed the issue of enforcement for obtaining a REAL ID and how that has changed since the pandemic. Commissioner Cole stated that earlier this year, the Department of Homeland Security pushed the enforcement deadline back one year to October 1, 2021. KYTC projections estimate that 30-35% of Kentucky's population will opt into getting a REAL ID. This projection was arrived at by considering how other states of Kentucky's size and urban/rural composition have fared in their transitions. Conversations continue to occur at the national level about the possibility of moving the enforcement date further out. The Cabinet will continue to monitor the results of those conversations as they become available.

KYTC will now look to the next wave of technologies available. He added that mobile units will be able to deploy to all counties in Kentucky which do not have a regional office, a provision of House Bill 463 of the 2020 Regular Session. Those mobile units are expected to arrive sometime this fall from the vendor. Mobile driver licenses, electronic IDs, and online renewals have already begun to permeate the industry. KYTC will continue to utilize state and national level partners along with vendors to better understand these new options, and how the best versions of these opportunities can be brought to the Commonwealth.

In response to a question asked by Chairman Higdon concerning the current responsibilities of Circuit Court Clerks and KSP regarding licensure and permitting, Commissioner Cole stated currently the duties of each unit remains the same. He added there is a collaborative effort to move towards a smooth transition of duties in the near future.

In response to a question asked by Chairman Higdon, Commissioner Cole stated KSP was among the first in the nation to bring back Commercial Driver License (CDL) testing and issuance after the shutdown due to the pandemic, as the impact to the industry and the economy was quickly realized. Commissioner Cole stated the issuance of CDLs have become a priority.

Major Nathan Day, Director Commercial Vehicle Enforcement Division, KSP, introduced Captain Marshall Johnson, Commander Driver Testing Branch, KSP. Captain Johnson addressed driver's license issuance and testing. Captain Johnson stated in-person services including knowledge and skills testing for vehicle operators, motorcycle operators, and CDLS were halted in March. On June 1, 2020 knowledge testing resumed. It was realized that in order to follow CDC guidelines and continue to keep social distancing a priority, the current testing facilities were inadequate to test multiple persons at one time; therefore, they were unable to quickly address the backlog that had accumulated. Many locations now have a walk-in scheduling practice. In many counties, regional testing sites have been set up, with safe practices being applied so that the backlog can be addressed. Most of these regional offices resumed testing in July when skills testing resumed.

Captain Johnson stated he believes a significant dent has been made in the permit testing backlog. It is hard to estimate permit testing needs, because eligibility does not necessarily relate to testing. Many 16-year olds want to test right away, while others wait to test.

Captain Johnson stated as of August 31, 2020, there have been 33,400 knowledge tests administered across the state. The Floyd County regional testing site tested almost 800 applicants. The Franklin County regional testing site has tested over 2,700 applicants. The Hardin County testing site has tested over 900 applicants. Many locations are very

successful in putting a dent in the backlog.

Captain Johnson stated the skills test, which is commonly referred to as the road test, resumed in July. Unlike the permit test, the challenge of the skills test is that there must be a one to one ratio, as only one examiner can get into the car with one person at a time. Examiners have been conducting road tests at maximum capacity since July.

Captain Johnson stated that testing numbers so far would suggest that efforts have been significant in reducing the backlog. Prior to resuming testing, the data indicated approximately 19,400 eligible permit holders were identified in Kentucky as of January 2020. Since August, 17,891 eligible permit holders have been tested statewide. Captain Johnson indicated that there has been about five months' worth of road tests done over two and a half months to help eliminate backlog.

Captain Johnson stated that because a person can hold a permit for up to three years, neither age, nor eligibility can necessarily determine if a testing need exists. People who urgently need licenses have been taken care of and their license obtained.

Captain Johnson stated there is still a significant need to administer knowledge and skills testing in some areas. In those areas, such as Jefferson County, it is being discussed to add additional personnel in the Circuit Court Clerks offices. Weekend testing is also being discussed as a possibility to address backlog issues in some areas. CDL testing has been running efficiently in most aspects, adding that there have been almost 1,000 CDL applications processed since June.

Captain Johnson stated that most of the frustration from the public has stemmed from the inability to contact posts for testing. Since hearing those concerns, the implementation of online scheduling has occurred. Captain Johnson stated in moving forward, the goal is to utilize the online scheduling tool to efficiently manage the backlog in each county. Resources will also be rotated to counties that are have greater testing needs.

In response to a question asked by Chairman Higdon, Captain Johnson stated if a driver testing appointment is made, the average wait time is approximately one month from that date before the testing can be administered.

In response to a question asked by Chairman Higdon, Captain Johnson stated there is the ability to test out of a person's home county, but it would require the approval of the Circuit Court Clerks and the agreement of KSP to test. However, that is discouraged so that the number of examiners in other counties are not overwhelmed, as each county is assigned a certain number of examiners based on their expected needs.

In response to a question asked by Chairman Higdon, Captain Johnson stated there are ten CDL testing locations across the state that are open and up and running.

#### **Motor Vehicle Commission Fees**

Doug Dotson, Chairman, Kentucky Motor Vehicle Commission introduced himself and thanked members for allowing the Motor Vehicle Commission to come before the Committee to request a fee increase.

Carlos Cassady, Executive Director Kentucky Motor Vehicle Commission gave a brief presentation on the Kentucky Motor Vehicle Commission. Mr. Cassady stated the Motor Vehicle Commission licenses and regulates motor vehicle dealers, salespersons, manufacturers, distributors, factory branches, and component manufacturers and representatives. The Commission operates exclusively from the license fees it receives from these licensees. The Commission handles consumer complaints relating to the sale of motor vehicles and provides a forum for

disputes between franchised motor vehicle dealers and the manufacturers from whom the dealers hold a franchise agreement. Through its direct oversight and inspection of dealerships, and often in conjunction with consumer or other business complaints, the Commission assists KYTC and County Clerks in enforcing compliance with Kentucky's vehicle registration and tax laws, thus contributing to the revenue collected in association with vehicle transfer and registration. Through its oversight of licensees, and review of vehicle sales activities in the Commonwealth, the Commission often assists local law enforcement, KSP, Federal Bureau of Investigations, Internal Revenue Service, and Homeland Security with regard to criminal investigations involving motor vehicle transactions such as vehicle and parts thefts, tax evasion, and the elimination of activities which allow individuals to drive vehicles without necessary license and insurance. Through participating local law enforcement and the judicial system, the Commission enforces the dealer license requirement on those attempting to sell motor vehicles without a dealer's license.

Mr. Cassady stated the Kentucky Motor Vehicle Commission desires to stabilize its budget for a long-term basis. The Commission exists entirely on the license fees collected and no tax dollars. The current annual license fee of \$100 for dealers has had no changes since 1982. The Motor Vehicle Commission would like the General Assembly to change the funding mechanism for their agency from a flat fee on licensees spelled out in statute to a fee set by regulation that is capped by the statute. The cap, which the Commission suggested could be set as high as \$500, would allow the Commission to immediately adjust fees to some point below that maximum cap in order to raise the funds outlined in this presentation that are necessary to carry out the Commission's duties. It would also allow the Commission to adjust fees gradually up or down to provide appropriate funding in the future without having to petition the General Assembly to change the fee structure.

Mr. Cassady stated that since 1982, there has been a significant advancement and use of technology in the workplace. Transportation costs of motor vehicles and fuel costs have risen dramatically. He also stated that the buying power of \$100.00 in 1982 would be \$268.00 today.

Mr. Cassady stated that currently, the Commission is staying within budget because of two vacancies for two Motor Vehicle Dealer District Administrators for Western Kentucky, representing 570 dealerships which are visited on an annual basis. Secondly, Louisville and surrounding counties do not have a dealer representative which represents 608 dealerships of which 332 of those are in Jefferson County alone.

Referencing meeting materials titled "Kentucky Motor Vehicle Commission Continuing Costs for Future Budgets-Attachment B", Mr. Cassady stated personnel costs with recent legislation involving the Commonwealth's Pension Plan, established additional cost to the Commission of \$176,000 annually. The Commission has used carry forward funds and the two vacancies to stay within budget. The need for a full-time position is justified in Louisville because of illegal activities such as motor vehicle sales without a license impacting the dealers who are legal. This also impacts consumers who are not protected, and who will often times purchase a vehicle unknowingly that has been rebuilt or worse has no title. It is estimated that the Commonwealth loses between \$1.5 to \$2 million annually due to sales taxes not being collected on illegal sales activities. Sixty thousand dollars annually would fund this position.

Mr. Cassady stated the Motor Vehicle Commission is unique as a commission in that they are self-regulated. The dealers regulate themselves, and the fees provided by the dealer's licenses are used to protect consumers from false or misleading advertising, false warranties, and fraudulent activities. The Commission receives approximately 40 calls per day from consumers seeking advice and resolutions to their complaints.

Mr. Cassady stated the Commission's current workplace utilizes computers, cell phones, tablets, and air cards (wireless modems). The Commission's operating program fixed cost are \$15,000 annually. The fleet vehicles fixed costs for five representatives is approximately \$60,000 annually. The Commission has legal costs of \$25,000 to maintain franchise protection statutes. The Commission would like to have approximately \$100,000 in escrow to help with legal costs.

In conclusion, Mr. Cassady thanked members for allowing him to present to the Committee and that favorable approval of the legislature for a license fee increase would sustain and stabilize the programs operations that would cover these costs, as well as allow a full-time Motor Vehicle District Administrator for Louisville.

Chairman Higdon praised the Kentucky Motor Vehicle Commission for being self-sustaining.

In response to a question asked by Chairman Higdon, Mr. Cassady said \$442,00 would cover the cost of what the Commission is facing today.

In response to a question asked by Chairman Higdon, Mr. Cassady stated it would take a fee increase of approximately \$200 (to \$300) to be able to provide a full-time inspector for Louisville.

In response to a question asked by Chairman Higdon concerning revenue, Mr. Cassady stated that doubling the fee from \$100 to \$200 would not raise the Commission's revenue from \$1 million to \$2 million because some of the Commission's revenues come from fines. He stated that the revenue increase would be approximately \$600,000.

Mr. Ray Cottrell, Member Kentucky Motor Vehicle Commission stated the Kentucky Auto Dealers Association fully supports the fee increase.

Mr. Dotson also clarified that there is no intention to raise dealer's license fees to \$500. He stated the goal is to try to eliminate the need for returning to the General Assembly to request more money in the near future. They feel this cap for the fee increase could help sustain the Kentucky Motor Vehicle Commission for up to 30 or 40 more years.

With no other business to come before the Committee, Chairman Higdon adjourned the meeting at 1:55 P.M.

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

### **Minutes of the 4th Meeting of the 2020 Interim**

September 23, 2020

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

The 4th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Wednesday, September 23, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Walker Thomas, Co-Chair; Senator C.B. Embry Jr., Co-Chair Designate; Senators Karen Berg, Denise Harper Angel, Jimmy Higdon, Dennis

Parrett, Wil Schroder, Brandon Smith, Whitney Westerfield, and Mike Wilson; Representatives John Blanton, Myron Dossett, Jim DuPlessis, Chris Fugate, Al Gentry, Mark Hart, Samara Heavrin, Kathy Hinkle, Scott Lewis, C. Ed Massey, Patti Minter, Dean Schamore, Buddy Wheatley, and Lisa Willner.

Guests: Hon. Mitch Perry, Circuit Judge, Jefferson Circuit Court; Tina Messer, Manager, Department of Specialty Courts, Administrative Office of the Courts; Dr. Monica Himes, PhD, LCSW, Assistant Professor of Social Work, Morehead State University; Donietta Hawkey, State Director- Kentucky, U.S. Department of Labor, Veterans' Employment and Training Service; Jason Hutchinson, Veteran Program Coordinator, Career Development Office; Polly A. Ruddick, Director-Office of Homelessness Prevention and Intervention, Lexington-Fayette Urban County Government; Stephanie Gibson, LCSW, Homeless Program Manager, Lexington VA Health Care System; Anne Vandervort, Senior Director of Veteran Services, Volunteers of America Mid-States; Jim Reed, Staff to the National Conference of State Legislatures Military and Veterans Affairs Task Force, Group Director-Environment, Energy, and Transportation

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

#### **Approval of August 26, 2020 Minutes**

Representative Blanton moved to approve the August meeting minutes. Senator Wilson seconded the motion. The minutes were approved.

#### **Veterans Treatment Courts**

Monica Hines, PhD, LCSW, Assistant Professor of Social Work at Morehead State University, discussed her doctoral dissertation regarding the Kentucky Veterans Treatment Courts (VTC). Her work was made possible through a collaboration with the Kentucky Administrative Office of the Courts and grants from the Bureau of Justice Assistance. Her research began in 2016 with the idea to collect information and data was collected from 2012-2016 in Jefferson County and from 2013-2017 in Hardin County: the first two counties to have VTC. The grant required a process evaluation, their initial goal was to see how personal identifiers such as age, gender, housing status, drug of choice, employment status, and the court process could impact veterans.

She compared a national study of VTC data with Kentucky VTC data to see potential differences. The samples of Kentucky VTC participants were 90 percent male, mostly aged 30-39 (about 1/3 of participants), almost 80 percent white, 35 percent were divorced, 35 percent primarily use alcohol, 57 percent unemployed when entering the VTC, 83 percent were stably housed, and most notably 66 percent of Kentucky participants had some combat history while the national survey shows 45 percent.

Dr. Hines went on to say 47 percent of the Kentucky sample completed the program and 64 percent that entered program did not recidivate. Kentucky exhibited higher success than the national level survey. Gender is associated with higher rates of completion and females are more likely to finish than males, which is different than most drug courts. Younger veterans were more likely to recidivate, making her want to increase assistance to the 30-39 age group. Those with stable housing are less likely to recidivate, which makes veteran housing incredibly important. Significant relationship between program completion and criminal recidivism was the largest correlation. VTC does well celebrating successes which gives a sense of pride to veterans.



Working with Hardin County and Northern Kentucky VTC, they have discussed over the last few weeks how COVID-19 has impacted their work. They have continued services for veterans nearly uninterrupted. Overall they have adjusted well, the veterans have an adaptability and flexibility the general public may not have which has helped them smoothly transition away from many face-to-face meetings.

Dr. Hines has a unique vantage point observing the courts as an outsider and commends the VTC for the work that they're doing. VTCs and their staff are passionate about what they do, take the responsibility seriously, and know that the success of VTC doesn't just benefit the veterans but also the community. She stated the VTC upholds the promise to care for veterans once their service is over, regardless of their situation or circumstance.

The Honorable Judge Mitch Perry of the Jefferson Circuit Court, stated that as a veteran himself, he is passionate about the VTC. Judge Perry has been a Circuit Judge for 14 years, practiced law in governmental affairs, and has seen both the lawyer and judge's perspective in the court. Judge Perry commented on the high level of influence Kentucky has on the US military due to Fort Knox and Fort Campbell.

Judge Perry says that he works with VTC and they deal with "justice-involved veterans" which is a polite term for "I've been charged with a crime". If that person fits the profile they can be a participant in VTC, complete an assessment to make sure they understand requirements, and the program can then be completed within 18 months. The team reports to Judge Perry if a veteran has any problems, which is when they take action to redirect them back to the proper, sober-living path. Participants are typically charged with possession of a controlled substance, a DUI (second, third, or fourth offense), and sometimes a mental illness.

When working with veterans, often the first step is to find out where the veteran came from: what unit were they assigned, where they were deployed, were they in combat, and were they in the Middle East. Judge Perry stated that he has personally experienced many of these circumstances making his perspective of these factors personal and gives him the ability to empathize with their past.

Judge Perry went on to say that the VTC needs funding. There is no independent funding stream in Kentucky for VTC, so they have social workers and counselors carve out time to work when they can for the VTC. There are five counties in Kentucky that have VTC: Christian, Fayette, Hardin, Jefferson, and Kenton. Unless the judges secure a grant for the VTC, it cannot exist. He requested that the committee have a dedicated VTC treatment coordinator who is a veteran themselves and can work with veterans as he does. Over the five counties with VTCs, 85 people are currently involved. Since 2012, 350 people have entered the VTC statewide and the program's had 125 successful completions.

Judge Perry and Allison Kern often reach out to independent groups that want to help veterans. Judge Perry advised the committee to immediately hire someone dedicated to Jefferson County as an outreach specialist to make sure they are helping everyone that they can. He closed by saying the funds would be used to hire people that are directly related to finding the people who need the help via outreach coordinators.

In response to Representative Gentry's question, Judge Perry stated that the court was started in 2012 and Judge David Holton was the first judge of the VTC. He went on to say that the VTC is successful and the vast majority of

participants graduate, though it may take them a little while.

Senator Parrett commented that Judge Holton is indeed very passionate about the VTC. He went on to say that he contacted judges from his district that morning and they think it is very successful based on the people that they've had in court and brag about the results to our veterans and the second chances. He stated that there is no question that this program is important and he's grateful for the people involved, especially Judge David Hale who helped on the pilot project for the VTC.

In response to a question from Co-Chair Thomas, Judge Perry stated that the Courts are classically a-religious, but that does not mean religion cannot be involved. Every participant attends a Narcotics Anonymous (NA) or Alcoholics Anonymous (AA) meeting at some point. These programs are based on what is referred to as a "higher-power" and often discuss the higher-power step of their program. There are no faith-based initiatives, but NA and AA are somewhat predicated on this idea. He added that there are alternatives to the AA-based higher-power for those that want it.

#### **Veteran Employment**

Donietta Hawkey, United States Department of Labor State Director for Labor, Veterans' Employment and Training Service (VETS) stated their vision is to enable all veterans to reach their full potential in the workplace and to help those individuals.

The VETS service operates off of four P's: Prepare, Provide, Protect, and Promote. The agency provides employment workshops which provide transitioning service members with information on how to distinguish between a federal and civilian resume. The state workforce agency is funded through the Jobs for Veterans State Grant (JVSG). The JVSG serves individuals that have significant barriers to employment. These can be justice-involved veterans, individuals who have been unable to find employment for 27 weeks after transitioning out of the military, low-income veterans, and Vietnam-era veterans.

Their office is the regulatory agency for the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Veterans' Preference which partners with Employer Support of the Guard and Reserve (ESGR) which all work towards the protection of veterans in the job field they chose after service. The office promotes the hiring of veterans by utilizing employer outreach and HIRE Vets Medallion (Honoring Investments in Recruiting and Employing American Military Veterans award) for recognizing employers that are veteran friendly through achieving certain credentials.

Veteran unemployment has increased due to COVID-19. Previously, the annual US veteran unemployment rate was at 3.1 percent, the lowest since 2000. As of June 2020, the US veteran unemployment rate is 8.8 percent and the Kentucky veteran unemployment rate is 10.2 percent. There are about 775,000 veterans unemployed nationwide.

Homeless Veterans' Reintegration Program (HVRP) is the only federal program that focuses exclusively on employment of veterans who are experiencing homelessness. HVRP provides employment resources and training services to assist in reintegrating homeless veterans into meaningful employment within the labor force. The HVRP Grant can provide training resources, tools to service the veterans who need assistance, work boots, and anything that will help them gain employment. Some challenges for Kentucky grantees have been transportation and internet in rural areas. The HVRP grant is awarded annually, so the

areas that are covered may change yearly.

Jason Hutchinson, Veteran Program Coordinator of the Career Development Office and the Jobs for Veterans State Grant (JVSG) stated the JVSG program provides federal funding for a formula grant to state workforce agencies to assist in hiring staff to provide individualized career and training-related services to veterans and eligible persons with significant barriers to employment and assist employers to fill their workforce needs with job-seeking veterans. Title 38 under the United States Code, Section 4102A (b) 5 (38 U.S.C. §4102A(b)5) authorizes funds provided to each state to staff and support Disabled Veterans' Outreach Program (DVOP) specialists, Local Veterans' Employment Representatives (LVER) staff, and the reasonable costs associated with such representatives.

The DVOP specialists provide individualized career services to veterans with significant barriers to employment such as a disability, homelessness or lack of stable housing, being discharged from the military within the last three years and been unemployed within the last twelve months, previous incarceration, lacking a high school education or GED, being a Vietnam veteran, or having income below the poverty guideline. The LVER conducts outreach to employers and business associations, engage in advocacy efforts with hiring executives to increase employment opportunities, and encourage the hiring of disabled veterans. Consolidated position staff serve a dual role as DVOP and LVER. All staff members are veterans and represent all branches of the military.

Of the veterans who received JVSG service for Q2-2020 (January, February, and March) there was an increase of newly enrolled veterans into case management by 56 percent, the number of veterans that exited case management increased by 235 percent, and the number of veterans that exited case management due to employment or improved wages increased by 61 percent.

One thing they would like to see in response to COVID-19 is better telecommuting. They want to mimic states that were prepared with all virtual services by having a veteran-specific virtual platform to assist in connecting veterans with employers and other partners and to provide virtual career and resource fairs. Additionally, COVID-19 has made this particularly challenging because JVSG was enlisted to assist with unemployment claims, which forced them to temporarily pause their mission to assist the general public.

A major state resource is the Hilton Honors Military Program which provides veterans and their spouses approximately 3 nights to stay at a Hilton brand hotel for job-search related activities. Since its introduction in June 2020, two transitioning veterans have been approved to utilize the Hilton Honors Military Program to assist in job searching and house hunting activities to assist their civilian transition into Kentucky. The Priority of Service program gives those who were honorably discharged from the military a status of "covered" and they have precedence over "non-covered" persons in obtaining services funded by the Department of Labor.

In response to a question from Senator Higdon, Jason Hutchinson stated that he would be agreeable to providing his contact information with the committee to provide to veterans who contact legislators. Senator Higdon added that would be helpful to everyone since service members frequently reach out to legislators for resources.

#### **Veteran Homelessness**

Polly Ruddick, Director of the Office of Homelessness Prevention and Intervention for the Lexington-Fayette

Urban County Government, began by describing their definition of veteran for the purpose of the program as “any person who served at least one day of active duty in the armed forces, regardless of the type of discharge they received.” Her responsibilities are to coordinate the implementation of housing and service systems that include outreach, engagement and assessment with shelter and housing, supportive services, and prevention strategies. This office was formed in 2014 under Mayor Jim Gray when he accepted the Mayor’s Challenge to end veterans’ homelessness and the community established the Every Veteran Housed Committee. Its mission is to develop and implement a system that would make veteran homelessness rare, brief, and non-reoccurring. The core response team meets bi-weekly to discuss benchmarks and conduct case conferencing and the full committee meets bi-monthly.

The goal is to quickly identify every veteran experiencing homelessness, whether they are sheltered or unsheltered. This system is built on a housing-first model. The criteria is that they have to identify everyone needing housing, provide them immediate shelter, give a limited basis for transitional housing, and move them to permanent housing within 30 days.

Fayette County has not yet met the benchmark of having every veteran experiencing chronic or long-term homelessness ended: there are currently two chronically long-term veterans who do not have permanent housing. The program offers permanent housing to veterans within 6 days. The community has sufficient housing capacity, Fayette County permanently housed 29 households in the last 90 days. They identified an additional 22 veterans experiencing homelessness during that time, however only five selected to access a service-intensive transitional housing program. The program only uses transitional housing when absolutely necessary.

Stephanie Gibson, LCSW, Homeless Program Manager of the Lexington VA Health Care System, began by thanking the committee for the opportunity to share the journey of ending veteran homelessness in Lexington. Communication with community partnerships is essential in the process of ending veteran homelessness. Agencies must go wherever the veteran is to begin building rapport and the ongoing assessment helps build the trust needed to get them into permanent housing.

The agency aims to assist with many of the barriers for veterans to overcome, such as felonies and misdemeanors, mental health, and substance use. There are many types of housing, such as transitional, short-term voucher, HUD voucher, and senior- and income-based for which they advocate on behalf of veterans to landlords and other agencies. HUD Choice Vouchers help supply subsidies to veterans. Once the veteran is in housing, the VA Healthcare System helps in any way possible to propel them in life. She closed saying that veteran feedback is essential to the success of this program.

Anne Vandervort, Senior Director of Veteran Services from Volunteers of America Mid-States, explained that Volunteers of America Mid-States has an extensive grant from the VA called the Supportive Services for Veterans Families. This is an essential component in the community working towards permanent housing by promoting housing stability, providing case management services, working to identify veterans experiencing homelessness, and assisting veterans into a program that can work towards permanent housing and getting them off of the street.

Lexington was granted the award of effectively

ending veteran homelessness in March of 2019. Volunteers of America is one of four providers for Kentucky and cover a large area including Fayette and the surrounding counties, Jefferson and the surrounding counties, and much of Eastern Kentucky. Due to COVID-19, the Volunteers of America Mid-States have been awarded some CARES funding, which allowed the agency to provide more supportive services for veterans and their families. Each grantee was awarded about 53 percent more of their grant money which helped them contact some veterans that are more difficult to reach. Some services have been expanded in emergency housing assistance. She went on to say that the agency is excited to add healthcare navigators in October which will help get veterans connected quickly and assist with telehealth visits if needed.

#### **National Conference of State Legislatures**

Jim Reed, Staff to the NCSL Military and Veterans Affairs Task Force Group Director-Environment, Energy, and Transportation began by explaining that NCSL is a national organization that serves all American legislatures that includes 55 members from 27 states and D.C. NCSL works to examine military community relations at the state level to bring help to veterans and their families in regard to their health and well-being. A survey was recently completed by Blue Star Families about the issues that were most important to veterans. Access to military and VA healthcare ranked highest at 49 percent, understanding of military and veteran issues ranked at 38 percent, military benefits ranked at 37 percent, PTSD/combat/stress/TBI services ranked at 30 percent, and veteran employment ranked at 30 percent. There are approximately 250 bills enacted every year in state legislatures addressing military and veterans’ affairs. Some trends include expediting professional and occupational licenses for veterans and military spouses, veteran and dependent higher education tuition waivers, mental health and suicide prevention initiatives, veteran assistance transition programs, discounts, tax credits and exemptions, and continued expansion for Veterans Treatment Courts.

He went on to say that the Veterans Military Affairs and Public Protection committee is well established in supporting veteran initiatives. Kentucky recently enacted the Green Alert for when a veteran with a mental health issue is missing, as it helps quickly identify that a veteran may be in trouble. There are four states where it is enacted: Delaware, Kentucky, Wisconsin, and West Virginia. It has been introduced in five other states. In Florida, there is now a system for alternative treatments for veterans that the VA does not pay for such as equine therapy and hyperbaric oxygen therapy. In California and Illinois, there is a proactive outreach program to veterans who served in combat, relative to suicide prevention that has proved to be helpful. There is an active task force in Illinois that has been established to make recommendations regarding veterans’ service-related ailments that are not recognized by the U.S. Department of Veterans Affairs and works to get them recognized.

The next meeting will be Wednesday, October 28, 2020 at 10:00 AM in Room 171. The National Guard Orientation Flight is on Tuesday October 13, 2020 in the morning. Watch for more information in emails.

There being no further business, the meeting was adjourned at 11:48 AM.

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

### **Minutes**

**September 16, 2020**

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

The Capital Projects and Bond Oversight Committee meeting was held on Wednesday, September 16, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senators Julian M. Carroll and Robby Mills; Representatives Phillip Pratt, Steven Rudy, and Maria Sorolis.

Guests: Elizabeth Baker, Planning Director, University Budget Office, University of Kentucky; Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority; Katie Smith, Commissioner, Department for Financial Services, Cabinet for Economic Development; and Sandy Williams, Deputy Executive Director, Office of Financial Management.

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

#### **Approval of Minutes**

Senator Carroll moved to approve the August 19, 2020 meeting minutes. Representative Thomas seconded the motion, and the committee approved without objection.

#### **Information Items**

Pursuant to KRS 45.760(5), UK reported a \$619,000 medical equipment purchase, a digital x-ray for several clinics at its Turfand outpatient center.

Pursuant to KRS 45.812(1), six school districts reported taxable advance refunding debt issues: Dayton Independent (Campbell County), Fleming County, Fort Thomas Independent (Campbell County), Hart County, Henderson County, and Madison County.

Pursuant to KRS 45A.180(2), UK transmitted a Request for Proposal for the Modernize Frazee Hall project (construction management-at-risk project delivery method).

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

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

Representative Thomas moved to roll the four new UK HealthCare leases into one roll call vote, seconded by Senator Carroll, and approved without objection.

Ms. Baker submitted four new UK HealthCare leases, for which UK issued RFPs and include common area maintenance and utilities. The first was for the Nephrology, Bone and Mineral Metabolism Clinic; 5,543 square feet, \$170,835.26 annual cost, across from UK Good Samaritan Hospital. The second was for the Psychiatry Outpatient Clinic; 28,331 square feet, \$854,179.65 annual cost, near Saint Joseph East hospital. The last two were in the old Turfand Mall location, Barnstable Brown Diabetes Center; 18,745 square feet, \$594,403.95 annual cost and the Family and Community Medicine Clinic; 18,420 square feet,



\$584,098.20 annual cost.

Senator Carroll moved to approve the new leases, seconded by Representative Thomas, and approved by unanimous roll call vote.

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

Ms. Tomes reported, pursuant to Part II(4) of the executive branch appropriations bill, a \$1.9 million Fire Commission restricted funds Kentucky Community and Technical College System Property Acquisition Pool allocation. The Fire Commission's acquired property in Paris will combine the main offices and the Area 15 Candidate Physical Ability Testing and training center sites into one location.

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

Representative Rudy moved to roll the over \$50,000 lease modification and Tenant Improvement Fund request into one roll call vote, seconded by Senator Carroll, and approved without objection.

Mr. Aubrey submitted a lease modification for salt storage space used by the Transportation Cabinet in Jefferson County; increasing the square footage by 34,338 square feet to 185,483 square feet, \$417,336.76 annual cost. The salt is used to treat roads during inclement weather. The other submittal was 300 Building improvements paid through the Tenant Improvement Fund. The Department of Education requested four electrical outlets (two in two conference rooms) at \$1,260; bringing the total 300 Building improvement costs to \$211,618.61.

Representative Rudy moved to approve the lease modification and Tenant Improvement Fund request, seconded by Senator Carroll, and approved by unanimous roll call vote.

#### **Report from the Office of Financial Management Kentucky Infrastructure Authority**

Representative Rudy moved to roll the seven KIA loans; four Clean Water State Revolving (Fund A) Program loans, an Infrastructure Revolving Fund (Fund B) Program loan, a Governmental Agencies (Fund C) Program loan increase, and a Drinking Water State Revolving Fund (Fund F) Program loan, into one roll call vote, seconded by Senator Mills, and approved without objection.

The City of Pineville, Bell County, requested a \$2.6 million Fund A loan, which includes the previously approved Fund A planning and design loan and of which KIA will apply \$909,050 in principal forgiveness, for its \$3.6 million Virginia Avenue/Courthouse Square Utility Replacement project; addressing state [and federal] enforcement action through about two miles of sanitary and storm sewer installation, inlets, curb and gutters, and sidewalks. A Community Development Block Grant will fund the remaining costs. For 4,000 gallons, effective since July 1, 2014, the monthly sewer rate is \$25.74. [Pineville approved around one percent annual sewer and water increases from January 2021 through January 2025]. The term is 30 years at a 0.50 percent interest rate.

The City of Calvert City, Marshall County, requested a \$2,980,500 Fund A loan for its WWTP Influent Lift Station and Plant Improvements project; [addressing state enforcement action] through rehabilitation of the influent lift station and headworks as well other improvements. For 4,000 gallons, effective since January 1 of this year, the monthly sewer rate is \$37.12. The term is 20 years at a 1.50 percent interest rate.

The City of Dawson Springs, Hopkins County, requested a \$1 million Fund A loan, [of which KIA will

apply \$475,500 in principal forgiveness], for its \$2.408 million Sanitary Sewer System Rehabilitation and WWTP Improvements project; addressing state enforcement action and implementing sanitary sewer evaluation survey results. A \$1 million CDBG allocation and a \$480,000 Delta Regional Authority grant will fund the remaining costs. For 4,000 gallons, effective since January 1 of last year, the monthly sewer rate is \$35.85. The term is 30 years at a 0.50 percent interest rate.

The City of Lewisburg, Logan County, requested a \$750,000 Fund A loan, [which includes the previously approved Fund B planning and design loan and of which KIA will apply \$375,000 in principal forgiveness] for its \$1.5 million Sewer System Upgrade project; [addressing state enforcement action] including rehabilitation of 3,650 linear feet of sewer and fourteen manholes, [pump station, and WWTP upgrades]. A CDBG allocation will cover the other half of the project costs. For 4,000 gallons, effective since July, the monthly sewer rate is \$38.27 with an increase to \$40.57 next year, [and another possible six percent increase in 2022]. The term is 30 years at a 0.25 percent interest rate.

The City of Bardstown, Nelson County, requested a \$1,472,400 Fund B loan for its Pump Station Improvements 2020 project; improvements, including capacity and safety, to three sewer pump stations. For 4,000 gallons, [effective since 2011], the monthly inside city sewer rate is \$25.93. The term is 20 years at a 1.50 percent interest rate.

The Crittenden-Livingston County Water District requested a \$15,000 Fund C loan increase to its previously approved \$300,000 Fund C loan for a total \$315,000 Fund C loan amount. The increase for its AMR Meter Replacement project, installation of around 1,400 replacement radio read customer meters, was due to higher than projected bids. The increase was approved by KIA's Executive Director rather than KIA's board since it was less than ten percent of the original loan amount. The District sought and received the necessary Public Service Commission approvals, the Certificate of Public Convenience and Necessity and debt authorization, after the committee approved the original loan. The term is 20 years at a 2.75 percent interest rate.

The City of Whitesburg, Letcher County, requested a \$1.1 million Fund F loan for its Water Storage Tank Replacement project; replacement of two tanks. If there is an Appalachian Regional Commission grant, then KIA will reduce the loan amount. For 4,000 gallons, effective since July 1 of last year, the monthly inside city water rate is \$24.40. The term is 30 years at a 0.50 percent interest rate.

Senator Carroll moved to approve the KIA loans, seconded by Representative Rudy, and approved by unanimous roll call vote.

#### **Cabinet for Economic Development**

Ms. Smith submitted a \$250,000 Economic Development Fund grant, to be disbursed annually over four years based upon achieved performance requirements included in the grant agreement, to the City of Bowling Green for the benefit of CROWN Cork and Seal USA. The company, a subsidiary of CROWN Holdings, is establishing a metal beverage cans manufacturing facility in Bowling Green. CED will annually review compliance with the job and wage requirements beginning December 31, 2023, after which it will disburse the grant funds. The company will be required to create at least 126 new full-time Kentucky resident jobs paying an average hourly wage of \$31, including benefits. If the company fails to create or maintain the job and wage requirements on each of the compliance dates, then the grant disbursement may be reduced as

specified in the grant agreement.

In response to Representative Rudy, who expressed his support for the project, Ms. Smith said that in some areas which are close to bordering states, companies could have around five to ten percent of employees residing outside of Kentucky. CED focuses its incentive programs on Kentucky residents as Kentucky has reciprocity agreements with most of the surrounding states, not including Tennessee, in which employees pay income tax on salaries and wages to the state in which he or she resides. Representative Rudy commented that companies near Tennessee may have difficulty meeting CED benchmarks.

Representative Rudy moved to approve the grant, seconded by Senator Carroll, and approved by unanimous roll call vote.

#### **Office of Financial Management New Debt Issue**

Ms. Williams submitted the Northern Kentucky University General Receipts Bonds 2020 Series A, approximately \$3.6 million, and General Receipts Refunding Bonds 2020 Series B, approximately \$6.3 million; not to exceed \$10 million. Bond proceeds will finance one of the projects [Norse Hall renovations with residual funds applied towards Commonwealth Hall renovations] under the Construct/Acquire New Residence Hall 2016-2018 authorization [NKU issued the majority of the debt under that authorization last year], current refund General Receipts Refunding Bonds 2010 Series B; and pay associated costs of issuance. The term is seven years with a September 2027 final maturity and the projected all-in true interest cost is around 1.1 percent for both series. Estimated net present value savings for the refunding is approximately \$580,900, 9.46 percent. NKU will sell this issue via competitive sale [consistent with public postsecondary general receipts debt issues], scheduled for October 12 of this year.

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

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

Representative Rudy moved to roll the fifteen debt issues with SFCC participation into one roll call vote, seconded by Senator Carroll, and approved without objection.

Ms. Williams submitted fifteen debt issues with SFCC participation; two for new projects and thirteen to refinance debt. The [Ashland Independent (Boyd County) and Ohio County] school district's proposed new project debt issues, totaling just under an estimated \$1.5 million, did not require an additional tax levy for debt service.

The refunding issues were for the following twelve school districts: [Bellevue Independent (Campbell County) (two issues), Bourbon County, Boyle County, Bracken County, Burgin Independent (Mercer County), Caldwell County, Fayette County, LaRue County, Menifee County, Russell Independent (Greenup County), Scott County, and Walton-Verona Independent (Boone County)].

Representative Rudy moved to approve the SFCC debt issues, seconded by Representative Sorolis, and approved by unanimous roll call vote.

Senator Girdler announced the remaining calendar year 2020 meeting dates: October 21, 2020, November 19, 2020, and December 16, 2020.

With there being no further business the meeting adjourned at 3:33 p.m.

# ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the October Meeting  
October 13, 2020

## Call to Order and Roll Call

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 13, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

## Present were:

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

**Guests:** Stephen McMurry, UK Agricultural Experiment Station; Todd Allen, Cassie Trueblood, Education Professional Standards Board; Mary Elizabeth Bailey, Rosemary Holbrook, Personnel Cabinet; Larry Hadley, Board of Pharmacy; Leanne Diakov, Board of Medical Licensure; David Trimble, Board of Chiropractic Examiners; Amy Barker, Natasha Burikhanov, Brandon Lynch, Department of Corrections; Robin Kinney, Matt Ross, Department of Education; John Wood, Michael Kurtsinger, Kentucky Fire Commission; DJ Wasson, Department of Insurance; Julie Brooks, Donna Little, Kelli Rodman, Department for Public Health; Laura Begin, Tara Cecil, Melanie Taylor, Department for Community Based Services.

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

## The Administrative Regulation Review Subcommittee met on Tuesday, October 13, 2020, and submits this report:

### Administrative Regulations Reviewed by the Subcommittee:

AGRICULTURAL EXPERIMENT STATION: Fertilizer

12 KAR 4:075. Licenses and fertilizer product registration. Stephen McMurry, program director, represented the Agricultural Experiment Station.

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.

12 KAR 4:080. Plant nutrient guarantees and labeling.

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

12 KAR 4:091. Repeal of 012 KAR 004:090, 004:120, and 004:160.

12 KAR 4:100. Slowly released nutrients; labeling.

12 KAR 4:110. Definitions for 012 KAR Chapter 004.

12 KAR 4:130. Investigational allowances.

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

12 KAR 4:140. Monetary penalties.

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

12 KAR 4:170. Maximum chlorine guarantees for tobacco fertilizers.

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.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates

16 KAR 3:090. Certifications for advanced educational leaders. Todd Allen, general counsel, and Cassie Trueblood, policy advisor and special counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 3, 5, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Alternative Routes to Certification

16 KAR 9:010. Professional certificate for exceptional work experience.

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

PERSONNEL CABINET: Organ Donor Leave

101 KAR 6:010 & E. Living organ donor leave. Mary Bailey, commissioner, and Rosemary Holbrook, assistant general counsel, represented the cabinet.

In response to questions by Representative Marzian, Ms. Bailey stated that living organ donor provisions provided state employee leave with pay. The amount of leave varied, depending on the type of donation, but all leave was provided regardless of the employee's sick leave balance.

Co-Chair Hale stated that this administrative regulation was very important.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:311. Compounding for veterinary use. Larry Hadley, executive director, represented the board.

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

Board of Medical Licensure

201 KAR 9:016. Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances. Leanne Diakov, general counsel, represented the board.

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

201 KAR 9:200. National Practitioner Data Bank Reports.

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.

201 KAR 9:210. Criminal background checks required for all new applicants.

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.

201 KAR 9:230. Required registration in the KASPER system; legal requirements for prescribing controlled substances in the Commonwealth of Kentucky; enforcement.

201 KAR 9:240. Emergency orders and hearings; appeals and other proceedings.

201 KAR 9:260. Professional standards for prescribing, dispensing, and administering controlled substances.

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

201 KAR 9:360. Continuing education requirements for physician assistants.

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.

Board of Chiropractic Examiners

201 KAR 21:041. Licensing, standards, fees. David Trimble, counsel, represented the board.

In response to a question by Representative Marzian, Mr. Trimble stated that the fees established in this administrative regulation were not being changed.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 7 to update material incorporated by reference. Without objection, and with the agreement of the agency, the amendments were approved.

201 KAR 21:042. Standards, application and approval of continuing education.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 4 to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:095. Licensure, registration, and standards of persons performing peer review.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 4 to comply with the drafting requirements of KRS



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

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:120. Blackburn Correctional Complex. Amy Barker, assistant general counsel, and Brandon Lynch, program administrator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to clarify provisions, correct citations, update edition dates, and 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: Board of Education: Department of Education: School Administration and Finance

702 KAR 3:270E. SEEK funding formula. Todd Allen, general counsel, and Robin Kinney, associate commissioner, represented the department.

In response to a question by Representative Marzian, Mr. Allen stated that 702 KAR 3:270E and 702 KAR 7:125E covered the current school year and into 2021. These changes gave local school boards flexibility to determine the best mode of education, whether in-person attendance, remote learning, or a combination. “Attendance” was temporarily being changed to “participation” to accommodate the various modes of education.

In response to questions by Representative Frazier, Ms. Kinney stated that funding was not affected by which mode of education a local school board chose. Because these emergency administrative regulations would expire on April 10, 2021, it might be necessary to implement further legislative relief during the 2021 Regular Session of the General Assembly. Lacking a 2021 legislative remedy, it might be necessary to take further Executive Branch action.

School Terms, Attendance, and Operation

702 KAR 7:125E. Pupil attendance.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission: Commission on Fire Protection Personnel Standards and Education

739 KAR 2:040. Survivor benefits for death of a firefighter. Michael Kurtsinger, division director, and John Wood, counsel, represented the commission.

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 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.

739 KAR 2:155. Alan “Chip” Terry Professional Development and Wellness Program.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Authorization of Insurers and General Requirements

806 KAR 3:170. Annual audited financial reports. DJ Wasson, deputy commissioner, 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 through 14 and 16 through 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Assets and Liabilities

806 KAR 6:010. Valuation standards; audits.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to add a definition for “life actuary.” Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 6:080. Reserve standards for individual health insurance policies.

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

806 KAR 6:100. Actuarial opinion and memorandum.

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, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Investments

806 KAR 7:035. Finance committee of domestic insurers.

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

806 KAR 7:090. Custodial accounts for investment securities of insurance companies.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to require all custodian banks to have capital and surplus funds equal to or exceeding \$25,000,000; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Administration of Deposits

806 KAR 8:010. Valuation of assets on deposit.

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

Captive Insurers

806 KAR 49:020. Captive insurer application requirements.

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

806 KAR 49:030. Captive insurer reporting requirements.

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.

CABINET FOR HEALTH AND FAMILY SERVICES: Department of Public Health: Division of Women’s Health: Maternal and Child Health

902 KAR 4:110. Abortion information. Julie Brooks, regulation coordinator, represented the division.

In response to a question by Representative Marzian, Ms. Brooks stated that the requirement that a provider shall give information on abortion pill reversal was established in Senate Bill 50 from the 2019 Regular Session of the General Assembly. The statute did not include provisions for who would be deemed responsible if injury or death resulted from use of abortion pill reversal.

Representative Marzian stated that there was insufficient evidence to support the safety and efficacy of abortion pill reversal. It was unfortunate to provide false information.

In response to questions by Representative Frazier, Ms. Brooks stated that the one (1) dollar fee established in this administrative regulation was to recover the cost of printing the informational material if the printing was performed by the agency. The agency had not received any requests to do this printing in the last two (2) years. Providers, not individuals, paid this fee. If a private citizen, rather than a provider, requested this information to be printed by the agency, the fee was not charged. Ms. Brooks stated that she would provide follow-up information to the subcommittee regarding other fees the division might charge for materials.

In response to a question by Co-Chair West, staff stated that the fee for printing the information was statutorily required.

Division of Public Health Protection and Safety: Milk and Milk Products

902 KAR 50:010. Definitions for milk and milk products.

902 KAR 50:031. Standards for producer eligibility for manufactured grade milk.

902 KAR 50:032. Standards for farm requirements for manufactured grade milk.

In response to questions by Co-Chair West, Ms. Brooks stated that 902 KAR 50:032 and 50:033 pertained to milk that did not fall into the classification of pasteurized milk. Enforcement action for a violation was only implemented after education, an opportunity for correction, and a reinspection.

In response to questions by Co-Chair Hale, Ms. Brooks stated that there were two (2) classifications for milk, manufactured grade milk and pasteurized milk, which was regulated by the US Food and Drug Administration. These administrative regulations had not been revised since the 1990s. Changes were made to update provisions, and technical corrections were made commensurate with

amendments to KRS Chapter 13A. This division did not intend to increase the burden on Kentucky's dairy farmers.

Co-Chair Hale stated that it was important to ensure milk safety and sanitation; however, it was also important not to overregulate the few dairy farmers remaining in Kentucky.

902 KAR 50:033. Standards for enforcement procedures for manufactured grade milk.

Radiology

902 KAR 100:012. Fee schedule.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, and 7 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 8 to incorporate material by reference. Without objection, and with agreement of the agency, the amendments were approved.

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

922 KAR 1:330. Child protective services. Laura Begin, regulation coordinator; Tara Cecil, branch manager; and Melanie Taylor, assistant division director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 3(15)(a) to add human trafficking to the list of reports that may trigger a medical or psychological examination. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the October 13, 2020, subcommittee agenda:

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System

102 KAR 1:340. Calculation of final average salary if there is a corresponding change in position or in length of employment during any of the final three (3) years prior to retirement.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:050. Licenses and permits; fees.

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

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

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

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

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

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:201. Emergency Medical Responders.

202 KAR 7:301. Emergency Medical Technician.

202 KAR 7:330. Advanced Emergency Medical Technician.

202 KAR 7:401. Paramedics.

202 KAR 7:601. Training, education and continuing education.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Drivers Licensing: Administration

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

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

LABOR CABINET: Department of Workers' Claims

803 KAR 25:089 & E. Workers; compensation

medical fee schedule for physicians.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:415. Direct shipper license.

Horse Racing Commission: Licensing

810 KAR 3:020. Licensing of racing participants.

Department of Charitable Gaming

820 KAR 1:050 & E. Raffles.

CABINET FOR HEALTH AND FAMILY SERVICES: Department of Public Health: Division of Epidemiology and Health Planning: Vital Statistics

901 KAR 5:120. Abortion reporting.

Communicable Diseases

902 KAR 2:020 & E. Reportable disease surveillance.

Division of Maternal and Child Health: Maternal and Child Health

902 KAR 4:030. Newborn screening program.

Division of Administration and Financial Management: Local Health Departments

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

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

Division of Public Health Protection and Safety: Sanitation

902 KAR 10:030. Registered environmental health specialists and sanitarians.

902 KAR 10:036. Repeal of 902 KAR 010:035

Division of Public Health Protection and Safety: Food and Cosmetics

902 KAR 45:110. Permits and fees for retail food establishments, vending machine companies, and restricted food concessions.

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

Milk and Milk Products

902 KAR 50:040. Hauler requirements.

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

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

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

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

922 KAR 1:450 & E. Eligibility confirmation for tuition waiver.

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

The subcommittee adjourned at 1:50 p.m. The next meeting of the subcommittee is tentatively scheduled for November 9, 2020, at 1 p.m.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

### Committee Minutes

September 8, 2020

#### Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, September 8, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Paul Hornback, and Phillip Wheeler; Representatives Chris

Fugate, and Mark Hart.

Guests: Dean Stoops, Stephanie Belt, Donna Scrivener, Mark Maier, Brian Thomas, Jay Hartz, Noah Friend, Billie Johnson, Aaron Jones, Jennifer Peters, Laura Redmon, Matt Stephens, Lisa Cox, and Dr. Karl Clinard.

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

A motion was made by Senator Meredith to approve the minutes of the August 2020, meeting of the committee. Representative Hart seconded the motion, which passed without objection.

### AUGUST DEFERRED ITEM:

#### WESTERN KENTUCKY UNIVERSITY

Environment of Care, 202202. The University has requested that the contract be withdrawn.

### SEPTEMBER DEFERRED ITEM:

#### MOREHEAD STATE UNIVERSITY

Robinson Kirlew & Associates, 21-023. A motion was made by Senator Meredith to defer the contract to the October meeting of the committee. Representative Fugate seconded the motion, which passed.

### ADDITIONS LIST:

#### KENTUCKY FISH AND WILDLIFE

### RESOURCES

Rich Storm, 2000002007. Dr. Karl Clinard and Lisa Cox 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 without objection.

A motion was made by Senator Meredith to consider as reviewed the Personal Service Contract List, with exception of those items selected for further



review by members of the committee. Representative	<u>THE FOLLOWING PERSONAL SERVICE</u>	F. Debolt, 2000004430; Tilford Dobbins & Schmidt,
Hart seconded the motion, which passed without	<u>CONTRACTS WERE REVIEWED WITHOUT</u>	PLLC, 2000004431.
objection.	<u>OBJECTION:</u>	<u>EASTERN KENTUCKY UNIVERSITY</u>
A motion was made by Senator Meredith to	<u>DEPARTMENT FOR ENVIRONMENTAL</u>	ProtoCall Services, Inc., 229-2021; Lexan
consider as reviewed the Personal Service Contract	<u>PROTECTION</u>	Laboratories & Analysis, 355-2021.
Amendment List, with exception of those items	Dade Moeller & Associates, Inc., 2000003962.	<u>FACILITIES &amp; SUPPORT SERVICES</u>
selected for further review by members of the	<u>DEPARTMENT FOR INCOME SUPPORT</u>	Kesler Simpson Architects, LLC, 2100000412;
committee. Representative Hart seconded the motion,	Barry S. Stoler MD, 2100000055.	Paladin, Inc., 2100000529.
which passed without objection.	<u>DEPARTMENT FOR NATURAL RESOURCES</u>	<u>KENTUCKY EMPLOYERS MUTUAL</u>
A motion was made by Senator Meredith to	Pinnacle Actuarial Res, Inc., 2000003897.	<u>INSURANCE</u>
consider as reviewed the Memoranda of Agreement	<u>DEPARTMENT FOR PUBLIC ADVOCACY</u>	McCarthy Strategic Solutions, LLC, 21-
List, with exception of those items selected for further	Erwin Wayne Lewis, 2100000363; Robert	MSS-002; ReEmployAbility, Inc., 21-REA-001;
review by members of the committee. Representative	Walker, 2100000488.	SpeakWrite, LLC, 21-SPK-001.
Hart seconded the motion, which passed without	<u>DEPARTMENT FOR PUBLIC HEALTH</u>	<u>KENTUCKY FISH AND WILDLIFE</u>
objection.	Laboratory Corporation of America Holdings,	<u>RESOURCES</u>
A motion was made by Senator Meredith to	2100000335.	Rich Storm, 2100000467.
consider as reviewed the Memoranda of Agreement	<u>DEPARTMENT FOR WORKFORCE</u>	<u>KENTUCKY RETIREMENT SYSTEMS</u>
Amendment List, with exception of those items	<u>INVESTMENT</u>	Managed Medical Review Organization, Inc.,
selected for further review by members of the	Winstead PC, 2100000260; Inez Physical	2100000154.
committee. Representative Hart seconded the motion,	Therapy, 2100000336; Cell Staff, LLC, 2100000539.	<u>KENTUCKY STATE POLICE</u>
which passed without objection.	<u>DEPARTMENT OF CORRECTIONS</u>	Michael Fogleman, 2100000277; Powerphone,
A motion was made by Senator Meredith to	American Correctional Association, Inc.,	2100000298; James B. Lockett, 2100000416.
consider as reviewed the Addition List. Representative	2000003828; Jeffrey Irvin Rogers, 2100000093.	<u>MOREHEAD STATE UNIVERSITY</u>
Hart seconded the motion, which passed without	<u>DEPARTMENT OF EDUCATION</u>	MML&K Government Solutions, 21-021.
objection.	Wade William Honey, 2100000128; Walter H.	<u>MURRAY STATE UNIVERSITY</u>
A motion was made by Senator Meredith	Hulett, 2100000239.	Sherman Carter Barnhart Architects, 017-21.
to consider as reviewed the Correction List.	<u>DEPARTMENT OF HIGHWAYS</u>	<u>NORTHERN KENTUCKY UNIVERSITY</u>
Representative Hart seconded the motion, which	Greenman-Pedersen, Inc., 2100000421.	Ruffalo Noel Levitz (RNL), LLC, 2021-127.
passed without objection.	<u>DEPARTMENT OF JUVENILE JUSTICE</u>	<u>STATE TREASURER</u>
	Diamond Drugs, Inc., 2000003887; Raymond	Innovative Advocate Group, Inc., 2100000183.

<u>TRANSPORTATION - OFFICE OF THE SECRETARY</u>	<u>WESTERN KENTUCKY UNIVERSITY</u>	HDR Engineering, Inc., 1100003026; URS Corporation, 1200000826; Stantec Consulting Services, Inc., 1200001742; HMB Professional Engineers, Inc., 1400000565; Integrated Engineering, 1500000077; Cultural Resource Analysts, Inc., 1600003838; QK4, Inc., 1800000321; Haworth Meyer Boleyn, Inc., 1900002147; Wood Environment Infrastructure Solutions, Inc., 1900002819; Palmer Engineering Company, 1900004302; Vaughn & Melton Consulting Engineers, Inc., 1900005012; Vaughn & Melton Consulting Engineers, Inc., 2000000306; American Engineers, Inc., C-01345595; Haworth Meyer Boleyn, Inc., C-99005159.
Arnzen Storm Turner PSC, 2000003552; Denton Law Firm, PLLC, 2000003553; Gambrel & Wilder Law Offices, PLLC, 2000003559; Vanantwerp Attorneys, LLP, 2000003574; Vaughn Petitt Legal Group, PLLC, 2000003575; Walther Gay & Mack, PLC, 2000003578; Arnzen Storm Turner PSC, 2000003649; Bertram Cox & Miller, LLP, 2000003650; Crown Title, LLC, 2000003651; Daniels Law Office PSC, 2000003652; Denton Law Firm, PLLC, 2000003653; Gambrel & Wilder Law Offices, PLLC, 2000003657; Gess Mattingly and Atchison, 2000003658; Goldberg Simpson, LLC, 2000003659; Hoffman & Barnes, 2000003662; Logan & Gaines, PLLC, 2000003665; McMurry and Livingston, 2000003666; Miller Edwards Rambicure, PLLC, 2000003667; E Lorraine Neeley Attorney At Law, 2000003668; Reimer Law County, 2000003669; Wanda Ballard Repasky Attorney At Law, 2000003670; Kevin Robinson, 2000003671; Sherrow Marshall Schrader, PSC, 2000003672.	<b><u>THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:</u></b>  <u>BEHAVIORAL HEALTH, DEVELOPMENTAL &amp; INTELLECTUAL DISABILITIES</u>  Jackson & Coker Locumtenens, LLC, 2000001572.  <u>BOARD OF CERTIFICATION FOR MARRIAGE AND FAMILY THERAPISTS</u>  DPJ Consulting, LLC, 2100000146.  <u>BOARD OF EXAMINERS OF SOCIAL WORK</u>  Scanlan Associates, LLC, 2000004055.  <u>BOARD OF MEDICAL LICENSURE</u>  Multi, 2000001945.  <u>DEPARTMENT FOR ENVIRONMENTAL PROTECTION</u>  Stantec Consulting Services, Inc., 1600001285; Aecom Technical Services, Inc., 1600001323.  <u>DEPARTMENT FOR LOCAL GOVERNMENT</u>  Roy William Brothers, 2000003537.  <u>DEPARTMENT FOR PUBLIC HEALTH</u>  Multi, 2000003220.  <u>DEPARTMENT FOR WORKFORCE INVESTMENT</u>  Ernst and Young, LLP, 2000004458.  <u>DEPARTMENT OF HIGHWAYS</u>  HMB Professional Engineers, Inc., 1100001265;	1100003026; URS Corporation, 1200000826; Stantec Consulting Services, Inc., 1200001742; HMB Professional Engineers, Inc., 1400000565; Integrated Engineering, 1500000077; Cultural Resource Analysts, Inc., 1600003838; QK4, Inc., 1800000321; Haworth Meyer Boleyn, Inc., 1900002147; Wood Environment Infrastructure Solutions, Inc., 1900002819; Palmer Engineering Company, 1900004302; Vaughn & Melton Consulting Engineers, Inc., 1900005012; Vaughn & Melton Consulting Engineers, Inc., 2000000306; American Engineers, Inc., C-01345595; Haworth Meyer Boleyn, Inc., C-99005159.  <u>DEPARTMENT OF MILITARY AFFAIRS</u>  Kenneth Roy Henson, 2000004451.  <u>FACILITIES &amp; SUPPORT SERVICES</u>  Stengel Hill Architecture, Inc., 1500001000; Hafer Associates, 1500001053; URS Corporation, 1500001991; Stantec Consulting Services, Inc., 1500002859; Biagi, Chance, Cummins, London, Titzer, Inc., 1800001099; CMTA, Inc., 1900002342; EOP Architects, PSC, 1900002963; Redwing Ecological Services, Inc., 2000000086; Patrick D. Murphy Company, Inc., 2000000175; GRW Engineers, Inc., 2000000343; EOP Architects PSC, 2000000693.  <u>HUMAN RIGHTS COMMISSION</u>  Dean Dorton Allen Ford, PLLC, 2000003609.  <u>KENTUCKY RETIREMENT SYSTEMS</u>  Morris James, LLP, 2000002120.
<u>UNIVERSITY OF KENTUCKY</u>	Joseph & Joseph Architects, A201170; Joseph & Joseph Architects, A201180; Rood & Riddle Equine Hospital, K21-168; Born, LLC, K21-169; T2 Design, K21-170; Born, LLC, K21-171; LBMC, PC, K21-172; Eyman Associates, K21-173.	
<u>UNIVERSITY OF LOUISVILLE</u>	Clifton Larson Allen, LLP, 21-056.	



<u>KENTUCKY STATE FAIR BOARD</u>	Kentucky Association for Environmental Education, Education, 2100000201; Campbell County Board
Charlotte Mattson Kurtz, 2000002463; MCM 2000003842; Friends of Clarks River National	of Education, 2100000211; Covington Independent
CPAS & Advisors, LLP, 2000003756; Scarlett W. Wildlife Refuge, 2100000032.	School District, 2100000212; Dayton Independent
Mattson, 2000003889.	School District, 2100000213; Eminence Independent
<u>KY COMMUNITY TECHNICAL COLLEGE</u>	Board of Education, 2100000214; Jessamine County
<u>SYSTEM</u>	Board of Education, 2100000219; Letcher County
Crowe Horwath, LLP, 807.	Board of Education, 2100000220; Pike County Board
<u>TOURISM - OFFICE OF THE SECRETARY</u>	of Education, 2100000222; Whitley County Board
Hunden Strategic Partners, Inc., 2000003385; <u>INVESTMENT</u>	of Education, 2100000224; Woodford County Board
Lofthouse Enterprises, 2000003413.	of Education, 2100000334; Green River Regional
<u>TRANSPORTATION - OFFICE OF THE</u>	Educational, 2100000406; Shelby County Board of
<u>SECRETARY</u>	Education, 2100000420; University of Kentucky
Kerrick Bachert, PSC, 2000004449.	Research Foundation, 2100000499; Boone County
<u>UNIVERSITY OF KENTUCKY</u>	Board of Education, 2100000582.
Ekhoﬀ, Ochenkoski, Polk Architects, A201080;	<u>DEPARTMENT OF AGRICULTURE</u>
Ross Tarrant Architects, A201110; Multi, A221020;	Murray State University, 2100000487.
Multi, A221030; Multi, A221050; Multi, A221060;	<u>DEPARTMENT OF EDUCATION</u>
APAX Software, K20-148.	Education and Workforce Development, of Kentucky Research Foundation, 2000004355.
<u>WESTERN KENTUCKY UNIVERSITY</u>	<u>DEPARTMENT OF VETERANS AFFAIRS</u>
Multi, 202106.	Epilepsy Foundation of Kentuckiana, Inc.,
<u>THE FOLLOWING MEMORANDA OF</u>	2000003550.
<u>AGREEMENTS WERE REVIEWED WITHOUT</u>	<u>FINANCE - OFFICE OF THE SECRETARY</u>
<u>OBJECTION:</u>	Kentucky Housing Corporation, 2100000574.
<u>BEHAVIORAL HEALTH, DEVELOPMENTAL</u>	<u>KENTUCKY ENVIRONMENTAL</u>
<u>&amp; INTELLECTUAL DISABILITIES</u>	<u>EDUCATION COUNCIL</u>
National Council for Behavioral Health, 2000000512.	Kentucky Association for Environmental
<u>DEPARTMENT FOR ENVIRONMENTAL</u>	Education, 2100000108.
<u>PROTECTION</u>	<u>KENTUCKY STATE FAIR BOARD</u>
Sanitation District No 1, 2000003456; Leadership, 2100000134; Bullitt County Board of	Kentucky State Police, 2100000256.

<u>KY HOUSING CORPORATION</u>	<u>DEPARTMENT FOR WORKFORCE</u>	Middlesboro Independent School District,
University of Kentucky Research Foundation, 1.	<u>INVESTMENT</u>	1900004272; Monroe County Board of Education,
<u>OFFICE OF ENERGY POLICY</u>	American Institutes for Research, 2000002700.	1900004273; Owsley County Board of Education,
National Energy Education Development	<u>DEPARTMENT OF AGRICULTURE</u>	1900004275; Paris Independent School District,
Project, 2000003791; Bluegrass Greensource, Inc.,	Multi, 1900003210.	1900004276; Russell County Board of Education,
2000003792; Kentucky Habitat for Humanity,	<u>DEPARTMENT OF EDUCATION</u>	1900004277; Russellville Independent School
2000004271; Smart Electric Power Alliance,	Adair County Board of Education, 1900004167;	District, 1900004278; Southgate Independent School
2100000185.	Bellevue Independent School District, 1900004236;	District, 1900004279; Washington County Board
<u>STATE TREASURER</u>	Berea Independent Board of Education, 1900004237;	of Education, 1900004281; Wayne County Board
Mattingly Center, Inc., 2100000166; Center for	Breathitt County Board of Education, 1900004240;	of Education, 1900004282; Webster County Board
Accessible Living, Inc., 2100000235.	Carter County Board of Education, 1900004242;	of Education, 1900004283; Whitley County Board
<b><u>THE FOLLOWING MEMORANDA</u></b>	Casey County Board of Education, 1900004244;	of Education, 1900004284; Williamstown Board
<b><u>OF AGREEMENT AMENDMENTS WERE</u></b>	Christian County Board of Education, 1900004245;	of Education, 1900004285; Wolfe County Board of
<b><u>REVIEWED WITHOUT OBJECTION:</u></b>	Clark County Board of Education, 1900004246;	Education, 1900004286; Collaborative for Teaching,
<u>BEHAVIORAL HEALTH, DEVELOPMENTAL</u>	Clinton County Board of Education, 1900004247;	1900004528; Bullitt County Board of Education,
<u>&amp; INTELLECTUAL DISABILITIES</u>	Crittenden County Board of Education, 1900004248;	2000000471; Campbell County Board of Education,
Green River Regional MHMR Board, Inc.,	Cumberland County Board of Education, 1900004249;	2000000472; Eminence Independent Board of
2000002127; Communicare, Inc., 2000002129;	Danville Independent School District, 1900004250;	Education, 2000000475; Harlan County Board of
Pathways, Inc., 2000002133; Cumberland River	Fayette County Board of Education, 1900004251;	Education, 2000000476; Letcher County Board
Behavioral Health, Inc., 2000002136.	Floyd County Board of Education, 1900004252;	of Education, 2000000479; Newport Independent
<u>DEPARTMENT FOR COMMUNITY BASED</u>	Garrard County Board of Education, 1900004254;	School District, 2000000480; Pike County Board of
<u>SERVICES</u>	Glasgow Independent School District, 1900004255;	Education, 2000000481; Webster County Board of
Family Scholar House, Inc., 2000003496;	Harlan County Board of Education, 1900004256;	Education, 2000000482; Fayette County Board of
University of Kentucky Research Foundation,	Hart County Board of Education, 1900004257;	Education, 2000000546; Jefferson County Board of
2000003507.	Jackson County Board of Education, 1900004258;	Education, 2000002781.
<u>DEPARTMENT FOR PUBLIC HEALTH</u>	Larue County Board of Education, 1900004259;	<u>STATE TREASURER</u>
Go-Hire Employment and Development, Inc.,	Livingston County Board of Education, 1900004261;	University of Kentucky Research Foundation,
2000001850; Multi, 2000002245; Kentucky Hospital	Martin County Board of Education, 1900004268;	2000003099.
Research & Education Foundation, 2000002308.	Menifee County Board of Education, 1900004269;	<u>TRANSPORTATION - OFFICE OF THE</u>
	Metcalf County Board of Education, 1900004270;	<u>SECRETARY</u>
		Colorado State Patrol Family Foundation,



2000002217; Colorado State Patrol Family by Senator Meredith to consider the contract as 2100000159; Spencer County, 2100000160; Foundation, 2000002382. reviewed. Senator Hornback seconded the motion, Greenup County Fiscal Court, 2100000165;

THE FOLLOWING PERSONAL SERVICE which passed. Oldham County, 2100000171; City of Highland

CONTRACTS WERE SELECTED FOR STATE TREASURER Heights, 2100000172; City of Corbin, 2100000173;

FURTHER REVIEW: Audit Services US, LLC, 2100000050; Metcalfe County, 2100000174; Calloway County

DEPARTMENT OF VETERANS AFFAIRS Discovery Audit Services, LLC, 2100000178; Treasurer, 2100000186; Boone County Fiscal

Disabled American Vets, 2000003581; Veterans Treasury Services Group, LLC, 2100000181; Verus Court, 2100000187; Johnson County Treasurer,

of Foreign Wars, 2000003585; American Legion of Analytics, LLC, 2100000182. Noah Friend discussed 2100000190; City of Cave City, 2100000193;

Kentucky, Inc., 2000003586. Dean Stoops, Stephanie the contracts with the committee. A motion was made Henry County Treasurer, 2100000197; Bourbon

Belt, and Donna Scrivener discussed the contracts by Representative Hart to consider the contracts as County Treasurer, 2100000198; City of Morganfield,

with the committee. A motion was made by Senator reviewed. Senator Hornback seconded the motion, 2100000203; McLean County Fiscal Court,

Meredith to consider the contracts as reviewed. which passed. 2100000204; Allen County-Scottsville Industrial

Representative Hart seconded the motion, which THE FOLLOWING MEMORANDA OF Development Authority, 2100000205; Lewis County,

passed. AGREEMENTS WERE SELECTED FOR 2100000207; City of Bowling Green, 2100000210;

EDUCATION - OFFICE OF THE SECRETARY FURTHER REVIEW: Barren County, 2100000216; City of Tompkinsville,

Kirkland, Cain & Horn, PLLC, 2100000290. DEPARTMENT FOR LOCAL GOVERNMENT 2100000229; City of Falmouth, 2100000232; City of

Mark Maier discussed the contract with the Meade County Fiscal Court, 2000004318; Burnside, 2100000233; City of Cadiz, 2100000246;

committee. A motion was made by Senator Wheeler Pendleton County Treasurer, 2000004444; City City of Grayson, 2100000247; City of Winchester,

to consider the contract as reviewed. Representative of Horse Cave, 2000004465; Simpson County, 2100000248; City of Elizabethtown, 2100000263;

Hart seconded the motion, which passed. 2000004480; Mercer County Treasurer, 2100000030; City of Crescent Springs, 2100000266; City of

FINANCE - OFFICE OF THE SECRETARY City of Fort Wright, 2100000073; City of Harrodsburg, Glasgow, 2100000267; City of Muldraugh City

Dressman Benzinger Lavelle, PSC, 2100000177. 2100000074; City of Henderson, 2100000075; City Treasurer, 2100000269; Menifee County Fiscal

Brian Thomas discussed the contract with the of Beaver Dam, 2100000091; City of Southgate, Court, 2100000271; City of Fulton, 2100000272;

committee. A motion was made by Senator Meredith 2100000107; Clay County, 2100000119; Russell City of Middletown, 2100000276; Bath County Fiscal

to disapprove the contract. Senator Hornback County Treasurer, 2100000120; City of Manchester, Court, 2100000283; City of Clarkson, 2100000284;

seconded the motion, which passed. 2100000124; City of West Liberty, 2100000135; City of Morehead, 2100000285; Hopkins County

LEGISLATIVE RESEARCH COMMISSION Shelby County Fiscal Court, 2100000143; Martin Treasurer, 2100000286; Ohio County Fiscal

SJN Data Center, LLC d/b/a Encore County Fiscal Court, 2100000147; City of Elsmere, Court, 2100000291; Ohio County Fiscal Court,

Technologies, 20/21-06. Jay Hartz discussed the 2100000149; City of Newport, 2100000153; City 2100000292; City of Crestview Hills, 2100000293;

contract with the committee. A motion was made of Nicholasville, 2100000156; City of Uniontown, Ohio County Fiscal Court, 2100000295; Ohio

County Fiscal Court, 2100000296; Webster County	Area Development District, 2100000402; Northern	<b><u>AGREEMENTS</u></b>
Fiscal Court, 2100000299; City of Mortons Gap,	Kentucky Area Development District, 2100000403;	Senator Meredith discussed with the committee
2100000301; Pike County Fiscal Court, 2100000306;	Pennyryle Area Development, 2100000404; Purchase	the Contracts/Agreements that were disapproved
Pike County Fiscal Court, 2100000307; Pike County	Area Development District, Inc., 2100000405; City	at the August 11, 2020 meeting. Senator Meredith
Fiscal Court, 2100000308; Floyd County Fiscal	of Elkhorn City, 2100000409; City of Simpsonville,	expressed his displeasure with the approval of
Court, 2100000311; Clark County Fiscal Court,	2100000410; City of Hillview, 2100000415; City of	contract PON2 2000002973 with Cannon Cochran
2100000312; City of Dry Ridge, 2100000313;	West Buechel, 2100000417; City of Shepherdsville,	Management Services in the amount of \$1,500,000.00
City of Hopkinsville, 2100000314; Wolfe County,	2100000422; City of Scottsville, 2100000423;	being considered as the Commonwealth of
2100000315; Knox County Fiscal Court, 2100000326;	City of Hartford, 2100000424; City of New Castle,	Kentucky's Workers Comp Third Party Administrator.
City of Lewisport, 2100000327; Harlan County	2100000445; Marion County, 2100000456; Harlan	Senator Meredith believes that there are some ethic
Fiscal Court, 2100000331; City of New Haven,	County Fiscal Court, 2100000461; Harlan County	violations involving the company and that they should
2100000332; Leitchfield Grayson County Industrial	Fiscal Court, 2100000462; City of Lakeside	not be given consideration. A motion was made by
Corporation, 2100000337; City of South Shore,	Park, 2100000463; Clinton County Fiscal Court,	Senator Meredith to send a letter to the Governor
2100000354; City of Oak Grove, 2100000356; Leslie	2100000473; Pike County Fiscal Court, 2100000479;	requesting that he terminate this contract. A motion
County Treasurer, 2100000357; City of Graymoor,	City of Barbourville, 2100000489; City of Versailles,	was Representative Hart seconded the motion, which
2100000358; City of Leitchfield, 2100000359;	2100000492; City of Pineville, 2100000493; City	passed without objection.
City of Lancaster, 2100000360; City of Lagrange,	of Mount Washington, 2100000494; Daviess	<b><u>DISCUSSION OF OFFICE OF ATTORNEY</u></b>
2100000362; Barren River Area Development District,	County, 2100000496; Hardin County Fiscal Court,	<b><u>GENERAL CONTINGENCY FEE CONTRACT</u></b>
2100000391; Big Sandy Area Development District,	2100000497; City of Mayfield, 2100000513; City	<b><u>REPORT</u></b>
2100000392; Bluegrass Area Development District,	of Central City, 2100000514; City of Camargo,	Senator Meredith discussed with the committee
2100000393; Buffalo Trace Area Development	2100000525; City of Crittenden, 2100000532;	the Contingency Fee Legal Contract Report. The
District, 2100000394; Cumberland Valley Area	City of Clay City, 2100000533; City of Maysville,	committee receives quarterly reports showing
Development District, 2100000395; Fivco Area	2100000559; City of Eminence, 2100000569; Estill	Contingency Legal Contracts that are currently in
Development District, 2100000396; Gateway Area	County, 2100000576. Billie Johnson, Aaron Jones,	place.
Development District, 2100000397; Green River	Jennifer Peters, Laura Redmon, and Matt Stephens	<b><u>EXEMPTION REQUEST:</u></b>
Area Development District, 2100000398; Kentucky	discussed the contracts with the committee. A	<b><u>KENTUCKY DEPARTMENT OF</u></b>
River Area Development District, 2100000399;	motion was made by Representative Hart to consider	<b><u>AGRICULTURE</u></b>
Kentuckiana Regional Planning & Development	the contracts as reviewed. Representative Fugate	The Kentucky Department of Agriculture requests and
Agency, 2100000400; Lake Cumberland Area	seconded the motion, which passed.	exemption from Committee Policy Statement #99-4 which
Development District, 2100000401; Lincoln Trail		prohibits contracts and agreements from extending beyond
	<b><u>DISCUSSION OF CONTRACTS/</u></b>	the biennium for the purpose of implementing an agreement
		with CHFS, Department for Public Health for foodborne
		outbreak investigation and for-cause sampling services
		involving Kentucky produce farms related to the US-FDA
		Produce Safety Rule: PON2-035-2100000449 in the amount
		of \$15,000.00. A motion was made by Representative Hart
		to grant the request to June 30, 2023. Representative Lee
		seconded the motion, which passed without objection.



There being no further business, the meeting adjourned at 11:04 AM.

**GOVERNMENT CONTRACT  
REVIEW COMMITTEE**  
**Committee Minutes**  
October 13, 2020

**Call to Order and Roll Call**  
The Government Contract Review Committee met on Tuesday, October 13, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.  
Present were:  
**Members:** Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julian M. Carroll and Phillip Wheeler; Representatives Charles Booker, Chris Fugate, and Mark Hart.  
**Guests:** Victor Maddox, Stacy Woodrum, Amy Cabbage, Leslie Bilby, Eric Pelfrey, Mike Bezold, Matt Stephens, Billie Johnson, and Aaron Jones.  
**LRC Staff:** Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Senator Wheeler to approve Minutes of the September 2020, meeting of the committee. Representative Fugate seconded the motion, which passed without objection.

**SEPTEMBER DEFERRED ITEM:**  
**MOREHEAD STATE UNIVERSITY**  
Robinson Kirlew & Associates, 21-023. A motion was made by Representative Hart to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

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

A motion was made by Representative Lee to consider as reviewed the Personal Service Contract Amendment List, with exception of those items

selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

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

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

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

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

**ADMINISTRATIVE OFFICE OF THE  
COURTS**  
GRW Engineers, Inc., 2100000877.  
**ATTORNEY GENERAL**  
Multi, 2100000444.  
**BOARD OF EXAMINERS OF SOCIAL  
WORK**  
Johnson Bearse, LLP, 2100000705.

**DEPARTMENT FOR ENVIRONMENTAL  
PROTECTION**

George Freeman Gilbert, 2000004032.  
**DEPARTMENT FOR INCOME SUPPORT**  
David Coffey, 2100000605.  
**DEPARTMENT OF CORRECTIONS**  
AJF Correctional Consulting & Auditing, LLC, 2100000092; David Galione, 2100000094; Robbin Bell, 2100000095; Keith Hardison, 2100000096; Joseph Paul Rion, 2100000097; James H. Ball Jr., 2100000098; Danny Wallace Hartline, 2100000728.

**DEPARTMENT OF EDUCATION**  
Sign Language Network, Inc., 2100000418; Embry Merritt Shaffar Womack, PLLC, 2100000585; Dana L. Collins, 2100000586; Roland P. Merkel, 2100000591.

**DEPARTMENT OF HIGHWAYS**  
Bureau Veritas North America, Inc., 2100000546; HDR Engineering, Inc., 2100000659; HDR Engineering, Inc., 2100000776; QK4, Inc., 2100000777; H.W. Lochner, Inc., 2100000778; Stantec Consulting Services, Inc., 2100000780; Integrated Engineering, 2100000807; Palmer Engineering Company, 2100000812; Gresham Smith, 2100000813; QK4, Inc., 2100000814; HDR Engineering, Inc., 2100000815; Burgess and Niple, Inc., 2100000816; Stantec Consulting Services, Inc., 2100000817.

**DEPARTMENT OF JUVENILE JUSTICE**  
Dennis L. Pickett, 2100000506; American

Correctional Association, 2100000658.	2100000617; Kentucky Association of Chiefs of	<b><u>THE FOLLOWING PERSONAL SERVICE</u></b>
<b><u>EDUCATION - OFFICE OF THE SECRETARY</u></b>	Police, 2100000618; Kentucky Association of Chiefs	<b><u>AMENDMENTS WERE REVIEWED WITHOUT</u></b>
Compass Evaluation and Research, Inc.,	of Police, 2100000619; Kentucky Association of	<b><u>OBJECTION:</u></b>
2100000580.	Chiefs of Police, 2100000620; Kentucky Association	<b><u>ADMINISTRATIVE OFFICE OF THE</u></b>
<b><u>FACILITIES &amp; SUPPORT SERVICES</u></b>	of Chiefs of Police, 2100000621; Kentucky	<b><u>COURTS</u></b>
CMTA, Inc., 2100000607; Paladin, Inc.,	Association of Chiefs of Police, 2100000622;	Sturgill, Turner, Barker & Moloney, PLLC,
2100000795.	Kentucky Association of Chiefs of Police,	1900004748.
<b><u>KENTUCKY FISH AND WILDLIFE</u></b>	2100000623; Norton Hospital, Inc., 2100000624;	<b><u>DEPARTMENT FOR ENVIRONMENTAL</u></b>
<b><u>RESOURCES</u></b>	Norton Hospital, Inc., 2100000625.	<b><u>PROTECTION</u></b>
Copperhead Environmental Consulting, Inc.,	<b><u>UNIVERSITY OF KENTUCKY</u></b>	URS Corporation, 1000001352.
2100000551.	Lord, Aeck, & Sargent, Inc., A211090; Smiley	<b><u>DEPARTMENT FOR INCOME SUPPORT</u></b>
<b><u>KENTUCKY HIGHER EDUCATION</u></b>	Joe, LLC, K21-174; Nichols Walter, PLLC, K21-175;	Brandee Denise Wimberly, 2000001213.
<b><u>STUDENT LOAN CORPORATION</u></b>	Kinthead & Stiltz, PLLC, K21-176; Sturgill Turner	<b><u>DEPARTMENT OF EDUCATION</u></b>
Deloitte & Touche, LLP, 21-011.	Barker & Maloney, PLLC, K21-177; Waller Lansden	Walter W. Hulett, 2000002636; Hands On
<b><u>KENTUCKY LOTTERY CORPORATION</u></b>	Dortch and Davis, LLP, K21-178; Vimarc, K21-179;	Therapy, PSC, 2000003179; Brian P. White,
Bandy Carroll Hellige, 21-16-044-1; The Buntin	Benson Law Offices, K21-180; APAX Software,	2000004392; Allied Instructional Services, LLC,
Group, Inc., 21-16-044-2A.	K21-181; APAX Software, K21-182; Trane US, Inc.,	2000004424; DPJ Consulting, LLC, 2000004471.
<b><u>KENTUCKY RETIREMENT SYSTEMS</u></b>	K21-183; Dinsmore & Shohl, K21-184; McMasters	<b><u>DEPARTMENT OF HIGHWAYS</u></b>
Faegre Drinker Biddle & Reath, LLP,	Keith Butler, Inc., K21-185; Kriz, Jenkins, Prewitt &	Palmer Engineering Company, 1100001520;
2100000485.	Jones, K21-186.	QK4, 1500001028; HMB Professional Engineers,
<b><u>KY COMMUNITY TECHNICAL COLLEGE</u></b>	<b><u>UNIVERSITY OF LOUISVILLE</u></b>	Inc., 1500001230; J. M. Crawford and Associates,
<b><u>SYSTEM</u></b>	Wilson-Bennett Technology, Inc., 21-060;	Inc., 1600000216; Bacon Farmer Workman
418 Intelligence Corp, 831.	Breakpoint Technology, 21-061.	Engineering & Testing, Inc., 1800000283; Integrated
<b><u>MURRAY STATE UNIVERSITY</u></b>	<b><u>WESTERN KENTUCKY UNIVERSITY</u></b>	Engineering, 1900001876; Stantec Consulting
Ross-Tarrant Architects, 018-21.	Multi, 202126; Multi, 202127; Multi, 202128;	Services, Inc., 1900002074; Palmer Engineering
<b><u>STATE TREASURER</u></b>	Multi, 202129; Multi, 202130; Multi, 202131;	Company, 1900002137; AECOM Technical Services,
Specialty Audit Services, LLC, 2100000184.	Multi, 202132; Multi, 202133; Multi, 202134; Multi,	Inc., 1900002157; Michael Baker International, Inc.,
<b><u>TRANSPORTATION - OFFICE OF THE</u></b>	202135; Multi, 202136.	1900003824; American Engineers, Inc., 1900004968;
<b><u>SECRETARY</u></b>		H. W. Lochner, Inc., 2000000469; American
Kentucky Association of Chiefs of Police,		Engineers, Inc., C-03060711; QK4, Inc., C-03349284;

H A Spalding, Inc., C-99005052.	<u>UNIVERSITY OF KENTUCKY</u>	City of Radcliff, 2100000543; Ohio County Fiscal
<u>DEPARTMENT OF INSURANCE</u>	Sherman Carter Barnhart, A161180; Achieve	Court, 2100000555; Taylor County Fiscal Court,
Ami Risk Consultants, Inc., 2000001879.	Digital, K20-151.	2100000567; Green County Treasurer, 2100000571;
<u>DEPARTMENT OF JUVENILE JUSTICE</u>	<u>UNIVERSITY OF LOUISVILLE</u>	City of Dawson Springs, 2100000572; City of Paris,
Locumtenens.Com, 2000003903; Locumtenens.	JRA, Inc., 20-004; Multi, 21-010.	2100000575; Todd County Treasurer, 2100000577;
Com, 2000003920; Locumtenens.Com, 2000003925;	<b><u>THE FOLLOWING MEMORANDA OF</u></b>	City of Frankfort, 2100000600; City of Jamestown,
Locumtenens.Com, 2000003929; Locumtenens.	<b><u>AGREEMENTS WERE REVIEWED WITHOUT</u></b>	2100000601; City of Hanson, 2100000611; City
Com, 2000003930; Locumtenens.Com, 2000003932;	<b><u>OBJECTION:</u></b>	of Dayton, 2100000631; Rockcastle County
Locumtenens.Com, 2000003935.	<u>CHFS - DEPARTMENT FOR AGING AND</u>	Fiscal Court, 2100000643; City of Munfordville,
<u>DEPARTMENT OF VETERANS AFFAIRS</u>	<u>INDEPENDENT LIVING</u>	2100000644; Carlisle County, 2100000645; City of
Envivo Health, LLC, 2000001876.	Multi, 2100000242; Multi, 2100000262.	Pembroke, 2100000646; Edmonson County Fiscal
<u>EASTERN KENTUCKY UNIVERSITY</u>	<u>COUNCIL ON POSTSECONDARY</u>	Court, 2100000647; Perry County, 2100000650;
Colorado Seminary, d/b/a University of Denver	<u>EDUCATION</u>	Union County Fiscal Court, 2100000651; Grayson
- Butler Institute for Families, 22-063.	Collaborative for Teaching, 2100000802.	County Fiscal Court, 2100000664; City of Greenville,
<u>ECON DEV - OFFICE OF THE SECRETARY</u>	<u>DEPARTMENT FOR LIBRARIES &amp;</u>	2100000665; Pike County Fiscal Court, 2100000666;
Quartz Smith Strategies, 2000001944.	<u>ARCHIVES</u>	City of Cumberland, 2100000667; Ohio County
<u>FACILITIES &amp; SUPPORT SERVICES</u>	Laurel County Public Library, 2100000700.	Fiscal Court, 2100000668; Logan Industrial
Omni Architects, 1900003529; Hafer PSC,	<u>DEPARTMENT FOR LOCAL GOVERNMENT</u>	Development Authority, Inc., 2100000670; Ballard
20000000001; Riverine Systems, LLC, 2000000378;	City of Tompkinsville, 2000002301; City of	County Economic Industrial Development Authority,
Ross Tarrant Architects, Inc., 2000002652.	Somerset - Sky Hope Recovery Center, 2000003226;	2100000671; City of Irvine, 2100000689; Carter
<u>FINANCE - OFFICE OF THE SECRETARY</u>	City of Lancaster, 2000003680; City of Paintsville,	County Treasurer, 2100000691; Trigg County Fiscal
Multi, 2000002249.	2100000425; City of Paducah, 2100000433; Harlan	Court, 2100000692; Lawrence County, 2100000694;
<u>KENTUCKY EMPLOYERS MUTUAL</u>	County Fiscal Court, 2100000468; Harlan County	City of Taylor Mill, 2100000698; City of Walton,
<u>INSURANCE</u>	Fiscal Court, 2100000469; Harlan County Fiscal	2100000706; City of Campbellsville, 2100000713;
Dean, Dorton, Allen, Ford, PLLC, 21-DDF-001.	Court, 2100000471; Whitley County Fiscal Court,	City of Union, 2100000718; Woodford County,
<u>KY COMMUNITY TECHNICAL COLLEGE</u>	2100000474; City of Fort Thomas, 2100000491;	2100000720; City of Ashland, 2100000721; City of
<u>SYSTEM</u>	City of Owensboro, 2100000501; City of Hickman,	Irvington, 2100000732; City of Goshen, 2100000736;
AON Consulting, Inc., 822.	2100000509; Bracken County Fiscal Court,	City of Midway, 2100000737; City of Clinton,
<u>MURRAY STATE UNIVERSITY</u>	2100000518; City of Marion, 2100000523; Boyle	2100000745; City of Eddyville, 2100000756; City
Beacon Technologies, Inc., 021-20.	County, 2100000528; City of Burgin, 2100000534;	of Hawesville, 2100000758; City of Campbellsburg,



2100000761; Magoffin County Fiscal Court,	<u>DEPARTMENT OF CORRECTIONS</u>	Education, 2100000679; Kentucky Valley Education,
2100000763; City of Stamping Ground, 2100000768;	Attorney General Division of Administrative	2100000683; Simpson County Board of Education,
McLean County Fiscal Court, 2100000784;	Services, 2100000279.	2100000686.
Monroe County Industrial Development Authority,	<u>DEPARTMENT OF EDUCATION</u>	<u>DEPARTMENT OF JUVENILE JUSTICE</u>
2100000785; Caldwell County, 2100000786; Warren	Calloway County Board of Education,	Lexington Fayette Urban County Government,
County Treasurer, 2100000791; City of Nortonville,	2000003331; Bluegrass Community and Technical	2000003019; University of Kentucky, 2100000750.
2100000792; McCracken County Fiscal Court,	College, 2000003371; Ballard County Board	<u>DEPARTMENT OF MILITARY AFFAIRS</u>
2100000800; City of Lebanon Junction, 2100000805;	of Education, 2000004108; Edmonson County	Louisville & Jefferson Metropolitan Sewer
Menifee County Fiscal Court, 2100000806; City	Board of Education, 2000004120; Muhlenberg	District, 2100000082; Floyd County, 2100000208;
of Jenkins, 2100000818; Owen County Treasurer,	County Board of Education, 2000004141; Walton-	Office of Vocational Rehabilitation, 2100000716.
2100000821; City of Raceland, 2100000822; Morgan	Verona Independent School District, 2100000076;	<u>DEPARTMENT OF WORKPLACE</u>
County Fiscal Court, 2100000825; Russell County	Kentucky Science and Technology Corporation,	<u>STANDARDS</u>
Industrial Development Authority, 2100000830;	2100000130; Fayette County Board of Education,	University of Kentucky, 2000003197.
Hickman County Fiscal Court, 2100000841; Inter-	2100000215; Harlan County Board of Education,	<u>KENTUCKY FISH AND WILDLIFE</u>
Modal Transportation Authority, Inc., 2100000850.	2100000217; Jefferson County Board of Education,	<u>RESOURCES</u>
<u>DEPARTMENT FOR MEDICAID SERVICES</u>	2100000218; Newport Independent School District,	University of Louisville, 2000003050.
United Way of Kentucky, Inc., 2000004447.	2100000221; Webster County Board of Education,	<u>OFFICE OF ENERGY POLICY</u>
<u>DEPARTMENT FOR PUBLIC HEALTH</u>	2100000223; University of Kentucky Research	University of Kentucky Research Foundation,
Volunteers of America Mid-States, Inc.,	Foundation, 2100000300; Kentucky Community and	2100000265.
2100000361; University of Louisville Research	Technical College System, 2100000325; University	<u>TOURISM - OFFICE OF THE SECRETARY</u>
Foundation, 2100000629.	of Kentucky Research Foundation, 2100000510;	African American Heritage Foundation,
<u>DEPARTMENT FOR WORKFORCE</u>	University of Louisville Research Foundation,	Inc., 2100000206; Kenton County Fiscal Court,
<u>INVESTMENT</u>	2100000511; Kentucky Alliance of Boys & Girls	2100000697; Department of Local Government,
Jefferson County Board of Education,	Clubs, Inc., 2100000526; Kentucky Community and	2100000704; Breckinridge County, 2100000749.
2000003758; Connected Nation, Inc., 2100000199;	Technical College System, 2100000537; Kentucky	<u>TRANSPORTATION - OFFICE OF THE</u>
The Coleridge Initiative, Inc., 2100000504.	Valley Education, 2100000538; Eastern Kentucky	<u>SECRETARY</u>
<u>DEPARTMENT OF AGRICULTURE</u>	University, 2100000544; Jobs for Kentucky's	University of Louisville Research Foundation,
Kentucky 4-H Foundation, 2100000730;	Graduates, 2100000550; Anderson County Board	2100000627; University of Kentucky Research
Kentucky FFA Foundation, 2100000731.	of Education, 2100000662; Ashland Board of	Foundation, 2100000676; University of Kentucky
	Education, 2100000673; Calloway County Board of	Research Foundation, 2100000678; University of

Kentucky Research Foundation, 2100000680; Traffic Safety Education Foundation, 2100000869; Traffic Safety Education Foundation, 2100000870. Kentucky’s Heartland, 2000001370; Tri State Food Bank, Inc., 2000001371; Northern Kentucky Area Development District, 2000001372; Purchase Area Development District, Inc., 2000001375. Education, 2000000075; Pendleton County Board of Education, 2000000079; Bourbon County Board of Education, 2000000097; Bullitt County Board of Education, 2000000098; Campbell County Board of Education, 2000000100; Christian County Board of Education, 2000000101; Corbin Independent School District, 2000000102; Harrison County Board of Education, 2000000103; Johnson County Board of Education, 2000000104; Letcher County Board of Education, 2000000105; Monroe County Board of Education, 2000000106; Martin County Board of Education, 2000000107; Owensboro Independent School District, 2000000109; Cumberland County Board of Education, 2000000123; YMCA of Greater Cincinnati, 2000000124; Spencer County Board of Education, 2000000125; Whitley County Board of Education, 2000000127; Ashland Board of Education, 2000000128; Cloverport Independent School District, 2000000129; Covington Independent School District, 2000000130; Fulton Independent Board of Education, 2000000131; Glasgow Independent School District, 2000000132; Hardin County Board of Education, 2000000133; Grayson County Board of Education, 2000000134; Greenup County Board of Education, 2000000135; Harlan County Board of Education, 2000000136; Harlan County Boys and Girls Club, 2000000137; Harlan Independent School District, 2000000138; Henderson County Board of Education, 2000000139; Jefferson County Board of Education, 2000000140; Leslie County Board

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

**BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS**

Department of Professional Licensing, 2000001773.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

Kentucky Housing Corporation, 2000001485; Opportunity Workshop of Lexington and Learning, 2000001489; Catholic Charities of Louisville, Inc., 2000001510; Northern Kentucky Regional Mental Health Mental Retardation Board, 2000001550; Northern Kentucky Area Development District, 2000001573; Community Action Kentucky, Inc., 2000001658; Kentucky Association of Sexual Assault Programs, 2000001992; Multi, 2000002656.

**DEPARTMENT FOR LOCAL GOVERNMENT**

Lewis County, 1900003042; Breathitt County Water District, 1900004353.

**DEPARTMENT FOR PUBLIC HEALTH**

Public Health Foundation, 2000001505; University of Kentucky, 2000004104.

**DEPARTMENT OF AGRICULTURE**

Dare To Care, Inc., 2000001368; Gods Pantry Food Bank, Inc., 2000001369; Feeding America,

**DEPARTMENT OF CORRECTIONS**

Pike County, 2000001649; Marion County, 2000001653; Grant County Fiscal Court, 2000001669.

**DEPARTMENT OF EDUCATION**

Kentucky Non Public Schools Commission, Inc., 1900003986; Fulton Independent Board of Education, 1900004253; Owensboro Independent School District, 1900004274; Warren County Board of Education, 1900004280; Johns Hopkins University, 1900004678; Fayette County Board of Education, 2000000050; Adair County Board of Education, 2000000055; Ballard County Board of Education, 2000000056; Barren County Board of Education, 2000000057; Berea Independent Board of Education, 2000000058; Breathitt County Board of Education, 2000000063; Casey County Board of Education, 2000000064; Family and Children’s Place, Inc., 2000000065; Livingston County Board of Education, 2000000067; Menifee County Board of Education, 2000000068; Taylor County Board of Education, 2000000069; Washington County Board of Education, 2000000070; Wayne County Board of Education, 2000000071; Webster County Board of Education, 2000000072; Williamstown Board of Education, 2000000073; Boone County Board of Education, 2000000074; Bracken County Board of

of Education, 2000000141; Lincoln County Board of Education, 2000000143; Ludlow Independent School District, 2000000144; Mayfield Independent School District, 2000000145; Metcalfe County Board of Education, 2000000146; McCracken County Board of Education, 2000000147; Save the Children Federation, Inc., 2000000149; Wolfe County Board of Education, 2000000151; Clinton County Board of Education, 2000000158; Crittenden County Board of Education, 2000000159; Covington Independent School District, 2000000473; Dayton Independent School District, 2000000474; Jefferson County Board of Education, 2000000477; Jessamine County Board of Education, 2000000478; Whitley County Board of Education, 2000000483; Kentucky Valley Education, 2000001598.

DEPARTMENT OF JUVENILE JUSTICE

Boyle County Board of Education, 2000002972.

DEPARTMENT OF MILITARY AFFAIRS

Office of Vocational Rehabilitation, 1900003966-

1.

KENTUCKY FISH AND WILDLIFE RESOURCES

University of Kentucky Research Foundation, 2000001268.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

ATTORNEY GENERAL

Morgan & Morgan Kentucky, PLLC,

2100000230; Morgan & Morgan Kentucky, PLLC, 2100000339; Morgan & Morgan Kentucky, PLLC, 2100000340; Morgan & Morgan Kentucky, PLLC, 2100000609. Victor Maddox and Stacy Woodrum discussed the contracts with the committee. A motion was made by Senator Wheeler to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

LABOR - OFFICE OF THE SECRETARY  
Ernst & Young US, LLP, 2100000707. Amy Cabbage discussed the contract with the committee. A motion was made by Representative Hart to disapprove the contract. Representative Lee seconded the motion, which failed with Senator Wheeler, Representative Booker, Representative Fugate, Senator Meredith voting no and Senator Carroll voting to pass. A motion was made by Senator Wheeler to consider the contract as reviewed. Representative Fugate seconded the motion, which passed with Representative Hart and Representative Lee voting no.

STATE TREASURER

EECS, LLC, 2100000179; Kelmar Associates, LLC, 2100000180. Leslie Bilby discussed the contracts with the committee. A motion was made by Senator Wheeler to consider the contracts as reviewed. Representative Fugate seconded the motion, which passed with Senator Meredith voting no.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT OF HIGHWAYS

HMB Engineers, Inc., 2000000881. Eric Pelfrey and Mike Bezold discussed the contract with the committee. A motion was made by Senator Wheeler to consider the contract as reviewed. Representative Lee seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR LOCAL GOVERNMENT

Glasgow/Barren County Industrial Development Economic Authority, 2100000614. Matt Stephens, Billie Johnson, and Aaron Jones discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

EXEMPTION REQUESTS:

CABINET FOR HEALTH AND FAMILY SERVICES

The Cabinet for Health and Family Services, Division of Procurement and Grant Oversight, on behalf of the Kentucky Office of Inspector General requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium to allow the Cabinet to establish Memoranda of Agreement for 21 Kentucky Civil Monetary Penalty projects. A motion was made by Representative Lee to grant the request to June 30, 2024. Representative Fugate seconded the motion, which passed.

ENERGY AND ENVIRONMENT CABINET

The Energy and Environment Cabinet, Division of Forestry requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for the Laurel Wilt Disease Grant. A motion was made by Representative Lee to grant the request to June 30,



2023. Representative Fugate seconded the motion, request to December 31, 2022. Representative Fugate which passed.

ENERGY AND ENVIRONMENT CABINET

The Energy & Environment, Office of Kentucky Nature Preserves requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for the MOA with Wilderness Louisville, Inc. A motion was made by Representative Lee to grant the request to June 30, 2029. Representative Fugate seconded the motion, which passed.

ENERGY AND ENVIRONMENT CABINET

The Energy and Environment Cabinet Division of Abandoned Mine Lands requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for AML Economic and Community Development Pilot Program projects awarded under Economic and Community Development AML Pilot Program Grants. A motion was made by Representative Lee to grant the request to December 31, 2022. Representative Fugate seconded the motion, which passed.

ENERGY AND ENVIRONMENT CABINET

The Energy and Environment Cabinet Division of Abandoned Mine Lands requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for AML Waterline Program projects awarded under AML Waterline Grants. A motion was made by Representative Lee to grant the

request to December 31, 2022. Representative Fugate seconded the motion, which passed.

ENERGY AND ENVIRONMENT CABINET

The Energy and Environment Cabinet Division of Water requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for PCB testing. A motion was made by Representative Lee to grant the request to June 30, 2024. Representative Fugate seconded the motion, which passed.

There being no further business, the meeting adjourned at 10:31 AM.

**MEDICAID OVERSIGHT AND ADVISORY COMMITTEE Minutes**

September 23, 2020

**Call to Order and Roll Call**

The meeting of the Medicaid Oversight and Advisory Committee was held on Wednesday, September 23, 2020, at 3:15 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: Kevin Moore, Vice President of Policy, Health, and Human Services, UnitedHealthcare Community and State; Dr. Jason Dees, Chief Medical Officer, Molina Healthcare, Ryan Sadler, Kentucky Chief Executive Officer, Passport by Molina Healthcare; Kelly McGivern, Assistant Vice President, Government Affairs, Passport Health Plan by Molina Healthcare. Lisa Lee, Commissioner, Jessin Joseph, Pharmacy Director, Department for Medicaid Services, Cabinet for Health and Family Services.

LRC Staff: Chris Joffrion and Hillary Abbott.

**Introduction to New Managed Care Organizations**

Kevin Moore, Vice President of Policy, Health and Human Services, of UnitedHealthcare Community and State stated that UnitedHealthcare (UHC) provides Medicaid benefits to nearly six million members, including more than 2.7 million children. UHC, while new to the Medicaid market in Kentucky, has been serving the commonwealth in the private market for years. Mr. Moore stated that this “foot-in-the-door” will help UHC build relationships with the Medicaid providers and the community. Mr. Moore stated that UHC has invested over \$500,000 in local community based organizations.

Mr. Moore stated that UHC is focused on member engagement and communication by holding member listening session across the Commonwealth, developing member material and platforms to simplify communication, and encourage ongoing member engagement, and that UHC realizes the importance of community based organizations in supporting and engaging members. Mr. Moore stated that UHC is committed to ongoing engagement to identify and mitigate challenges within the network to ensure an ideal experience for members and providers. Mr. Moore stated that UHC’s priorities include creating strong partnerships with providers, especially in rural and underserved areas, improving health and health outcomes through alternative payment models, and using telehealth to expand access, support members, and improve care.

Mr. Moore stated that UHC prioritizes social determinants of health by developing and deploying innovative approaches by addressing substance use disorder (SUD) and opioid use disorder (OUD) in communities, keep addressing neonatal abstinence syndrome though support of families, mothers, and newborns, and by supporting member’s goals and addressing social barriers.

Mr. Moore stated that going forward UHC will have a continued focus on fundamentals, provider and member communication, continued transparency between UHC, the commonwealth, providers, and members to meet goals, and to ensure a supportive partnership in the commonwealth’s COVID-19 “new-normal”.

In response to questions and comments from Senator Meredith, Mr. Moore stated that UHC’s commitment to social determinants of health is a priority and that UHC understands the regional differences and barriers in Kentucky, with investment in rural communities remaining at the top of the priority list. Mr. Moore stated that UHC understands the communication barriers that can happen and is committed to ramping up communication with provider networks to make sure that needs are being met and contractual gaps are known so they can be addressed. Mr. Moore stated that UHC’s private insurance network of providers in Kentucky will be a useful foundation to leverage partnerships and build a robust network for Medicaid members.

In response to questions and comments from Representative Sheldon, Mr. Moore stated that UHC is prepared to integrate state policies, like 20 RS SB 50, into their master plan to ensure the laws are followed and the best care is given to the members. Mr. Moore stated that UHC has a history of working with many different states and thus, with many different pharmacy programs. Mr. Moore stated that UHC is dedicated to security and views security as fundamental.

In response to questions from Representative Elliott, Mr. Moore stated that some of the top problems facing the Kentucky Medicaid population is access to care and opioid and substance use disorders. Mr. Moore stated that UHC is committed to providing solutions to these problems.

In response to questions from Senator Carroll, Mr. Moore stated that clients have the ability to choose their plan by opting out of auto-assignment. Mr. Moore stated that UHC will have a base of 100,000 enrollees.

**Passport Health Plan by Molina Healthcare**

Kelly McGivern, Associate Vice President, State Affairs, Passport Health Plan by Molina Healthcare stated that Passport was purchased by Molina Healthcare in 2020 and will be expanding its current, broad, geographic footprint that serves more than 3.8 million individuals, of which 88 percent are Medicaid beneficiaries, in 16 states.

Ms. McGivern stated that 315,000 members in Kentucky were served by Passport Health Plan as of June 30, 2020.

Dr. Jason Dees, Chief Medical Officer, Molina Healthcare stated that Molina Healthcare was founded by doctors and is committed to providing members with access to high quality healthcare and a balanced experience among all they serve. Dr. Dees stated that Molina Healthcare prioritizes ensuring a high quality experience for members is by providing local training to local providers, and investments in the region where they are to serve. Dr. Dees stated that Molina Healthcare is committed to providing low cost, transparent, and effective high quality access to care while providing reliable service as a partner of choice. Molina Healthcare is recognized by the National Committee for Quality Assurance and has 3 plus star ratings on all of their Medicare plans by the Centers for Medicare and Medicaid Services (CMS).

Ryan Sadler, Kentucky Chief Executive Officer, Passport Health Plan by Molina Healthcare stated that Passport's contract was novated to Molina Healthcare of Kentucky on September 1, 2020 and that Passport Health Plan intends to expand employment beyond the roughly 500 Kentucky-based current Passport health employees. Mr. Sadler stated that Passport Health Plan is committed to providing 1,100 jobs, to hiring locally with its headquarters remaining in Louisville, and to invest \$2.5 million in community organizations as well as provide innovations to address social determinants of health. Mr. Sadler stated that Molina is opening six one-stop-shop help centers across Kentucky, in Covington, Bowling Green, Hazard, Lexington, Louisville, and Owensboro. Mr. Sadler stated that these help centers will help promote enrollee and provider walk-ins and serve as community resource centers that focus on meeting the needs of enrollees and providers. Mr. Sadler stated that the one-stop-shop help centers will provide training, education, and access to programs, free WI-FI, meeting rooms, and telehealth capabilities. Mr., Sadler stated that the help centers will also serve as a conduit to identify problems with the networks so they can be addressed immediately.

Senator Meredith, Senator Alvarado, Representative Gibbons-Prunty, and Representative Sheldon stated that prior to being acquired by Molina, Passport, historically has not had a good relationship with the committee or with the General Assembly. The legislators stressed that transparency problems have plagued Passport. They specifically cited concerns about large executive bonuses paid while Passport claimed they could not reimburse providers and the favoritism shown to Louisville providers over rural providers. The legislators urged Passport Health Plan by Molina not to repeat the mistakes committed by their predecessors and to work with the General Assembly to ensure quality care to all Kentuckians.

In response to questions from Representative Gibbons Prunty, Ryan Sadler and Kelly McGivern stated they did not know if Molina Healthcare had acquired the Passport Health Plan Foundation, a 501(c)(3), and its assets when Molina Healthcare acquired Passport. Mr. Sadler and Ms. McGivern stated they would follow-up with the committee on an answer to that question.

In response to questions and comments from Senator Alvarado, Mr. Sadler said that Passport Health Plan will follow-up on its usage of appendix reimbursement and stressed that Passport Health Plan has a desire to be transparent from the beginning.

In response to questions from Representative Sheldon, Mr. Sadler stated that there will be a \$1.25 dispensing fee in

independent pharmacies.

#### **Implementation of Single Pharmacy Benefit Manager Requirements (20 RS SB 50)**

Lisa Lee, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services, stated that Senate Bill 50 (SB 50) was enacted by the General Assembly in 2020. Commissioner Lee stated that SB 50 requires DMS to establish a single preferred drug list (PDL) for use by each Medicaid Managed Care Organization (MCO). Commissioner Lee stated that SB 50 requires DMS to contract with a single state pharmacy benefit manager (PBM) for all MCOs by December 31, 2020. Commissioner Lee stated that the contract with the state PBM will establish the PBM's fiduciary duty owed to the department; comply with provisions outlined in SB 50; require the use of pass-through pricing and the use of a single preferred drug list, reimbursement methodologies, and dispensing fees established by the department as well as prohibit spread pricing and other practices related to pharmacy benefits.

Jessin Joseph, Pharmacy Director, Department for Medicaid Services, Cabinet for Health and Family Services, stated that beginning January 1, 2021, the five MCOs will follow the fee-for-service (FFS) PDL effective January 1, 2021. Mr. Joseph stated that MCOs will follow the FFS clinical criteria for PDL classes which may be less restrictive but cannot be more restrictive and that MCOs can manage criteria and preference for drug classes that are not included on the FFS PDL (i.e., cystic fibrosis). Mr. Joseph stated that Magellan tracks several non-PDL classes and reviews them with DMS annually and classes will be added as appropriate.

Commissioner Lee stated that the release of the Request for Proposal (RFP) was released on August 14, 2020 and the vendor's first set of written questions were received Tuesday, August 25, 2020. Commissioner Lee stated that the Commonwealth's response to the first set of vendor's written questions were sent out on Tuesday September 1 2020 and the vendor's second set of written questions were due Tuesday September 8, 2020, with a response from the Commonwealth due on Tuesday September 15, 2020. Commissioner Lee stated that proposals are due by 3:30 PM EST Tuesday October 6, 2020 and the anticipated contract award date is on or before December 31, 2020.

In response to questions from Senator Meredith, Jessin Joseph stated that a single formulary is currently in use.

#### **Adjournment**

With there being no further business, the meeting was adjourned at 4:45 PM.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes of the 4th Meeting of the 2020 Interim**

September 10, 2020

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

The 4th meeting of the Program Review and Investigations Committee was held on Thursday, September 10, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Karen Berg, Tom Buford, Michael J. Nemes, Reginald Thomas,

Stephen West, Whitney Westerfield, and Phillip Wheeler; Representatives Chris Fugate, Al Gentry, Kim King, Adam Koenig, Ruth Ann Palumbo, Steve Riley, and Walker Thomas.

Guests: Steven Stack, MD, Commissioner, Department for Public Health

LRC Staff: Gerald W. Hoppmann, Committee Staff Administrator, Chris Hall, William Spears, Joel Thomas, and Elizabeth Hardy, Committee Assistant.

Representative Bechler welcomed Representative King as new committee member and welcomed Gerry Hoppmann, the new committee staff administrator.

#### **Minutes for August 13, 2020**

Upon motion by Senator Nemes and second by Senator Carroll, minutes for the July 23, 2020, meeting were approved without objection.

#### **Update on COVID-19 Testing and Reporting**

Representative Bechler administered the oath to Dr. Stack, who affirmed that he would tell the truth.

Representative Bechler said that he would read through the staff questions asked of the Department for Public Health and have Dr. Stack testify on the prepared answers.

In response to questions read by Representative Bechler, Dr. Stack affirmed the written answers to several questions. He stated that the PDF version of the question-and-answer document had links to other documents with further explanations about reporting test results. Such information is distributed through several channels to reach as many testing providers as possible. According to Dr. Stack, "pop-up" is a colloquial term for an entity that normally did not conduct testing but was now offering COVID-19 tests, so these entities are not familiar with the reporting requirements and methods.

In response to questions from Senator Carroll about inaccurate test results and the positivity rate, Dr. Stack said that all tests might have inaccuracies, but he was unaware of widespread concern about excessive inaccuracies. The positivity rate has challenges and limitations. A declining positivity rate means multiple things. Kentucky has maintained a robust level of testing. The goal is to test enough people so that the positivity rate is below 3 percent, to catch as many people who are positive as possible and use other tools such as education, quarantine, and isolation to contain the disease. If the positivity rate stays low, it means other measures like distancing and masks are helping.

In response to questions from Senator Carroll about inconsistencies related to incidence versus reporting dates, how deaths are reported, and a lack of numbers on negative test results, Dr. Stack said the data have limitations and are imperfect but valuable in context. The department has taken steps to make limitations transparent and to mitigate them. A footnote on the website explains about how the positivity rate is calculated and what its limitations are. The positivity rate is an average over one week to eliminate variation. They count all positives and negatives that are reported. The number is useful for looking at trends because the calculation is the same over time and holds imperfections constant. They are working to try to find a way to make data available at the county level. The large amount of data coming from so many systems makes it difficult, but they continue to try to improve.

In response to questions from Senator Carroll about concerns of constituents and the counting of cases and deaths on the wrong days, Dr. Stack stated that people could look at the same information and come to different conclusions, but the department is acting in good faith. The public needs



to have confidence that they are getting good information. The measures being used are consistent with the state of the art in public health. He presented slides showing the federal designation of Kentucky counties in red and yellow zones. He said that federal positivity data from different data sources align well with Kentucky's data. Kentucky in some instances is more lenient than federal guidelines and allows bars to be open and restaurants to open at 50 percent capacity, while federal guidelines advise closing bars and lowering restaurant capacity in red zones.

In response to questions from Senator West about federal positivity rates and the types of tests and their accuracy, Dr. Stack explained that the two largest national labs report to the federal system directly at the Centers for Disease Control and Prevention (CDC). Kentucky also enters data directly into that system. Kentucky tries to get as much information as possible from other labs. There are more than 60 labs sending electronic reports, and smaller labs fill out online surveys. The federal data may be subtly different but are similar to Kentucky's in terms of direction and relative size. Dr. Stack said he did not know for sure how many different tests were being used but could find out. He said that the PCR test accuracy is more than 99 percent. The best antigen tests are 97 percent to 99 percent. Antibody tests are more variable and have less oversight, so he recommended not using them unless a licensed doctor advises it. He agreed that false positives probably occur less than 3 percent of the time. He added that sometimes true positive results are misinterpreted as false.

Senator Berg expressed full support for the Department for Public Health and medical professionals and spoke from personal experience as a physician on the severity of COVID-19.

In response to questions read by Representative Bechler, Dr. Stack said that the department does direct outreach and provides assistance to all labs conducting tests to get them onto the Kentucky Health Information Exchange. He said that department staff enter data from various sources into the federal system, which is the source of most of the data they use. Regarding negative results and calculation of the positivity rate, Dr. Stack recommended clicking on the links in the PDF document he provided to get to detailed explanations of how the rate is calculated. He affirmed that Kentucky's process for reporting test results was consistent with the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.

In response to questions read by Representative Bechler, Dr. Stack said Department for Public Health epidemiologists developed the laboratory survey used by the National Guard phone bank to collect lab test results. The National Guard performed other important functions to support the department. Dr. Stack said that different federal agencies are responsible for aspects of oversight. For example, the Food and Drug Administration approves tests for use, and Health and Human Services through the Centers for Medicare and Medicaid Services oversees the labs with involvement by the cabinet's inspector general. He said the department tries to be a resource to all labs that request assistance to validate their testing.

In response to questions read and asked by Representative Bechler related to unscrupulous labs, Dr. Stack said that when the department becomes aware of possible inappropriate testing operations, it refers them to the appropriate agency, such as the Board of Medical Licensure. The department, however, does not maintain a list of these labs, according to Dr. Stack. Because the department does not have regulatory authority, an agency

that has such authority will handle the issue. Dr. Stack stated that there were few if any labs reporting that all results were positive. He speculated that Dr. Thoroughman at the previous meeting was using 100 percent as a hypothetical example.

In response to questions read and asked by Representative Bechler, Dr. Stack reported that department staff go through all the datasets looking for duplicates using CDC definitions. If one person tests positive multiple times, the person is still counted as just one case. Each test, however, would be counted in the positivity rate. The CDC recommends retesting only after 90 days from the first positive test. Having enough tests performed overall would average out multiple tests for an individual. He explained that the positivity rate is the number of positive tests divided by the total number of tests, not the number of people, but that the relative size of the number and the direction of change are the important things. Dr. Stack said some hospitals calculate their own positivity rate, and with enough local data the department could report rates at the county level.

In response to questions read and asked by Representative Bechler, Dr. Stack said that the federal data system captures test results, clinical information, symptoms, and hospitalizations. If someone is indicated as deceased, department staff check the system to be sure the record is consistent with COVID-19. For example, someone who tested positive but died in a car accident or from an opiate overdose would not be counted as a COVID-19 death. He said that the proportion of COVID-19 deaths in Kentucky with comorbid conditions might be higher than the CDC average of 94 percent because of higher rates of comorbid conditions in the state. Dr. Stack explained that many people with comorbid conditions might live for decades if they did not contract COVID-19.

In response to questions from Senator West, Dr. Stack said that some people come to the emergency room on dialysis or are terminally ill, but their immediate cause of death might be pneumonia. The death certificate would show the immediate cause of death as pneumonia. The same would be true if the immediate cause of death were COVID-19. This is the standard way that cause of death is determined. He said he would check to see if information was available on the percentage of Kentucky's deaths from COVID-19 that involved comorbid conditions.

In response to questions from Senator Carroll, Dr. Stack said that the Department for Public Health does respond to and track other diseases such as flu, hepatitis, and HIV. COVID-19 is different because it kills more people than the flu, there is no vaccine or treatment, and there is no natural immunity. Even if the death rate were as low as 1 percent, the hospitalization rate is still 8.9 percent. If the hospitalization rate came down to 5 percent but one-third of Kentucky's people became infected, that would be 75,000 people seeking hospitalization, which would overrun the hospitals, and the death rate would be much higher from lack of access to care. He said he would find the number of deaths in the first 6 months of 2020 versus previous years.

Senator Berg discussed her professional medical experience during the time of the HIV outbreak and compared it to the COVID-19 pandemic.

In response to a question submitted by Representative Fugate, Dr. Stack said the recovery rate is still evolving, and current numbers are from people self-reporting their recovery. He estimated between 10 percent to 50 percent of patients have lingering symptoms after the infection is over. COVID-19 affects multiple organs, and there is a concern

that some patients might never return to their previous level of functioning. The definition of *recovered* is still evolving: Is it based on how the person feels or whether the person is infected? The CDC says that someone is recovered when they reach their normal pre-infection condition, and that is how Kentucky is counting them.

In response to questions read and asked by Representative Bechler, Dr. Stack said the department's death review committee has three medical doctors; three epidemiologists, and the state veterinarian, who is an epidemiologist. Representative Bechler read the department's answer of "1" as the number of Kentucky children who have died from COVID-19.

In response to questions read by Representative Bechler, Dr. Stack said that the federal Department of Health and Human Services and other agencies oversee labs, and the state has no authority to ensure how labs analyze their tests. He discussed the health equity branch in the Department for Public Health, which analyzes data and seeks to improve practices. Local health departments work with communities directly with support from the Department for Public Health.

In response to questions read and asked by Representative Bechler, Dr. Stack said the federal government requires states to report their rate of use of personal protective equipment (PPE). Looking at that information and the supply chain capacity, the state has required hospitals to keep in local storage 14 days' worth of PPE at their specific use rate, and hospitals have to replenish this supply through their own purchasing. The state has a reserve supply of PPE in a warehouse, which has more than doubled in size and is almost full. The reserve should cover 2-3 months if the supply chain cannot provide enough PPE. All hospitals he has spoken with said they have their 2-week supply. Dr. Stack said that the department reviews 902 KAR 2:020 as needed. He said it was being revised when COVID-19 hit, so the department was able to include COVID-19 in the revision.

In response to a question by Senator Wheeler, Dr. Stack said if someone left a testing site before receiving a test, they should not be counted. They might receive a document confusingly saying that they were positive or were not tested and might be positive.

In response to questions by Senator Thomas, Dr. Stack said it was very important to wear a mask and socially distance 6 feet. Every federal report lists keeping mask requirements in place statewide as the first or second recommendation. Experts agree these are the two most important measures. Masks reduce the spread of particles. Dr. Stack said that measures for colder weather remain social distancing, wearing a mask, and washing hands. Fall and winter may be worse because people spend more time indoors together.

In response to questions from Senator Westerfield and Representative Bechler, Dr. Stack said that the Governor has said in-person school is permitted as of September 28. Kentucky will benefit from watching the results from other states that opened earlier. He expressed concern about transmission of the virus at sporting events. The Governor's administration is planning an announcement for September 14 about schools. Dr. Stack said studies show that children have higher viral loads than adults in hospital intensive care units, so it is likely they spread the virus, though it is good that they are not seriously affected. Children under 10 might be less likely to transmit the disease. Football teams practicing has led to more cases. The Kentucky Department of Education worked with the



Department for Public Health and others to produce a guidance document that was published on June 24, then around July 4 there was an escalation of COVID-19, so the school guidance had to change.

In response to a question from Representative Gentry, Dr. Stack affirmed that he and others in the cabinet did not inflate the perception of the seriousness of the virus for political reasons.

Representative Koenig commented on the role of the legislature, especially the Program Review and Investigations Committee, to oversee the executive branch. He said that legislators get questions from constituents and that following up on those questions does not take away from the seriousness of COVID-19.

In response to a question from Representative King, Dr. Stack said he could get the top five causes of death in Kentucky for March to September 2020 and for the same period in 2019. He also agreed to provide the number and percentage of individuals who had co-morbidities, as well as a list of studies and data on the efficacy of masks related to the department's promulgation of its proposed regulation (902 KAR 2:2210E).

Representative West commented on the role of the legislature, constitutional rights, and proper regulatory procedures. In response to a question from Representative West about studies requested at another committee meeting, Dr. Stack said he would provide information about studies showing the efficacy of masks.

In response to questions from Senator Carroll, who expressed concerns that Dr. Thoroughman did not testify at the meeting, Dr. Stack said that Dr. Thoroughman was unable to attend because of other duties. He also replied that labs have been required to report negative tests for the past few months.

In response to a question from Senator Carroll about the medical conditions that justified release of felony offenders, Dr. Stack said it was determined by the Department of Corrections and that he was not involved in the decision.

In response to questions from Senator Carroll about masks in school and children with special needs, Dr. Stack said that if there is a medical reason, the child could get a waiver. He referred to Kentucky Department of Education guidance.

Senator Carroll commented on inconsistencies in the data and how it has been presented to the public and on the role of the legislature in the process.

In response to a question from Representative Bechler, Dr. Stack confirmed that asymptomatic people can transmit the virus. He said that the effect of the viral load on the person with the disease varies. None of tests report the relative amounts of virus, but some of the machines performing certain tests might have that information.

In response to questions from Senator Nemes, Dr. Stack said that Medicare has produced new requirements for nursing homes to increase testing of staff and residents depending on the positivity rates in the community. There are many ways the virus can get from the community into a nursing home, such as staff exposure and visitation.

Senator Thomas commented on the numbers from Kentucky and other southern states.

In response to a question from Senator Carroll, Dr. Stack said that the CDC no longer advises testing when someone who had COVID-19 is discharged from a hospital to a nursing home after a certain time has passed, depending on the severity of the symptoms. He said the cabinet's Office of Inspector General could address the policy on testing of

nursing home surveyors.

The meeting adjourned at 3:36 p.m.

## **CLASSIFICATION OF WORKERS IN THE CONSTRUCTION INDUSTRY TASK FORCE Minutes of the 2nd Meeting of the 2020 Interim**

September 10, 2020

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

The 2nd meeting of the Classification of Workers in the Construction Industry Task Force was held on Thursday, September 10, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Senator Matt Castlen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Matt Castlen, Co-Chair; Representative Jason Nemes, Co-Chair; Senator Karen Berg; Representatives Terri Branham Clark and Sal Santoro; Jason Clark, Spencer Coates, Billy Doelker, Tommy Gumm, Marty Hammons, Patrick Jennings, Ken Lyons, Gary Morris, Anthony Russell, Kevin Sell, Allyson Smith, and Robert Swisher.

Guests: Scott Gasser, Director, Division of Security and Compliance, Department of Workers' Claims.

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

### **Approval of Minutes**

A motion to approve the minutes of the August 6, 2020 meeting was made by Representative Sal Santoro, seconded by Co-Chair Jason Nemes, and approved by voice vote.

### **Labor Cabinet Perspectives**

Robert Swisher, Commissioner of the Department of Workers' Claims (DWC); Scott Gasser, the Director of the Division of Security and Compliance; and Anthony Russell, the Director of the Division of Wages and Hours, provided anecdotal evidence and information regarding classification of workers from the Labor Cabinet's perspective. The Department of Workers' Claims is statutorily tasked with administering workers' compensation claims and ensuring compliance of employers and employees with workers' compensation laws. According to KRS Chapter 342, every employer having one or more employees must obtain a workers' compensation policy on the voluntary market or must be certified by the Commissioner of the DWC to be self-insured. As a result, the DWC is effected by the misclassification of workers from a claims standpoint and a compliance standpoint.

From the claims standpoint, the issue of misclassification of employees is determined by the employer and employee relationship. In workers' compensation, an employer is defined as "Any person, other than one engaged solely in agriculture, that has in this state one (1) or more employees". An employee is defined as any person "in the service of an employer under any contract of hire" either expressed or implied and also any person "performing service in the course of the trade, business, profession, or occupation of an employer at the time of the injury." According to Commissioner Swisher, each definition is broad and nonspecific which could lead one to conclude, by default, an injured worker is deemed to be an employee of the punitive employer. Each year the DWC adjudicates between 3,500 and 4,500 claims in which the employer and employee cannot come to an agreement for a settlement. Claims in which the employer alleges the injured worker was not an employee but instead an

independent contractor total an estimated 35 to 50 yearly. These cases are spread across all industries and are not exclusive to the construction industry. To resolve these types of claims, the DWC uses a nine part test to evaluate four major sections. The factors include the extent to which the employer controlled the work, the nature of the work as it relates to the work of the employer, the professional skill of the alleged employee, and the true intentions of both parties. This test is not universal amongst state agencies, and Commissioner Swisher said he believes it would be best to have a unified test for determination of employment status. If an employee is deemed as such and the employer does not have workers' compensation insurance, then the Uninsured Employers' Fund (UEF) pays for those benefits. The actuarial assessment for the UEF for 2019 showed a liability of \$145 million, and annually the Workers' Compensation Funding Commission transfers about \$7.5 million to the UEF to pay administrative expenses and current claims.

The Division of Security and Compliance within the Labor Cabinet has 11 field investigators that are each responsible for 10 to 12 counties and are required to perform 96 to 100 investigations a month. Investigations are performed as a result of complaints made to the Division of Security and Compliance and employer reported information obtained from the Department of Revenue. Investigations can also be opened to verify "Affidavit of Exemption from the Kentucky Workers' Compensation Act" forms that have been submitted by local fiscal courts. In most cases, independent contractor determinations are made by administrative law judges. Citations for noncompliance are issued for those that do not have workers' compensation insurance, and the DWC general counsel either issues a fine or files action against the company or business. The Division of Security and Compliance performed 553 investigations in 2019 to determine if employees were independent contractors relating to construction related employers. Commissioner Swisher added that most construction related employer investigations do find that there is workers' compensation coverage carried, but the issue comes in when the policy only covers part of the employer's workforce.

According to Director Russell, there is very little statistical data available relating to the topic of classification of workers from the wage and hour perspective. The statutory definition of employer and employee as it pertains to wages and hours differs from the workers' compensation statutory definition. As a result, the test to determine the employer and employee relationship differs from the test that the DWC uses. The underlying factor of the tests that is consistent amongst the DWC and the Division of Wages and Hours is the control in the matter of which the daily work is to be performed. The Division of Wages and Hours carries between 400 and 500 cases a month with 16 investigators that cover the entirety of the Commonwealth. Most cases are driven by employee complaints, injuries, or an eminent danger situation. There are not usually inspections or investigations performed solely based on classification of employees. Those issues may be uncovered during a more typical investigation involving wages and hours or occupational safety. Over 90 percent of wages and hours cases are in the general industry area or in private industry establishments. Since the repeal of the prevailing wage law, fewer investigations are performed in public sector construction work. Director Gasser said that although in his experience most misclassification happens in the construction industry, the issue does arise in all industries.

In response to a question from Co-Chair Jason Nemes, Commissioner Swisher explained that having uniform

definitions of employer and employee would provide clarity for all those tasked with making employment status determinations. Director Russell added that although he agreed with the need for uniformity, there would still need to be some differences as it pertains to federal law. Answering a follow up question, Commissioner Swisher stated from the DWC perspective, there are times that companies or businesses unintentionally misclassify employees, but it is not given much consideration because the Department assumes companies or businesses should be aware of the legal requirements. Director Russell also commented that under the occupational safety and health laws, there are specific regulatory and procedural allowances for those with a history of good faith and those that are repeat violators. Commissioner Swisher explained that the DWC's fines equate with the violation and the DWC does keep record of repeat violators.

Answering a question from Kenneth Lyons, Director Russell stated at one time the Division of Wages and Hours would share information with other divisions, departments and agencies, but currently do not in an effort to not be overly punitive.

Kevin Sell commented on the good work of the Labor Cabinet when it comes to classification. He also expressed the need for more statistics to produce legislation. He noted there may need to be more data sharing amongst state entities, and that classification is an issue in all industries, not just limited to construction.

Replying to Representative Terri Branham Clark, Commissioner Swisher said that independent contractors do not register with the state. The only way the DWC may discover if someone is alleging to be an independent contractor is if there has been a complaint filed or if a worker is injured.

For clarification purposes, Commissioner Swisher explained that an independent contractor is anyone who performs labor or service for compensation who is not directly employed by a statutory employer. This person would be a sole proprietor not be directed by an employer in terms of how they conduct their business.

Allyson Smith explained that from the perspective of Kentucky Employers' Mutual Insurance (KEMI), misclassification occurs in all industries, but KEMI sees it almost entirely in the private residential arena and in both the public and private sectors. In other states, employee status has to be provided to the state by employees and independent contractors.

#### **Department of Revenue Perspective**

Garry Morris, the Executive Director of the Office of Tax Policy and Regulation with the Department of Revenue, gave a brief overview of how the Department of Revenue handles misclassification from a broad oversight perspective. Construction contractors doing business in the state are required to withhold Kentucky individual income tax from their employees performing work within the state. The tax and related forms are required to be submitted by the contractor to the Department of Revenue and employees are required to file a Kentucky Individual Income Tax return. The Department has long realized that some construction contractors claim they hire independent contractors to perform work within the state and not employees. Determining whether an independent contractor or employee is performing work at a Kentucky construction job site can be very challenging. When the Department receives information that indicates an independent contractor and employee determination situation exists, the Department will attempt to contact the contractor. If a dispute with the contractor arises, then staff relies on IRS guidelines for

determining when a worker is an employee or independent contractor. In some cases the Department has requested the contractor obtain an IRS SS-8 Determination, which is a process that can take several months. If it is determined a contractor has employees, then the Department issues an estimated assessment for tax, interest, and penalties. The Department uses definitions of employer and employee that are found in the state income tax laws which reference the Internal Revenue Code. The Department of Revenue does not currently have dedicated staff to work on issues related to misclassified workers, but tips from the public or other government agencies that related to the issues are investigated to the extent that departmental resource levels allow. Executive Director Gasser added that that the Department of Revenue is willing to share information with other state agencies and that an information sharing disclosure agreement is in place with the Labor Cabinet.

Co-Chair Jason Nemes suggested that small working groups be formed within the task force to address definitions of employer and employee and misclassification in the public and private sectors.

Co-Chair Matt Castlen said that the task force should determine if changes needs to be made from a legislative standpoint or a regulatory standpoint.

There being no further business, the meeting adjourned at 9:54 a.m.

## **JAIL AND CORRECTIONS REFORM TASK FORCE**

### **Minutes of the 3rd Meeting of the 2020 Interim**

September 18, 2020

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

The 3rd meeting of the Jail and Corrections Reform Task Force was held on Friday, September 18, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Michael J. Nemes, John Schickel, and Robin L. Webb; Representatives Jason Petrie and Ashley Tackett Laferty; Cookie Crews, Mary C. Noble, and Steve Shannon.

Guests: Barry Brady, Marion County Jailer; Kirstie R. Willard, Director, Division of Local Facilities, Department of Corrections; Hilary Dailey, Deputy Commissioner, Office of Support Services, Department of Corrections; Russell Roberts, Chief Growth Officer, Securus Technologies, Inc.; Emily Utz, Account Manager, Securus Technologies, Inc.; Kevin Sharkey, Staff Attorney, Protection and Advocacy.

LRC Staff: Katie Comstock and Yvonne Beghtol.

#### **Approval of Minutes**

Representative Petrie made a motion to approve the August 21, 2020 minutes, seconded by Senator Nemes, and passed by voice vote.

#### **Performance Based Funding for Jails**

Barry Brady, the Marion County Jailer, highlighted the increase in housing costs for Kentucky prisons. At the Marion County Detention Center, housing costs rose from \$32.76 per day in 2011 to \$51.96 per day in 2020, with a potential 21.67 percent increase from 2013 to 2021. Mr. Brady stated that there has been no increase in the per diem received from the state for the past 15 years for housing state inmates. The increased costs are attributed to inmate medical costs, deputy wages, and staff benefits. The Marion

County Detention Center staff pay went from \$9.50 per hour in 2013 to \$12.25 per hour in 2020. State retirement contributions increased from 18.89 percent in 2013 to 26.95 percent in 2020.

Mr. Brady provided an overview of the programs offered and completed at his facility in 2019. When a prisoner completes a program they are issued good time, which reduces the minimum expiration date of felony offenders. This shortens their supervision period, thereby reducing the budgetary liability to the state. Calculating the good time hours issued in 2019, using the \$31.34 rate for general housing, equals a savings of \$1.55 million dollars. The contribution of jail programming is evident and necessary. In spite of the cost increases, county jails are the largest incarceration industry in the state of Kentucky. Pre-Covid, there were 24,000 prisoners housed in county jails. There are currently 18,446 inmates housed in county jails. Class D felons are required to be housed in county jails. Mr. Brady encouraged the funding of programs to help offenders rehabilitate and return home. In 2005, grant money was used to provide more programs and treatment beds. The majority of staff at the Marion County Detention Center have been working at the facility for less than five years, with the average salary being \$13.58 per hour. Counseling staff received an adjustment last year, with a starting salary of \$17.00 per hour.

Senator Schickel commented that the jail dollar is the most efficient dollar citizens pay for corrections in Kentucky. The cost of jails and corrections is a government responsibility and only receives five percent of the total state budget. Senator Schickel agrees that it is frustrating that inmates are currently not able to participate in jail programs due to Covid.

In response to Senator Nemes, Mr. Brady stated that the Bullitt County Detention Center is housing all levels of defendants awaiting to be adjudicated. Therefore, the new body scanner, extra security, and other tools have been helpful with operations. Some of the changes made due to Covid have been beneficial but adds to the cost.

In response to Chairman Meredith, Mr. Brady stated that the increase in inmate medical costs is driven by offenders' physical and mental health, increased drug use, and the cocktail of drugs being used today.

Kirstie R. Willard, Division Director of Local Facilities for the Department of Corrections (DOC), stated that the passing of HB 463 was the catalyst for evidence-based programing. Initial implementation of evidence-based programming has proven to be a cost effective means to reduce recidivism. The program provides nonviolent, low risk offenders the tools to reduce their sentencing time and helps them become successful participants in society. Offenders who complete evidence-based programs are given sentencing credits to reduce their time of incarceration which results in cost savings. Ms. Willard stated that jails and prisons are not receiving funding for the evidence-based programs. DOC submitted a budget request to provide funding for additional programs, but it was not approved. However, the current State/Executive Branch Budget has a provision for county jails to offer evidence-based programs and requires the DOC to issue guidance to county jails no later than July 1, 2020. Ms. Willard stated that, due to no funding being appropriated, the guidance was very minimal. If future funding is approved, the DOC will be happy to expand guidance on implementing the programming.

In response to Senator Nemes, Mr. Brady is not sure if the savings from not having to transport prisoners can be transferred to jails to offset Covid costs.



### **Jailer Phone Service Vendors**

Chairman Westerfield announced that Combined Public Communications, a provider for Kentucky jails, responded that no one from their business was available to present for today's meeting. Chairman Westerfield notified Combined Public Communications that they may be subpoenaed to present.

Russell Roberts, Chief Growth Officer for Securus Technologies, Inc., stated that Securus is responsible for ensuring that the products and services they provide are tailored to each facility's request. Securus has a history in providing traditional calling services and the related investigative services. Securus also provides video visitation and tablets for media education. Securus provides service to 22 counties in Kentucky, with an estimated 10,760 average daily population (ADP), pre-Covid. Securus Technologies also serves an additional 13,700 ADP through the DOC. The same level of technology offered to the DOC and larger counties is offered to smaller counties due to Securus hosting the data on a centralized platform. Mr. Roberts stated that Securus partnered with Kentucky counties to provide 317,386 free calls, 5,602,073 free minutes, and 17,739 free video connect sessions to enable communication during the pandemic. Since 2017, Securus has invested over \$1,400,000 in hardware, infrastructure, and network to provide video connect and tablet media education services in Kentucky.

In response to Chairman Westerfield, Mr. Roberts stated that a higher volume from a facility allows the provider to spread their cost over a larger base of minutes. Smaller agencies have a lower volume, making cost recovery on a per unit basis more difficult. Mr. Roberts stated that Securus tries to ensure that contracts with each county guarantees recovery of their capital investment with that county. The updating of hardware and infrastructure happens on a regular basis as hardware breaks down and technology partners change, requiring new infrastructure every three years. When media services require updating, Securus pays for and installs the new network, which is part of the cost of service. Securus currently has three data centers but is moving to two. Securus has a fully redundant network so that if any of the data centers are wiped out, they can complete the entire county's volume of traffic within one data center. The centers are located in Miami and Dallas. Securus is looking at ways to migrate some of the data center traffic to Amazon web services.

Mr. Roberts stated that the investments Securus has made in Kentucky has helped keep essential communication flowing during the pandemic. The price range for video connect ranges from \$5.00 to \$12.99 for up to 30 minute visit sessions. Chairman Westerfield agreed with Mr. Roberts that video communication should not replace in-person visits.

Senator Schickel commented that in-person visitation is necessary to ensure rehabilitation and that we need to be vigilant in making sure video communication does not replace in-person visitation.

In response to Chairman Westerfield, Mr. Roberts stated that a defense attorney would work with the jail, and the jail would notify Securus tech support if corrections to recorded conversation are required. Mr. Roberts confirmed that Securus receives a list of defense attorney contacts and the information is updated into the system. Ms. Emily Utz, Kentucky Account Manager for Securus Technologies, stated that Kentucky jails notify her as to what names and phone numbers are to be free and private from recording. The list is updated daily. Ms. Utz feels confident that the

customers are aware of this process.

### **Solitary Confinement of Mentally Ill Prisoners**

Kevin Sharkey, Staff Attorney for Protection and Advocacy, stated that his division is a federally mandated state legal agency designated by the Governor to protect and promote the rights of individuals with disabilities, including monitoring state prisons and jails. One priority of the agency is to eliminate the practice of placing individuals with serious mental illnesses in solitary confinement. In working with the DOC, Protection and Advocacy has consulted with an expert on prison segregation policies, conducted five death investigations, monitored and toured solitary confinement units, and has interviewed mentally ill inmates in solitary confinement.

Solitary confinement is the practice of isolating an individual for 22 to 24 hours per day with virtually no human contact for periods ranging from days to decades. A solitary cell is a little bigger than a parking space, with white or gray walls, concrete, florescent lighting, a concrete bunk with a thin mattress, stainless steel toilet and sink combination, and sometimes a stone shelf for the inmate to read or eat.

Most human interactions occur with staff through a small window on the steel door or through the tray slot. Inmates rarely leave the cell to meet with case workers, psychiatrists, or nurses. One hour of recreation per day is allowed only Monday through Friday.

Two of the main reasons for a prisoner to be placed in solitary confinement are disciplinary segregation and administrative segregation. Disciplinary segregation is limited to 30 days but administrative segregation can be indefinite, based on 90 day reviews to determine if the inmate can be released. Researchers say that at least 30 percent of prisoners held in solitary confinement suffer from mental illness. A 2016 Yale Law School survey showed that 98 of the 362 Kentucky male inmates in solitary confinement suffered from a serious mental illness (SMI). SMIs include schizophrenia, bipolar disorder, and major depression. In reaching out to the DOC for updated information, the DOC stated that this data is not collected.

Mr. Sharkey shared that the 8<sup>th</sup> Amendment requires that prison officials provide humane conditions of confinement, requiring that inmates not be punished in a matter that poses a substantial risk of serious harm. The typical effects of solitary confinement include hallucinations, paranoia, distorted perception, increased risk of suicide, and post-traumatic stress disorder. Decompensation is a term used to describe the inability of a person with a mental illness to maintain normal or appropriate psychological defenses when faced with stress. When an individual with a mental illness is subjected to solitary confinement they can deteriorate dramatically. Half of the suicides committed in prisons occur in solitary confinement. Mr. Sharkey stated that studies show that self-mutilation is more likely to occur in isolation. Courts require that prison officials provide adequate medical care, which includes mental health treatment.

Protection and Advocacy has observed that the DOC regularly assigns prisoners with SMI to segregation for conduct that may be caused by their mental illness. Some inmate's behavior, while in solitary confinement, caused them to spend years in segregated housing. Some guards have admitted to not being adequately trained to deal with persons with SMI.

Mr. Sharkey stated that many professional organizations and most federal courts rule that placing individuals with SMI in solitary confinement is cruel and

unusual punishment, and a constitutional violation. Many states are amending their policies to uphold the rights of the mentally ill prisoners. While Kentucky made a recent reform regarding solitary confinement, Mr. Sharkey stated that it does not go far enough and gave a list of proposed reforms to be considered. Alternatives to solitary confinement include de-escalation rooms, loss of privileges, loss of good time, restricted privileges dorm, and extra duty.

In response to Chairman Westerfield, Mr. Sharkey stated that, while the loss of privileges can deter positive behavior, studies indicate that these alternatives are better than placing a person with a mental illness in solitary confinement. Commissioner Crews commented that the goal is to get people out of prison, and taking privileges away escalates their negative behavior which keeps them in prison longer. Commissioner Crews encouraged writing a contract with prisoners who have a mental illness on how they will get through a program and reviewing that with them in lieu of taking away privileges.

In response to Chairman Meredith, Commissioner Crews stated that if a prisoner is suicidal, taking away privileges is not an option. Unless actively suicidal, the goal is not to have prisoners placed in restrictive housing. Mr. Sharkey stated that prisoners are mentally assessed prior to being placed in solitary housing and the majority of prison suicides occur within solitary housing. Secretary Noble added that the Justice and Public Safety Cabinet has been in the process of looking at reforms in this area. Secretary Noble noted that most statistics shown by Mr. Sharkey are based on a national level and are not tailored to the state of Kentucky.

There being no further business, the meeting adjourned at 11:44 AM.

## **PROPERTY VALUATION ADMINISTRATOR'S OFFICE TASK FORCE**

### **Minutes of the 3rd Meeting of the 2020 Interim September 15, 2020**

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

The 3rd meeting of the Property Valuation Administrator's Office Task Force was held on Tuesday, September 15, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Randy Bridges, Co-Chair; Senators Denise Harper Angel and Michael J. Nemes; Representatives Samara Heavrin and Nima Kulkarni; and Tom Crawford.

Guests: Kim Holt, Department of Revenue; Dave Schroeder, Director, Kenton County Public Library; Jessica Powell, Director, Oldham County Public Library; Chief Adam Jones, Buechel Fire Protection District; and Andrew Powell, PVA, Henderson County.

LRC Staff: Cynthia Brown, Jennifer Hays, and Chase O'Dell.

#### **Revenue Generated by the PVA Office and Any Office Expense Issues or Challenges**

Kim Holt, Department of Revenue; Dave Schroeder, Director, Kenton County Public Library; Jessica Powell, Director, Oldham County Public Library; Chief Adam Jones, Buechel Fire Protection District; and Andrew Powell, PVA, Henderson County, discussed revenue generated by



PVA offices and any office expense issues or challenges.

Kim Holt testified that PVA offices receive appropriations from the general fund, as well as from counties and cities. The bulk of PVA money comes from the general fund. The general fund appropriation to PVAs totaled \$56.4 million this year. PVA offices also receive miscellaneous income from interest, printing tax bills, and fee schedules.

General fund appropriations are not enough to cover all PVA personnel costs for the year. This year, 64 percent of income generated by the PVA offices had to be submitted back to the Department of Revenue (DOR) to cover personnel costs. Typical operating expenses for an office include computer services, aerial photography, and more. KRS 132.597 allows for a PVA to receive an expense allowance of \$3,600 per year. For the last few years this language has been superseded by the enacted budget bill, which allows for a \$2,400 annual expense allowance.

PVA deputy classifications follow the state salary schedule, which was last updated June 1, 2019.

A motion was made by Representative Bridges, seconded by Representative Heavrin, to approve the minutes of the August 18, 2020 meeting. The motion passed by voice vote.

Andrew Powell testified that PVAs in Kentucky assess and process over two million real estate parcels, 130,000 tangible property returns, five million motor vehicles, boats, and campers, and 440,000 homestead and disability exemptions. Every property in the Commonwealth must be mapped and sketched.

Mr. Powell stated that the \$56.4 million appropriation from the general fund is only for PVA office payroll expenses. Local fund allocations are based on the size of the tax roll. These allocations total \$11.6 million statewide. Mr. Powell discussed the miscellaneous income for his office.

The state allocation to PVA offices covers roughly 83.5 percent of payroll needs. Offices must come up with an additional \$11,250,000 just to make payroll. Seventy-three percent of local allocations go towards paying office staff. This leaves \$3,100,000 of local allocations to pay for operating expenses. PVA offices generate over three billion dollars in revenue every year. There is a \$48 return in revenue for every dollar spent on PVA offices.

PVA offices are locked into pay grades that are 11 years old. Mr. Powell reviewed his office expenses, which includes aerial imagery, computers and software, vehicles, postage, and more. Mr. Powell projected that expenses for contracted services would drastically increase. PVA offices self-impose a 90 day hiring freeze.

There are 120 PVAs in Kentucky. Almost half of the PVAs are in their first two terms. There are 598.5 allocated deputy positions, but many are not filled due to a lack of funds.

The state allocation to PVA offices does not fully fund salary requirements. Mr. Powell stated that the miscellaneous income for PVA offices is under attack.

Thirty-eight full-time positions within PVA offices statewide have been eliminated, which saves \$1,500,000 annually. The 90-day hiring freeze saves \$650,000 a year. As of last year, almost 90 positions had not been filled due to a lack of funds.

Mr. Powell testified that adding three cents to the state real property tax rate dedicated to the PVA budget would fully fund offices.

Mr. Powell discussed the possibility of PVAs charging a fee on Special Purpose Governmental Entities (SPGE) based on a percentage of their gross receipts, for the use of

tax rolls. At six percent of receipts, this fee would generate \$125 million statewide. Mr. Powell argued that SPGEs bring in money using PVA tax rolls, but don't pay for its use.

PVA offices are intended to be autonomous. The job of a PVA is to objectively assess property.

Mr. Powell discussed the various services his office charges fees for, including copies of property assessment cards and maps of properties.

In response to a question from Representative Bridges, Mr. Powell expressed his hope that legislation would be drafted which would stipulate that property must be appraised according to its highest and best use value. In response to another question, Mr. Powell stated that the tax roll will go up as PVA assessments get better, which will increase revenues across the board. In response to further questions, Mr. Powell stated that the state Geographic Information System (GIS) offer did not meet his office's needs. Aerial imagery offers change finder, which works for detecting structural changes, but visual, in-person inspection is still necessary for assessing condition of a property.

In response to a question from Senator Nemes, Ms. Holt stated that the PVA office salaries are not necessarily frozen, rather the grades are.

In response to a question from Representative Heavrin, Mr. Powell testified that it would be challenging to get every PVA on board with using the same assessment software, but he added that it could be valuable.

Dave Schroeder testified that most libraries are SPGEs. Libraries which are SPGEs are almost entirely funded through property taxes. Libraries do not receive payroll taxes or taxes on insurance or utilities. Libraries that are not SPGEs receive funding from other local sources.

Libraries use PVA data to set tax rates. Sheriffs send out bills and collect taxes. County clerks collect some of those taxes. Libraries pay a small fee to the county clerk and the sheriff for the services provided.

State aid was eliminated for all libraries in the 2020 Regular Session. Many libraries were relying significantly on state aid, and some branches will close if this is not changed in the upcoming session. Most libraries use state aid to assist with staffing and buying materials. Libraries are also facing challenges with pension costs. There are also costs associated with training, healthcare, and internet and broadband services. Libraries are tasked with providing both electronic and paper formats of materials.

Jessica Powell testified that libraries have reinvented how they serve the public in the last six months. Libraries have always supported the economy through online resume help, job applications, and more. Ms. Powell stated that libraries are critically important in putting Kentucky back to work after COVID-19. Libraries are providing these services with the same budgets and often with fewer staff.

Senator Nemes stated that it is important for the state to fund small libraries. He continued to say that small libraries with a smaller property tax base will go under without state funds or backing from the Kentucky Department for Libraries and Archives (KDLA).

In response to a question from Representative Bridges, Mr. Schroeder testified that Kenton County Public Libraries has a policy of keeping three months' worth of revenue in reserves. He continued to say that most of the money to libraries comes during the months of October, November, and December. In response to another question, Mr. Schroeder said that the Kenton County Public Libraries receive about \$1.2 million in revenues per month.

Senator Mills requested a list of the 12 libraries that are in danger of closing without state aid. In response to a

question from Senator Mills, Mr. Schroeder stated that the fee that libraries pay to county clerks and sheriffs is set per county. Senator Mills requested a report on the fee structure by county. In response to another question from Senator Mills, Mr. Schroeder testified that the statutorily required annual 20 hours of continuing education for library staff has been in place since at least 1986. New regulations are being presented to change some of the continuing education requirements.

Senator Harper Angel added that she would like to know how the fees paid to county clerks and sheriffs was calculated and how long they have been in existence.

Adam Jones testified that professional firefighters are required to take 100 hours of continuing education every year. Fire districts are battling increased costs with limited revenue. Fire districts' tax rate is capped at 10 cents per \$100, which was established in 1944. Fire departments have continued to increase services over time. Departments nationwide have seen a 65 percent increase in volume since 2008. Fires have gone down, but medical calls and other services have increased. Fire districts are also seeing increased administrative costs through health insurance, training, and pensions. PVAs provide tax rolls to fire districts. Fire districts have very limited additional revenue outside of the tax base.

SPGEs are affected when reassessments are delayed. Fire districts cannot afford increased costs without increased revenue. Some fire districts are beginning to limit services or lay off staff as a result. Chief Jones testified that taxing a fire district would create an undue burden because the districts cannot increase revenue due to the capped tax rate.

In response to a question from Representative Bridges, Chief Jones stated that the Jefferson County PVA did not do a zone of reassessments this year because of COVID-19 restrictions and issues throughout the county. The PVA has said they will do two assessment zones next year. When that assessment was not done, an SPGE within the county lost out on \$350,000 of increased revenue.

Representative Bridges discussed how PVA offices generate more revenue if they are able to complete assessments. Chief Jones added that assessments can lead to properties declining in value.

Mr. Powell stated that the Jefferson County PVA will double its assessments next year. He continued to say that revenues in Jefferson County still went up, just not as much as was expected.

With no further business before the committee, the meeting was adjourned.

## **EXCEPTIONAL SUPPORT WAIVER SERVICES TASK FORCE**

### **Minutes of the 3rd Meeting of the 2020 Interim September 28, 2020**

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

The 3rd meeting of the Exceptional Support Waiver Services Task Force was held on Monday, September 28, 2020, at 1:00 PM, in Room 171 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 Steve Riley, Co-Chair; Senator Dennis Parrett, Representative Tina Bojanowski, LeeAnn Creech,

Thomas Laurino, Lisa Lee, Wendy Morris, Bob Napolilli, Brad Schneider, Steve Shannon, Amy Staed, Brenda Wylie, and Bonnie Thorson Young.

**Guests:** Jim Dashiell, Director of Human Services, Rich Metzger, Executive Director, interCare; Robert Napolilli, Chief Executive Officer, Council on Developmental Disabilities; Leslie Hoffmann, Policy Advisor, Pam Smith, Director of the Division of Community Alternatives, Department for Medicaid Services, Cabinet for Health and Family Services.

**LRC Staff:** Chris Joffrion and Hillary Abbott

### **Cost Effective Crisis Transitioning**

Jim Dashiell, Director of Human Services for interCare stated that filling in the gaps of community care for clients and stakeholders drives the work interCare does in assisting treatment teams with crisis transitioning. Mr. Dashiell stated that currently interCare serves clients with intellectual, developmental, and dually-diagnosed disabilities, as well as waiver and non-waiver participants.

Mr. Dashiell stated that their crisis transitioning footprint is broad across Indiana yet has a case management presence in Bowling Green, Kentucky. Rich Metzger, Executive Director, interCare, stated that the approach interCare takes to crisis transitioning follows the life course of the patient. The company provides a consistent third party management to a patient, which gives interCare providers a unique ability to anticipate and solve problems so there is not a lapse in the continuity of care. Mr. Metzger stated that the ultimate goal of crisis transitioning is for the client to gain independence and self-determination coupled with the services provided being cost-effective and budget neutral. Mr. Dashiell stated that in Indiana, crisis transitioning has had a positive financial impact because its efficient use of established resources like regional mental health centers, and the efficacy has reduced institutional enrollments. Mr. Metzger stated that in 2017, the state of Indiana saved \$1.3 million by utilizing the interCare system. Mr. Dashiell stated that crisis transitioning provides a unique opportunity to build provider capacity, provides predictability, and gives the provider an ability to see the whole case not just the issues or symptoms before them. Mr. Metzger stated that the framework for crisis transitioning begins with the client first, driven by their needs and selectively focusing resources, utilizing advanced technology that follows the client, which helps the client transition from a state of crisis to successful community living.

Senator Raque-Adams stated that she would like to see a plan created for clients before they age out of the system so that crisis can be avoided in adulthood. Senator Adams stated that if we have a plan in place, then that plan can follow the client so the treatment team is not just creating a plan in response to bad situations; those bad situations can be bypassed.

In response to questions and comments from Amy Staed, Rich Metzger stated that interCare would work with the providers to address the crisis event even with community supports in place. Mr. Metzger stated that interCare's role is as a third party observer who would help address the systemic problems the waiver recipients face that the waiver does not cover.

In response to questions and comments from Steve Shannon, Jim Dashiell stated that funding for their services would come from the state and could be billed as a supports for community living (SCL) service.

In response to questions and comments from Thomas Laurino, Mr. Metzger stated that currently in Bowling Green, interCare's case management team features a registered nurse, quality improvement organizational team

of specialists, and coordinates with other providers in the community. Mr. Metzger stated that in Indiana, interCare can provide a whole host of professionals depending on the services they are employed to carry out.

### **Council on Developmental Disabilities**

Bob Napolilli, Chief Executive Officer, Council on Developmental Disabilities stated that while he is speaking as a representative of the Council on Developmental Disabilities, he is also speaking as a parent of an adult child with intellectual and developmental disabilities and complex medical issues. Mr. Napolilli stated that his son Robby, is 37 years old, and has a diagnoses of severe intellectual and developmental disabilities (IDD), cerebral palsy, a seizure disorder, scoliosis, asthma, allergies, and a vagus nerve stimulator implant. Mr. Napolilli stated that Robby currently resides in an intermediate care facility (ICF), he is medically stable and he would like to live in the community. Mr. Napolilli stated that an overarching question from parents children with IDD is, "what will happen to my child when I can no longer care for them or when I pass on". Mr. Napolilli stated that prevailing issues expressed by parents are that some individuals are currently living in state and private institutions but would rather live in a smaller community home, just like the rest of us. Mr. Napolilli also stated that many families would not like their adult child to live in an ICF but the SCL waiver does not provide adequate residential support services.

Mr. Napolilli stated that the ADA and the 1999 Supreme Court Decision "Olmstead v. L.C." directs federal and state governments to ensure that services for people with disabilities are available in inclusive, community settings. Mr. Napolilli stated that the policy makes clear that any residential setting must be inclusive and assure that those being supported have control and decision making authority about aspects of daily life. Mr. Napolilli stated that the Kentucky Olmstead Compliance Plan and Implementation, updated in December 2019, states that the primary goal is to establish an environment which enables all individuals to live meaningful, inclusive, and integrated lives within their communities supported by an array of services, in a setting they choose, according to individual need, with input from their families and legal guardians. Mr. Napolilli stated that nationally, approximately 860,000 parents over 60 are caring for someone with IDD in their homes, many are waiting for years for placement in a waiver group home, and parents fear that without federal/state funding their family member my end up in an institution.

Mr. Napolilli stated that the cost to the state and federal governments for Medicaid reimbursement to live in an institutional setting is in excess of \$420,000 annually per person and the average annual cost of the Kentucky Medicaid Waiver IDD residential model is approximately \$62,500 per person. Mr. Napolilli stated that advocates and stakeholders believe that there could be a better SCL model in the community which is more cost effective than ICF and potentially for less than half of the cost of an ICF.

Mr. Napolilli stated that some proposed solutions to these problems would be finding and training qualified caregivers, enabling easier access to integrated health care, ensuring more robust case management, easier access to community-based activities, and engaging with families who have an adult child or loved one with IDD who receives these supports.

Mr. Napolilli stated that the Council on Developmental Disabilities has proposed a new model for two to four persons living in an accessible home in a community neighborhood with highly trained, well compensated staff at a ratio of 1:1. Mr. Napolilli stated this proposed model

would provide community access versus isolation, access to integrated healthcare, individualized, person-centered behavior support plans, and community socialization.

### **Cost Neutrality and the Supports for Community Living Waiver and Exceptional Support Waiver Services**

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services (DMS) stated that 1915(c) Home and Community Based Services (HCBS) waivers are designed to give individuals with disabilities an alternative to institutionalization and should complement available state Medicaid program services, public programs, and family/community supports to meet each individual's needs. Ms. Hoffmann stated that HCBS waivers should allow an individual to live safely in the community and that if an individual's needs exceed what can be safely provided in the community, waiver services may not be appropriate for the individual. Ms. Hoffmann stated that to receive Centers for Medicare and Medicaid Services (CMS) approval for a 1915(c) HCBS waiver, states must provide the same level of care in the community that an individual would receive in an institution, demonstrate that the cost of care in the community is equal or less than an institution, or in other words is budget-neutral, and should conduct monitoring to ensure waivers meet quality standards.

Ms. Hoffmann stated that in Appendix B of the waiver application, Kentucky chose "no cost limit" which means that the amount of services received is determined by assessed needs and individuals are subject to service limits found in the waiver and waiver regulations. Ms. Hoffmann stated that the waivers are managed in the "aggregate" to assure cost-neutrality, referring to information collected from multiple sources, using multiple variables, and are compiled for examining trends, creating summaries or statistical analysis. This means that cost of services for some individuals will be higher than for others.

Ms. Hoffmann stated that Kentucky's waiver budgets are determined by evaluating expenditures from previous fiscal years and that the Social Security Act requires the cost of providing services each year be cost neutral. Ms. Hoffmann stated that DMS is required to report cost neutrality information to CMS initially upon approval of the waiver and every 18 months thereafter. Ms. Hoffmann stated that to be cost neutral, the average per participant expenditure must not exceed the average per person cost of furnishing institutional services for an individual with the same level of care.

Ms. Hoffmann stated that the aggregate cost per capita, per month of providing services in an institution during a 12-month period is \$29,306 and the aggregate cost per capita, per month of providing supports through the SCL waiver (including exceptional supports) during a 12-month period is \$6,785. Ms. Hoffmann stated that if all 4,941 funded SCL waiver participants received ICF level of care in the community at a cost of \$29,306 per month, the total cost would be \$1,737,611,352, the federal share would be \$1,216,327,946 and Kentucky's state share would be \$521,283,406. Ms. Hoffmann stated that Kentucky's current state share is \$169,040,774. Ms. Hoffmann stated that states receive matching federal funds for services provided in the home or community and that not meeting CMS requirements for one waiver puts the funding for all waivers at risk.

Pam Smith, Director of the Division of Community Alternatives, Department for Medicaid Services stated that four percent of SCL waiver participants requested and received exceptional supports which accounts for less than one percent of all paid claims. Ms. Smith stated that there are 90 percent more participants in the community than in



ICFs. Ms. Smith stated that the total cost paid for private and semi-private ICF room and board was \$132,029,686.27 and the total cost paid of ancillary services was \$6,762,013.21.

Ms. Smith stated that the six most utilized SCL waiver services are residential services, day training, personal assistance, case management, community access, and consultative clinical & therapeutic services. Ms. Smith stated that the total paid amount for these six SCL waiver services was \$376,200,452.38. Ms. Smith stated that the cost breakdown for SCL exceptional supports in residential levels I-II, day training, personal assistance, and respite is up to two times the maximum base rate. Ms. Smith stated that in 2019 the exceptional rate paid for total claims was \$1,495,503.17 and the total paid for all SCL waiver claims in 2019 was \$382,289,054.35. Ms. Smith stated that the five highest state plan services paid by the SCL waiver are for outpatient hospitals, inpatient acute care, pharmacy, non-emergency transportation, and physician care with the total paid amount for these five state plan services for SCL participants being \$168,048,779.64. Ms. Smith stated that the total paid for all state plan services for SCL participants was \$217,125,999.75. Ms. Smith stated that all of her data is based on service year 2019 and that her data reflects all claims paid as of September 4, 2020.

Ms. Smith stated that the opportunities for program improvements include better plan of care training that helps providers focus on true person-centered planning, assessed needs, and accessing available state plan services and natural supports. Ms. Smith stated that a review of the exceptional supports process is needed including a review of methodology, authorization process, and effectiveness of services to assure use by all individuals who need exceptional supports. Ms. Smith stated that a review of exceptional support need by region should be considered to see if there are regional deficits that can be fixed.

In response to questions from Amy Staed, Ms. Smith stated that there are 115 participants who are receiving exceptional supports exceeding the \$100,000 per year threshold. Ms. Smith stated that it is important to review potential barriers providers feel hinder them from applying for reimbursement such as reviewing current methodologies, simplifying the application process and maximizing the plan of care process.

In response to questions and comments from Bob Napolilli, Ms. Smith stated that she will follow-up to see if the increase in cost of ICF beds is due to a decrease in utilization of ICF treatment. Ms. Smith stated that it is evident to the Cabinet that something is broken in the exceptional supports process and more digging needs to be done to figure out where in the waiver process problems are occurring, if it is happening prior to the need for exceptional support or in the process of serving out the exceptional support services. Ms. Smith stated that because the SCL waiver is a social model, the medical supports needed to transition participants from ICF to the community are not included in the waiver and that is something that should be addressed the upcoming waiver redesign.

In response to questions and comments from Thomas Laurino, Ms. Smith stated that it is evident there are problems with the ICF and exceptional support referral process that are becoming barriers to successful and appropriate transitions into the community. Ms. Smith stated that the Cabinet plans on looking into these breakdowns in addition to addressing the issues providers may face in serving this population.

#### **Adjournment**

With there being no further business, the meeting was adjourned at 4:00 pm.

## **SUBSTANCE USE RECOVERY TASK FORCE Minutes of the 3rd Meeting of the 2020 Interim September 8, 2020**

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

The 3rd meeting of the Substance Use Recovery Task Force was held on Tuesday, September 8, 2020, at 3:45 PM, in Room 171 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll. The minutes from the task force's August 11, 2020 meeting were approved.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Russell Webber, Co-Chair; Senators Julie Raque Adams, and Johnny Ray Turner; Representatives Danny Bentley, Joni L. Jenkins, and Lisa Willner.

Guests: Kate Shanks, Vice President of Public Affairs, Kentucky Chamber of Commerce; Tiffany Cardwell, HR Advisory Principal, MCM CPAs & Advisors; Michael Rodenberg, CEO, Murakami; Rob Perez, Owner, DV8 Kitchen; Jamie Johnson, Vice President, Kentucky Operations, Dorman Products; Ashley McCarty, Business Liaison, Kentucky's Strategic Initiative for Transformational Employment, Kentucky Chamber of Commerce

LRC Staff: Ben Payne, and Christina Williams

Kate Shanks, Vice President of Public Affairs, Kentucky Chamber of Commerce, stated the Kentucky Chamber of Commerce is committed to helping businesses become transformational or fair chance employers to help those who are in recovery or formerly incarcerated due to substance use issues. She stated the Chamber began this initiative a few years ago after observing low workforce participation rates with formerly incarcerated and/or addicted individuals. Ms. Shanks stated as policies and programs were developed to address the issue, there was a realization that relative to other states, addiction was one of the drivers of low workforce participation rates in Kentucky. She also stated there was a realization that many employers were navigating addiction issues in the workplace and finding their own ways to connect with recovery service providers in their communities. Ms. Shanks stated that the chamber discovered with the right combination of programming and policy these employers could be helped and possibly recruit new employees. She stated that ultimately having a job is a critical piece of the recovery equation.

Ms. Shanks stated progress was made for a while and Kentucky moved from 47<sup>th</sup> in the nation on workforce participation rates to 40<sup>th</sup>. Unfortunately, due to the Covid - 19 pandemic, there have been some setbacks and Kentucky now ranks 49<sup>th</sup> in the nation for workforce participation among addicted and/or formerly incarcerated individuals. She stated the size of Kentucky's workforce has decreased significantly since February. Kentucky's labor force in July was down 222,000 workers since before the pandemic. There has also been an increase in overdose deaths since a previous decline in 2018.

Ms. Shanks stated at the end of the 2020 Regular Session of the General Assembly, despite the challenges with the pandemic, Senate Bill 191 was passed. It was originally sponsored by Senator Castlen as SB 173. The bill calls on the Cabinet for Health and Family Services to establish a framework for fair chance employers to adapt, and in return they receive protection from certain liabilities related to negligent hiring, retention, and supervision. Ms. Shanks thanked members of the General Assembly for supporting SB 191.

Ms. Shanks stated the Kentucky Chamber of Commerce started a who is hiring campaign that now includes nearly 90,000 searchable job openings across the state to find employers that will hire people in recovery or those who are formerly incarcerated. She added that as the virtual environment is taken advantage of, it is the goal to reach expanded audiences through programs offered.

Ashley McCarty, Business Liaison, Kentucky's Strategic Initiative for Transformational Employment, Kentucky Chamber of Commerce, gave a brief presentation on recovery in the workforce. Ms. McCarty stated that the efforts in recovery while in the workforce would not be possible without many partners. Those partners include the Kentucky Cabinet for Health and Family Services, the Office of Drug Control Policy, the Kentucky Justice and Public Safety Cabinet, the Kentucky Chamber of Commerce Workforce Center, Kentuckiana Health Collaborative, and the Eastern Kentucky Concentrated Employment Program (EKCEP).

Ms. McCarty stated that since the program's inception in June of 2019, the team has made over 160 presentations to over 3,100 individuals through technical workshops, webinars, and symposiums.

Ms. McCarty shared personal experiences in the perception of individuals who have become addicted and in-turn incarcerated because of their addiction. She shared her personal story of addiction, incarceration, her recovery, and second chance at life and employment.

In response to a question asked by Chairman Alvarado, Ms. McCarty stated one recommendation to help reduce barriers for reentry into the workforce for people who have substance use disorders, is for employers to not look at the person as their disease. She added more education is necessary on the opioid epidemic and prescription drug use, adding that the utilization of Ibuprofen or like pain killers, and chiropractic care are alternative options for managing pain.

Ms. McCarty stated that individuals can get a job, but that it is meaningful employment that is helpful to a person in recovery. She added that available transportation as well as housing are important factors in aiding recovery and finding meaningful employment.

In response to a question asked by Chairman Alvarado, Ms. McCarty stated that it is very important for follow-up on individuals that a company knows might have just had surgery or if they have recently been prescribed opioids. She added that follow-up on an individual's risk is critical.

In response to a question asked by Chairman Alvarado, Ms. McCarty stated within the programs offered, specific mental health indicators are discussed, and recommendations are given to employers on how to address those issues with individuals. She also added that employers and employees are told about the benefits of seeking help.

In response to a question asked by Representative Jenkins, Ms. McCarty stated that wraparound services are very important.

Rep. Bentley raised the concern of employers paying minimum wage to second chance employees. He stated the possibility is there for the recidivism and relapse rate to raise due to the amount of money that could be made in drug issuance.

Tiffany Cardwell, Human Resources (HR) Advisory Principal, MCM CPAs & Advisors spoke to the task force on second chance employment. She stated she been a HR leader for over 25 years and currently works with private and public companies as well as nonprofit organizations on all their various HR needs. She stated she also currently



serves as the Director of Wellness for the local HR Association in Louisville, a Board Member for the Worksite Wellness Council of Louisville, and has worked with the first Kentucky Opioid Task Force, and the Kentucky Health Collaborative on various initiatives surrounding health, wellness and hiring talent.

Ms. Cardwell stated when it comes to second chance employment, the HR community has outdated and restrictive policies that need to be changed. She stated initiatives like “Ban the Box” were implemented in Kentucky to help with second chance employment. She stated by simply removing the conviction history question from job applications, employers are now able to consider a job candidate’s qualifications first without the stigma of a conviction or arrest record, (and delaying background checks until later in the hiring process.) There is now opportunity for employers to consider the job-relatedness of a conviction, time passed, and any mitigating circumstances or evidence of rehabilitation.

Ms. Cardwell stated statistics show that being a second chance employer benefits everyone, not just the individuals with records. It is good for families, local communities, and the overall economy. Ms. Cardwell stated a meaningful job makes all the difference and that when someone is given a chance, he or she becomes a part not only of that company, but also part of the community that is being served.

Ms. Cardwell stated that in our work environment today, there is a lot of stigma placed on talking about an employee recovering from a drug addiction or any type of substance abuse. She added that when an employee confides in HR about a disease that they are fighting such as diabetes or cancer, ways are always found to accommodate and provide the time off to take their insulin or to go for chemotherapy treatments. To that point, she questioned why the same should not be done for someone recovering from substance abuse, has gone through recovery, and is doing their best to come back into the workforce. She stated that a disease is a disease and there needs to be equality across the board on treatment of those diseases and treatment of employees with those diseases.

Ms. Cardwell added that the unfortunate reality is that those presenting and sharing their experiences in front of the task force are in the minority championing for this cause. She stated help is needed to create not only legislation supporting incentives for employers interested in hiring second chance employees, but also assistance is needed in helping to drive and implement programs to educate owners and senior leaders that second chance employment is a win-win for each organization.

Ms. Cardwell stated that one major policy that needs to be changed in current employee handbooks is the language on “zero tolerance.” She stated that zero tolerance makes it very difficult for companies to become second chance employers.

Michael Rodenberg, CEO, Murakami, addressed the task force on recovering the workforce. Mr. Rodenberg is also the Chairman of the Kentucky Chamber of Commerce Workforce Center, as well as the Chairman of the Education and Workforce Council for the Kentucky Chamber of Commerce. Mr. Rodenberg stated that Murakami is a tier one automotive manufacturer established in 2000, and located in Campbellsville, Kentucky. He added that the Campbellsville plant consists of approximately 250 team members. Mr. Rodenberg was given the opportunity to join Murakami in 2011, just as a turn-around initiative for the company was taking place. He added at that time, Murakami was known in the community as one of the worst places to work, as well as one of the worst suppliers to their customer

base. Mr. Rodenberg reported that Murakami has now been voted investor of the year by a local chamber and they were recognized as the best manufacturing place to work by the local newspaper. Mr. Rodenberg stated Murakami has gone from the worst, to one of the best places to work. In 2016, Murakami started actively seeking people for employment that were in need of a second chance. Several examples of team members successful second chance employment with Murakami were given.

Mr. Rodenberg stated Murakami has a direct relationship with The Healing Place, a local rehabilitation center. Working with The Healing Place has helped identify individuals that are in the rehab process and are in a place where employment with Murakami is possible. The Healing Place helps these individuals with transportation to and from their employment site.

Mr. Rodenberg stated in Murakami’s application process, they review each application individually and take into account each applicants personal journey. Mr. Rodenberg stated the onsite manager that is responsible for contract team members has discovered that nearly 75 percent of applicants have had some type of drug offense. Mr. Rodenberg also mentioned that although there have been many successes with second chance employees, there is still a reality that all situations may not end positively and individuals may be lost to relapse. Mr. Rodenberg stated that in order to be a second chance employer, you must be willing to care enough about the individual to be willing to take a chance on them and possibly get hurt.

Mr. Rodenberg suggested the development of legislation to encourage businesses to work with individuals in need of a second chance, and to try to help reduce the risk that the employer faces by taking second chance employees on. He also suggested educating government agencies on bettering their work relationship with businesses in order to be able to utilize all resources that are available. In conclusion, Mr. Rodenberg stated in order help individuals on the path to recovery, business leaders must be proactive.

In response to a question asked by Chairman Alvarado, Mr. Rodenberg stated the biggest barrier that he observed when Murakami first began second chance employment, was the lack of education of substance use issues. He further stated in the company policies, there were things that were restrictive, such as a zero tolerance policy. He stated the company took a step back and tried to educate themselves on trying to be positive and to help individuals that had past substance use issues. He added that there was a mindset change that occurred.

In response to a question asked by Chairman Alvarado, Mr. Rodenberg clarified he is not advocating for government to tell business what to do and how to change their policies, rather, he is advocating for the legislature to support the Kentucky Chamber of Commerce in helping to educate businesses on the substance use issues and the workforce.

Chairman Alvarado suggested a possible consideration of a resolution calling on the Kentucky Chamber to discuss certain workforce development policies.

Rob Perez, Owner, DV8 Kitchen, shared his personal story of substance use, recovery, and second chances. Mr. Perez stated there have been many honors bestowed upon DV8 Kitchen, but one of the most notable honors was being named by Yelp! as 40<sup>th</sup> in America of top places to eat. Mr. Perez gave credit to his wife for the startup of DV8 Kitchen.

Mr. Perez stated that in the course of hiring employees, he has had many successes and some failures. He stated that in his way of thinking, he was using the excuse that

he couldn’t know them personally, or know their personal story in order for the business to be a success. He stated he fell into an environment where he felt he could take no risk or chance when leading his business. He stated he believed he had to protect the business, and admitted that was the wrong way to approach starting DV8 kitchen. He stated his wife’s thinking is what turned it all around for him. Mr. Perez stated most business are 100 percent transactional, however the key to being a successful, transitional, second chance employer, is to become relational. He also reiterated that he does not violate any laws, or rules, but that he has had to become creative in how he relates to his employees, essentially highlighting the need to think outside of the box. In doing that, often times Mr. Perez shares his own story and creates and fills out extra forms for the employee. Mr. Perez stated he is not interested in hearing what is done in addiction, rather, he is interested in what his employees are doing in recovery. He stated once the employees knew that he was invested in their recovery and held employees accountable, it was easier to retain hard-working, determined individuals.

Mr. Perez encouraged the legislature to explore a path to support businesses, and to encourage career paths for individuals that are in need of second chances.

In response to a question asked by Chairman Alvarado, Mr. Perez stated one of his biggest fears in taking on second chance employees was the fear of losing money and being able to keep his business afloat. A second fear was how to honestly broach the subject of substance use and sobriety, and for honesty about where each person was in their journey to be had.

Jamie Johnson, Vice President, Kentucky Operations, Dorman Products, briefed the task force on Dorman Products and their take on second chance employment. Mr. Johnson stated that Dorman Products is an automotive aftermarket supplier, shipping products not only nationwide, but across the world. Mr. Johnson stated that Dorman Products is a second chance employer.

Mr. Johnson shared his personal story of the adoption of his daughter, Alexis who was removed from her home due to both parents having substance use and addiction issues. Because of those issues, Mr. Johnson started attending meetings and researching how he could be of help to people with substance use problems. Mr. Johnson stated he attended a regional event including people from West Virginia, Tennessee, Kentucky, and Indiana. At that regional event Jim McClelland stated there is a need for better wrap around programs. After that event, Mr. Johnson held a meeting with all 580 contributors of his company and approximately 30 percent of the 580 people noted that they had been impacted by the opioid epidemic in some way. The determination was made after that meeting that the company was going to figure out how to help people battle addiction.

Mr. Johnson stated after consulting several people who have dealt with addiction issues, it was determined that there were four main components to helping battle substance use. Those four main components are support, prevention, awareness, and reach (SPAR). Mr. Johnson stated that we need to reach those individuals that are struggling, support them through the recovery process, address preventative concerns, and increase awareness.

Mr. Johnson stated that employee engagement programs build purpose, and community stewardship builds pride in the workplace. He added that employee led committees empower the team to escalate the speed at which the organization can change. Mr. Johnson stated that he learned that second chance opportunities are not diametrically opposed to success. Since becoming a second

chance employer, Dorman Products’ worker’s compensation claims today are a fraction of the baseline, there has been favorable reaction by customers and communities, exponential growth at the Dorman Products site in the last six years, and the cost of operations continues to shrink year after year.

Mr. Johnson stated that a challenge facing businesses today is the belief that addiction recovery equates to unreliability. Mr. Johnson added that turnover rates have proven consistent in both addicted and non- addicted populations, and incentives for second chance employment has improved workforce participation rates. Another challenge facing businesses is that the average relapse occurrence before maintaining sobriety is seven years. Mr. Johnson asked how state agencies and businesses can partner to better detect relapse. A third challenge facing businesses is the belief that second chances equate to less safety. Mr. Johnson stated there needs to be independent research done to educate the business community on the facts. Lastly, he added that policies and practices must assume drug abuse exists as a constant.

In response to a question asked by Chairman Alvarado, Mr. Johnson stated the reduction in workers compensation claims rings true for Doorman Products, but he cannot speak for other businesses. He added that he is not saying because of the program at Doorman, they have a lower safety incident rate, and he is not saying it will reduce the rate. He stated that it should not be a conclusion that a company will increase their incident rate by affording people a second chance. Chairman Alvarado suggested a study on worker’s compensation claims and second chance employers and employees.

Chairman Alvarado asked for recommendations on ways to further assist the efforts of recovery and reentry of individuals in the workplace. Ms. Shanks stated a report was published in 2019 on opioid abuse as well as other substance abuse in Kentucky. Ms. Shanks stated she will share that report with the task force, as it includes recommendations on dealing with substance use disorder. She added one recommendation that was made, was the need to understand the risk that is involved and who is at risk. Also included in the report are recommendations on criminal justice reform issues. She stated that it is not always the case that someone who suffers from substance use disorders are justice involved.

In closing, Ms. Shanks highlighted the importance of Senate Bill 191 from the 2020 Regular Session. She also stated that the Kentucky Chamber of Commerce is committed to educating employers on substance use, recovery, and second chance employment. She urged members to look at Kentuckycomeback.org which is about the chamber’s programmatic focus and policy focus. Ms. Shanks stated it is a substantial resource guide is available for employers to follow and continue to spread knowledge of second chance employment and substance use.

With no further business to come before the task force, Chairman Alvarado adjourned the meeting at 5:15 P.M.

**TOBACCO SETTLEMENT  
AGREEMENT FUND OVERSIGHT  
COMMITTEE**  
**Minutes of the 4th Meeting  
of the 2020 Interim**  
September 10, 2020  
Call to Order and Roll Call

The 4th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, September 10, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Paul Hornback, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Kim King, Phillip Pratt, Rick Rand, Brandon Reed, and Dean Schamore.

Guests: Dorsey Ridley, Executive Director, Governor’s Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; Kerri Verden, Program Administrator, Tobacco Prevention and Cessation, Kentucky Department for Public Health.

LRC Staff: Nathan Smith, Kelly Ludwig, and Rachel Hartley.

**Report on the projects considered for funding at the August meeting of the Agricultural Development Board**

Dorsey Ridley stated the Governor’s Office of Agricultural Policy (GOAP) has invested \$630 million into Kentucky agriculture since 1998 through the Tobacco Master Settlement Agreement.

Bill McCloskey described the Agricultural Development Board’s (ADB) projects for August. Mr. McCloskey highlighted programs including the County Agriculture Investment Program (CAIP), Deceased Farm Animal Removal, and the Youth Agriculture Incentive Program (YAIP).

The requested program amendments discussed included:

Anderson County Farm Bureau Federation requested an additional \$20,500 in Anderson County funds for CAIP. The board recommended approval, which would bring the program total to \$135,000.

Clinton County Farm Bureau requested an additional \$110,000 in Clinton County funds for CAIP. The board recommended approval, which would bring the program total to \$245,000.

Perry County Conservation District requested an additional \$3,000 in Perry County funds for CAIP. The board recommended approval, which would bring the program total to \$33,739.

Rockcastle County Conservation District requested an additional \$133,955 in Rockcastle County funds for CAIP. The board recommended approval, which would bring the program total to \$220,830.

The Meat Processing Investment Program provides funding, which is available in four levels, to incentivize economic expansion of Kentucky meat processors for Kentucky livestock and poultry.

The projects discussed included:

Central Kentucky Custom Meats was approved for up to \$225,000 in state funds to purchase processing and packaging

equipment, as part of the Level 3 Meat Processing Investment Program.

Fulton County Board of Education was approved for up to \$31,420 in state and Fulton County funds to build a new high school greenhouse.

Daviess County Conservation District was approved for up to \$20,000 in Daviess County funds for a Daviess County Youth Agriculture Production Cost-Share Program.

The Daviess County Lions Club Fair was approved for up to \$2,500 in Daviess County funds to help pay for premiums and awards for the 4-H and Future Farmers of America portion of the fair. Due to COVID-19, the typical fair sponsor funds are unavailable to assist.

In response to Representative King, Mr. Ridley stated the position on the recently formed Agritech Council is for the Office of the Executive Director of GOAP and not an individual.

In response to Senator Parrett, Mr. McCloskey stated ADB tends to support projects that request county funds. The Daviess County Lions Club Fair request for funds to help pay premiums and awards at the fair is not a typical request.

**Kentucky Tobacco Prevention and Cessation Program**

Kerri Verden stated the Kentucky Tobacco Prevention and Cessation Program (KTPC) received \$4,472,738 in master settlement agreement funds in fiscal year 2020. More than half of the funds were used to support efforts in the local community. An additional 25 percent was used on media to promote cessation and prevention. There will be a 40 percent reduction in funds for fiscal year 2021, and KTPC is currently reviewing where funds should be allocated.

Every year, smoking is the cause of death for nearly 8,900 Kentuckians. Smoking is estimated to cost Kentucky \$1.92 billion in direct health care costs. For every \$1 invested in comprehensive tobacco control programs, Kentucky will save \$2 to \$10. An estimated 25 percent of Kentucky adults smoke.

The current youth rate of smoking conventional cigarettes is 8.9 percent, however, more than 1 in 3 of youths report using electronic cigarettes. In response to the increased electronic cigarette use, the KTPC has invested in new youth cessation tools, is working within schools, and has conducted media campaigns.

E-Cigarette or Vaping product use Associated Lung Injury (EVALI) is a newly identified lung disease linked to vaping. There have been 10 confirmed cases in Kentucky. There being no further business, the meeting was adjourned.

# 2021 Prefiled Bills

**BR17** - Representative Jerry Miller  
(10/7/2020)

AN ACT relating to actuarial reporting for the state-administered retirement systems.  
Amend KRS 6.350 to establish additional standards and requirements for the completion of the actuarial analysis required for bills pertaining to state-administered retirement systems, including a projection of costs/savings over a 30-year period rather than 20 years, completion of the analysis in a format established by the Legislative Research Commission, and the addition of a summary of relevant data and information on the front page of the analysis; amend KRS 21.440, 61.670, and 161.400 to require the state-administered retirement systems to provide a projection/analysis over a 30-year period rather than a 20-year period regarding projections in the annual actuarial valuation and as it relates to experience studies, assumption changes, and other changes made by the boards of each system.  
(Prefiled by the sponsor(s).)

**BR22** - Representative Attica Scott, Representative Charles Booker, Representative George Brown Jr, Representative Kelly Flood, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Mary Lou Marzian, Representative Reginald Meeks, Representative Patti Minter, Representative Josie Raymond, Representative Buddy Wheatley, Representative Lisa Willner  
(8/13/2020)

AN ACT relating to public protection.  
Create new sections of KRS Chapter 455 to require peace officers to give notice before entering premises to execute a search warrant; require officers to activate body-worn cameras when serving a warrant; create processes for enforcement; allow disciplinary actions for non compliance; create a new section of KRS Chapter 15 to require officers to activate body-worn cameras when engaged in law enforcement activity; establish rebuttable presumptions in investigative or legal proceedings regarding unrecorded conduct of statements; amend KRS 61.168 to provide for release of recordings in specific circumstances and allow waiver of privacy concerns; amend KRS 344.450 to expand scope of permissible suits against state and local governments and limit defenses; amend KRS 15.420 to define “deadly incident”; amend KRS 154.440 to require law enforcement agencies to create policies requiring mandatory drug and alcohol testing for officers involved in a deadly incident; amend various sections to conform; provide that Sections 1 to 8 shall be known as “Breonna’s Law”.  
(Prefiled by the sponsor(s).)

**BR24** - Representative Josie Raymond  
(10/6/2020)

AN ACT relating to public assistance.  
Amend KRS 205.200 to require that the value of all assets held by an individual be disregarded for the purpose of determining the individual’s eligibility for a means-tested

public assistance program.  
(Prefiled by the sponsor(s).)

**BR26** - Representative Josie Raymond  
(10/6/2020)

AN ACT related to teacher professional development.  
Amend KRS 156.095 to require all certified public school employees to complete high quality behavioral and mood disorder training annually.  
(Prefiled by the sponsor(s).)

**BR29** - Representative Josie Raymond  
(9/16/2020)

AN ACT relating to paid parental leave.  
Create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and to establish requirements for the paid leave of absence; amend KRS 18A.025 and 18A.110 to conform  
(Prefiled by the sponsor(s).)

**BR30** - Representative Josie Raymond  
(10/6/2020)

AN ACT relating to employment discrimination.  
Amend KRS 344.040, 344.050, 344.060, 344.070, 344.080, 344.100, and 344.110 to add protections against discrimination based on weight.  
(Prefiled by the sponsor(s).)

**BR41** - Senator Matt Castlen  
(8/6/2020)

AN ACT relating to emergencies.  
Amend KRS 39A.090 to limit the effective dates of executive orders issued by the Governor to 30 days unless an extension is approved by the General Assembly, and prohibit the Governor from issuing a new executive order relating to the same emergency without the approval of the General Assembly; amend KRS 39A.100 to allow an executive order relating to elections to remain in effect regardless of the time limitations in KRS 39A.090; amend KRS 39A.180 to limit administrative regulations promulgated under KRS 39A.180 to 30 days unless an extension is approved by the General Assembly; amend KRS 214.020 to limit administrative regulations promulgated under KRS 214.020 to 30 days unless an extension is approved by the General Assembly; amend KRS 241.090 to limit the emergency jurisdiction and peace officer status of administrators and investigators under the alcohol beverage control board to the limitations in KRS 39A.090; amend KRS 315.500 to prevent the time limitations of KRS 39A.090 from affecting the emergency distribution of pharmaceuticals; amend KRS 39A.374 to prevent the time limitations of KRS 39A.090 from affecting the limitations on increased prices during an emergency.  
(Prefiled by the sponsor(s).)

**BR47** - Representative Steve Sheldon  
(7/31/2020)

AN ACT relating to governmental emergencies.  
Amend KRS 39A.100 to require the Governor to call an extraordinary session of the General Assembly simultaneously with any declaration of emergency in order for the declaration to be valid for 15 days unless changed by the General Assembly; prohibit the Governor from declaring a new emergency based on the same facts upon the expiration of the initial declaration; prohibit the Governor from suspending statutes or administrative regulations unless the subject matter is enumerated under Chapter 39A; amend KRS 39A.280, 315.500, and 367.374 to conform.  
(Prefiled by the sponsor(s).)

**BR51** - Representative Danny Bentley, Representative Derek Lewis  
(9/1/2020)

AN ACT relating to prescription insulin.  
Amend KRS 304-17A.148 to cap the cost-sharing requirements for prescription insulin at \$25 per 30 day supply; amend KRS 18A.225 to require the Kentucky Employee Health Plan to comply; EFFECTIVE January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR52** - Representative Danny Bentley  
(9/1/2020)

AN ACT relating to controlled substances.  
Create a new section of KRS Chapter 218A to require a practitioner to offer a prescription for naloxone hydrochloride or another drug approved by the Food and Drug Administration for the complete or partial reversal of opioid depression when prescribing an opioid drug and to provide education on overdose prevention and on use of an opioid depression reversal drug; amend KRS 218A.172 to delete reference to Schedule III controlled substances containing hydrocodone and to add issues that a practitioner is required to discuss with a patient prior to prescribing or dispensing a controlled substance to a patient; amend KRS 205.529, 218A.205, and 304.17A-165 to delete reference to Schedule III controlled substances containing hydrocodone.  
(Prefiled by the sponsor(s).)

**BR56** - Representative Danny Bentley  
(9/1/2020)

A CONCURRENT RESOLUTION calling for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes.  
Urge federal policymakers to expedite research regarding the safety and efficacy of the use of marijuana for medical purposes.  
(Prefiled by the sponsor(s).)

**BR57** - Representative Patti Minter



(6/2/2020)

AN ACT relating to consumer protections in health insurance.

Create a new section of Subtitle 17A of KRS Chapter 304 to define terms; establish health-status eligibility rules for health benefit plans in any market; prohibit requiring a greater premium or contribution, or different benefits coverage, on the basis of any health status-related factor; prohibit pre-existing condition exclusions; require coverage for essential health benefits; prohibit insurers from establishing lifetime or annual limits on essential health benefits; prohibit adjustment of premium or contribution amounts for group health plans on the basis of genetic information; require the commissioner of insurance to define essential health benefits; establish when the section controls; establish opt-in for health plans not otherwise required to comply with requirements of section; establish when section becomes effective; establish that section applies to health benefit plans and health plan options on or after the effective date; amend KRS 304.17A-096, 304.17A-097, 304.17A-200, 304.17A-220, 304.17A-230, 304.17A-250, 304.17A-430, 304.17B-015, 304.17B-019, 304.18-114, and 304.18-120 to conform; amend KRS 18A.225 to require the state employee health plan to comply with Section 1 of the Act.  
(Prefiled by the sponsor(s).)

**BR61** - Representative Kimberly Moser, Representative Deanna Frazier, Representative Kim Banta  
(9/17/2020)

AN ACT relating to mental health parity.

Amend KRS 304.17A-660 to define “classification of benefits” and “nonquantitative treatment limitation”; amend KRS 304.17A-661 to modify mental health parity requirements; require parity coverage for nonquantitative treatment limitations and medical necessity criteria; require compliance with nonquantitative treatment limitations set forth in federal law; require insurers to submit annual reports relating to the insurer’s compliance with mental health parity requirements; amend KRS 304.17A-669 to remove exemptions; EFFECTIVE January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR62** - Representative Kimberly Moser  
(9/17/2020)

AN ACT relating to the Advisory Council for Medical Assistance.

Amend KRS 205.540 to add one representative of a recognized consumer advocacy group representing persons reentering society following incarceration to the Advisory Council for Medical Assistance; amend KRS 205.590 to amend the membership of the Technical Advisory Committee on Consumer Rights and Client Needs, amend the membership of the Technical Advisory Committee on Behavioral Health, and to create a Technical Advisory Committee on Persons Returning to Society from Incarceration to act in an advisory capacity to the Advisory Council for Medical Assistance.  
(Prefiled by the sponsor(s).)

**BR66** - Representative Lynn Bechler  
(6/19/2020)

AN ACT relating to emergencies.

Amend KRS 39A.090 to limit the governor’s emergency orders to 28 days unless approved by the General Assembly; limit the local chief executive’s emergency orders to 28 days unless approved by the local government legislative body.  
(Prefiled by the sponsor(s).)

**BR68** - Representative Patti Minter  
(6/4/2020)

AN ACT relating to Women Veterans’ Day.

Create a new section of KRS Chapter 2 to designate June 12 as Women Veterans’ Day in the Commonwealth.  
(Prefiled by the sponsor(s).)

**BR70** - Representative James Tipton, Representative Derek Lewis  
(7/9/2020)

AN ACT relating to state employee compensation.

Amend KRS 18A.355 to provide for an annual cost of living adjustment for state employees with the cost of living adjustment being the average of the consumer price index for the two calendar years prior to the biennium and not less than zero; amend KRS 18A.110 and 48.130 to conform; EFFECTIVE JULY 1, 2022.  
(Prefiled by the sponsor(s).)

**BR73** - Representative Jim Gooch Jr.  
(7/10/2020)

AN ACT relating to emergencies.

Amend KRS 39A.090 to limit the effective dates of emergency executive orders issued by the Governor to thirty days unless extended by the General Assembly; amend KRS 39A.100 to require executive orders suspending or delaying an election to remain in effect unless changed by an action of the General Assembly; amend KRS 367.374 to allow the Governor only one additional fifteen day extension period.  
(Prefiled by the sponsor(s).)

**BR77** - Representative Attica Scott  
(8/26/2020)

AN ACT relating to implicit bias in perinatal care.

Amend KRS 211.680 to expand the scope of the legislative intent and findings; create new sections of KRS Chapter 211 to define terms; require licensed health facilities under KRS Chapter 216B to provide each patient with written information regarding the patient’s rights and implement an evidence-based implicit bias program for all health providers involved in the perinatal care of patients within those facilities; require the Department for Public Health to track data on maternal death and severe morbidity.  
(Prefiled by the sponsor(s).)

**BR79** - Representative Rob Wiederstein  
(10/7/2020)

AN ACT relating to custodial interrogations by law enforcement.

Create new sections of KRS Chapter 15 to define terms related to the electronic recording of custodial

interrogations; require law enforcement officers to electronically record custodial interrogations; specify that law enforcement officers conducting custodial interrogations are not required to obtain consent from the individual being interrogated; provide exceptions to the requirement of recording interrogations based upon exigent circumstances, refusal to participate by the individual being interrogated, the occurrence of the interrogation in a different state in compliance with that state’s law or with federal law, or if the interrogation may reveal the identity of a confidential informant or jeopardize the safety of a law enforcement officer; require prosecutors to prove an exception applies if the statement entered was not recorded; and require the Attorney General to promulgate administrative regulations to determine the means of recording, the collection and review of recordings, and other matters related to the recording of interrogations.  
(Prefiled by the sponsor(s).)

**BR86** - Representative Kim Banta, Representative Kevin Bratcher, Representative Derek Lewis  
(7/8/2020)

AN ACT relating to Medicaid eligibility for individuals diagnosed with metastatic breast cancer.

Create a new section of KRS Chapter 205 to require the Department for Medicaid Services to request approval of a Medicaid state plan amendment from the Centers for Medicare and Medicaid Services that exempts individuals who have been diagnosed with metastatic breast cancer from meeting spend-down requirements in order to be eligible for Medicaid services within 30 days of the effective date of this Act.  
(Prefiled by the sponsor(s).)

**BR96** - Senator Christian McDaniel  
(6/11/2020)

AN ACT relating to statues and making an appropriation therefor.

Require the Department for Facilities and Support Services within the Finance and Administration Cabinet to relocate the Jefferson Davis statue from the Capitol Rotunda to either the Thomas D. Clark Center for Kentucky History or the Jefferson Davis Historic Site; require the Department for Facilities and Support Services to place a statue of United States Navy diver and Kentucky native Carl Brashear in the Capitol Rotunda; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR97** - Senator Gerald Neal  
(9/22/2020)

AN ACT relating to health disparity impacts.

Create a new section of KRS Chapter 6 to define “health disparity impact” and “health disparity impact review”; require Legislative Research Commission staff to identify a bill, amendment, or committee substitute that may result in a health disparity impact and notify the sponsor and the Cabinet for Health and Family Services; require the cabinet to determine if a health disparity impact review is necessary, notify the Legislative Research Commission, and complete the review if appropriate; require other state agencies to provide requested information for the review; permit a new review to be requested if there is an amendment or committee substitute; require any bill, amendment, or committee substitute that requires a

review to have a completed review before a vote is taken; permit a majority of members of the Senate or House of Representatives to request a review; permit a majority of members of any standing committee to request a review; require reviews to include information on any health disparity impact and be completed within thirty days; require the cabinet to create a form to be use to complete the review.  
(Prefiled by the sponsor(s).)

**BR98** - Senator Christian McDaniel  
(7/9/2020)

AN ACT proposing to amend Section 36 of the Constitution of Kentucky relating to time and place of meetings of the General Assembly.  
Propose to amend Section 36 of the Constitution of Kentucky to require the General Assembly to convene if the Governor declares a state of emergency in the Commonwealth, and the state of emergency exceeds thirty days in the aggregate of a calendar year during which time the General Assembly is not in regular session. The subjects to be considered by the General Assembly shall be the Governor’s executive orders and directives issued pursuant to and relevant to the executive order declaring a state of emergency; ballot language; submit to voters for ratification or rejection.  
(Prefiled by the sponsor(s).)

**BR99** - Representative Lisa Willner, Representative Kim Banta  
(8/25/2020)

AN ACT relating to youth mental health protection and declaring an emergency.  
Create a new section of KRS Chapter 210 define sexual orientation and gender identity change efforts, mental health professional, and public funds; to prohibit mental health professionals from engaging in sexual orientation and gender identity change efforts with a person under eighteen (18) years of age or a person who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510; require violations to be subject to board discipline; prohibit public funds from being used for sexual orientation and gender identity change efforts; create a new section of KRS Chapter 211 to require the Department for Public Health to develop, produce, and disseminate educational materials regarding sexual orientation and gender identity change efforts; permit the cabinet to contract for the educational materials; add the short title “Mental Health Protection Act”; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR102** - Representative Danny Bentley  
(9/16/2020)

AN ACT relating to construction or demolition waste disposal.  
Amend KRS 224.40-120 to allow an off-site construction or demolition waste disposal permittee to request an increase in the size of the permitted area to no more than 2 acres total if the applicant is compliant with the permit requirements for the currently permitted area and complies with all permit requirements for the newly permitted area, including posting an additional bond for the newly permitted area.

(Prefiled by the sponsor(s).)

**BR117** - Representative Kim Banta  
(9/16/2020)

AN ACT relating to mental health and making an appropriation therefor.  
Amend KRS 210.365 to make firefighters eligible for crisis intervention team training along with law enforcement officers currently permitted such training; amend KRS 95A.220 with an appropriation of \$1,250,000 each fiscal year for treatment of full-time and volunteer firefighters affected by post-traumatic stress injury (PTSI) and/ or post-traumatic stress disorder (PTSD); provide that legitimate personnel actions are not compensable; establish the reference for definitions of PTSD and PTSI; require diagnosis by psychiatrist, psychologist, or counselor; allow certain mental health treatment benefits upon firefighter seeking treatment; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR119** - Representative Josie Raymond  
(10/6/2020)

AN ACT relating to campaign finance.  
Amend KRS 121.175 to define and include “necessary childcare expenses” as an allowable campaign expenditure.  
(Prefiled by the sponsor(s).)

**BR124** - Representative Joe Graviss  
(6/19/2020)

AN ACT relating to state holidays.  
Amend KRS 2.110 to remove Robert E. Lee Day, Confederate Memorial Day, and Jefferson Davis Day as state holidays.  
(Prefiled by the sponsor(s).)

**BR127** - Representative Joe Graviss  
(6/19/2020)

AN ACT relating to state holidays.  
Amend KRS 2.110 to add the nineteenth of June as a state holiday commemorating Juneteenth National Freedom Day.  
(Prefiled by the sponsor(s).)

**BR130** - Representative Savannah Maddox, Representative Joseph Fischer, Representative Mark Hart, Representative Thomas Huff, Representative Kim King, Representative Derek Lewis, Representative Bobby McCool, Representative Richard White  
(7/7/2020)

AN ACT relating to emergencies and declaring an emergency.  
Create a new section of KRS Chapter 39A to define “emergency order”, set parameters for the issuance of an emergency order, and provide for legal action to enforce the parameters; amend Section 39A.090 to apply the emergency order definition to executive orders issued under KRS Chapters 39A to 39F; amend KRS 39A.100 to require that emergency orders issued by the Governor contain an expiration date not greater than 14 days, with extension only as provided by the General Assembly, require that emergency orders issued by a chief executive of a local government contain an expiration date of not

greater than 14 days with extension only as provided by the legislative body of the local government, move associated election deadlines if the date of the election is moved, prohibit the suspension of any laws, and specify that no governmental entity may prohibit or severely limit in-person worship; amend KRS 194A.025 to specify that the Secretary for Heath and Family Services may not take any action contrary to the specific limitations on actions by the cabinet in the event of infectious or contagious diseases; amend KRS 214.020 to limit actions taken by the Cabinet for Heath and Family Services in the event of infectious or contagious disease to 21 days unless extended or changed by the General Assembly, and prohibit similar or related actions taken to extend the time limitation; name the Act the “Ensuring Basic Checks and Balances and Basic Liberties During Emergencies Act; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR139** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to on-site sewage disposal systems.  
Amend KRS 211.350 to require the Department for Public Health to notify property owners with on-site sewage disposal systems by mail every two years of the need to maintain the system; require the department to conduct an information campaign to increase public awareness at least once every two years; require the department to promulgate a regulation to outline policy for health departments to maintain a list of properties serviced by on-site sewage disposal systems.  
(Prefiled by the sponsor(s).)

**BR140** - Representative Bobby McCool  
(8/20/2020)

AN ACT relating to welding safety.  
Create a new section of KRS Chapter 198B to establish requirements for projects requiring structural steel welding such as certification of welders and certified inspectors; provide definitions; EFFECTIVE January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR141** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to cannabidiol products.  
Create a new section of KRS Chapter 217.005 to 217.215 to establish labeling requirements for cannabidiol products.  
(Prefiled by the sponsor(s).)

**BR146** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to public water and wastewater.  
Create new sections of KRS Chapter 74 to define “appointing authority,” “board,” “commissioner,” “governing body,” “joint commissioner,” “joint water commission,” “public service commission,” “public water or wastewater system,” “water association”, and “water district”; establish eligibility requirements for members of a water district, water association, and joint water commission; require online training and continuing education hours for water commissioners; require the

Kentucky Public Service Commission to develop best management practices for governing bodies of public water and wastewater utilities; establish penalties for failure to meet training and eligibility requirements; create new sections of Subchapter 70 of KRS Chapter 224 to establish the Public Water and Wastewater Working Group; identify the members and responsibilities of the working group; allow for the creation of stakeholder advisory groups; require the group to report to the Legislative Research Commission by November 1 of each year and develop methods to identify failing public water and wastewater utilities; create a Kentucky Public Water and Wastewater System Protection Panel and name executive branch members of the panel; require the panel to develop metrics to identify systems at risk of insolvency, develop a priority list for intervention by the panel, and promulgate administrative regulations to develop comprehensive criteria for sanctions against governing bodies at risk of failure; identify remedies for failing system and interventions; amend KRS 65.007 to add misfeasance and nonfeasance to reasons for removal by an appointing authority; amend KRS 74.012 to clarify entities and conform to definitions; amend KRS 74.020 to clarify definitions and require commissioners to comply with initial and continuing education; increase initial hours from six to nine; require twelve hours of continuing education every three years; amend KRS 74.025 to allow removal for failure to complete training; amend KRS 74.030 to change reference from commission to board to conform with chapter definitions; amend KRS 74.040 to establish requirements for the chief executive officer and update duties to include financial and water loss audit, rate and operations review, and infrastructure improvement plan and conform definitions; amend KRS 74.080 to update board duties and responsibilities regarding rates, procedures, audits, and planning; allow the commission to review rates on its own motion and require rate adjustment for full cost recovery; amend KRS 74.100 to require a comprehensive infrastructure improvement plan and conform definitions; amend KRS 74.110 to require notice to the commission when annexing or striking district territory; amend KRS 74.177 to clarify distinction between water district and agricultural district; amend KRS 74.240 to update requirements of the district and require qualified infrastructure improvement plan filed and approved by the commission; amend KRS 74.050, 74.070, 74.280, 74.090, 74.120, 74.130, 74.140, 74.150, 74.160, 74.180, 74.190, 74.200, 74.220, 74.290, 74.300, and 74.330 to conform definitions; amend KRS 74.361 to authorize the commission to investigate merger of water districts after repeated water loss or failure to perform audits; amend KRS 74.370 to clarify the commission's authority over water districts; amend KRS 74.395 to allow recovery through a surcharge for improvements designed to reduce water loss and specify range over 15 percent; require improvement plan and water loss audit be submitted for surcharge; amend KRS 74.430, 74.440, 74.460, 74.470, 74.480, 74.490, 74.500, 74.510, 74.520, and 74.990 to clarify distinction between joint water commissions and joint commissioners; amend KRS 74.450 to establish eligibility to serve as joint commissioner; amend KRS 91A.040 to require the auditor to obtain a copy of an audit performed on any public water or wastewater system owned by the city; include in the audit report whether the city is compliant in performing the audit and report to Department for Local Government and Kentucky

Infrastructure Authority if noncompliant; amend KRS 96.172 to establish eligibility to serve on municipal board of public utilities; amend KRS 96.173 to require expenses incurred to be prudent and reasonable in order to be payable from revenues; amend KRS 96.176 to require financial practices to be consistent with best management practices developed by the Kentucky Public Service Commission; amend KRS 96.181 to require board finances to be consistent with best management practices; amend KRS 96.182 to restrict use of rate receipts for anything not related to the provision of service by the electric and water plant; amend KRS 96.190 to require initial training and continuing education; amend KRS 96.200 to require conformity to best management practices; amend KRS 96.240 to establish requirements for appointees to board of waterworks; amend KRS 96.320 to establish requirements for appointees to cities owning waterworks; amend KRS 96.351 to establish qualifications for members of waterworks commission and waterworks and sewerage commission.  
(Prefiled by the sponsor(s).)

**BR147** - Representative Joe Graviss  
(7/8/2020)

AN ACT relating to soil conservation and making an appropriation therefor.  
Create new sections of KRS Chapter 262 to establish a Healthy Soils Program and a Healthy Soils Program fund in the Department for Natural Resources, Division of Conservation; require the department to provide technical advice and assistance and assist with soil health assessments and soil health plans; require the commissioner to approve applications for grants and other types of financial assistance under the Healthy Soils Program; authorize the department to promulgate administrative regulations to implement the Healthy Soils Program and the Healthy Soils Program fund; amend KRS 146.100 to require the director of the Division of Conservation to have experience in healthy soil practices; amend KRS 224.71-110 to require the Agriculture Water Quality Authority to promote soil restoration, include an organic agriculture organization among appointments to the authority and add healthy soil practices as a committee; amend KRS 262.010 to define "healthy soil practices," "soil health," "soil health assessment," and "watershed health"; amend KRS 262.020 to add restoration, biological diversity, watershed health, and healthy soil practices to the purpose of soil and water conservation districts; amend KRS 262.748 and 262.778 to conform; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR149** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to actuarial analysis on retirement bills.  
Amend KRS 6.350 to establish additional requirements for the completion of the actuarial analysis required for bills pertaining to state-administered retirement systems; specify additional requirements projecting costs/savings over a 30 year period rather than 20 years, completing the analysis in a format established by the Legislative Research Commission, and requiring the front page of

the analysis to include summary information; provide that Legislative Research Commission shall not transmit a request for analysis unless authorized by a bipartisan working group consisting of 4 members of the General Assembly, but that nothing shall prevent the systems from obtaining an analysis at their own discretion on bills that have been filed, prefiled, or released by the sponsor.  
(Prefiled by the sponsor(s).)

**BR152** - Representative Terri Branham Clark,  
Representative Ashley Tackett Laferty, Representative  
Lisa Willner  
(7/14/2020)

AN ACT relating to state employment offices.  
Amend KRS 151B.285 to mandate that public employment offices be located in specified locations.  
(Prefiled by the sponsor(s).)

**BR153** - Representative Matthew Koch  
(6/30/2020)

AN ACT relating to property taxes for veteran service organizations.  
Create a new section in KRS Chapter 132 to exempt veteran service organizations from ad valorem taxation if over 50 percent of the organization's annual net income is expended on behalf of veterans and other charitable causes; amend KRS 132.010 to define "veteran service organization"; apply to property assessed on or after January 1, 2022.  
(Prefiled by the sponsor(s).)

**BR157** - Representative Joe Graviss  
(8/19/2020)

AN ACT relating to election districts and making an appropriation therefor.  
Create new sections of KRS Chapter 5 to establish the Advisory Redistricting Commission, which shall be composed of members appointed by the General Assembly and members of the public at large; define terms; establish commissioner pay, conditions, powers, and duties; provide that commissioners' terms correlate with obligations of each census cycle; establish the conditions, powers, and duties of the commission; require the commission to draft redistricting plans for legislative and congressional districts, with parameters prescribed; establish standards to be followed by the commission for commissioners who develop plans; require the commission to submit its redistricting plans to the Legislative Research Commission; require the General Assembly to consider the commission's plans; allow the General Assembly to enact or reject the plans of the commission by a date certain or to return to the commission for adjustment; provide that if the General Assembly does not enact the plans, the plans shall be returned to the commission, which may incorporate changes requested by the General Assembly, but shall not be required to incorporate changes; require the commission to submit to the General Assembly new redistricting plans for enactment at a date certain; allow General Assembly to enact its own redistricting plans after a date certain; provide for penalties and fine upon conviction of persons attempting to influence, or commissioners accepting influence, per the duties of the commission; include severability clause and delay clause; amend KRS 5.005 to remove the Secretary of State being named as a



defendant in any action challenging the constitutionality of any legislative district and replace with the Advisory Redistricting Commission being named the defendant; provide that the Act may be cited as the “Fair Maps Act.” (Prefiled by the sponsor(s).)

**BR158** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to transparency in campaign finance. Amend KRS 121.015 to define “unauthorized campaign committee”; amend KRS 121.190 to include public disclosure requirements for Internet announcements that expressly advocate for the election or defeat of political candidates or group of candidates; expand the class for public disclosure requirements of paid political advertising and announcements; amend KRS 121.210 to update the statutory reference of unauthorized campaign committees and to provide reporting requirements to the Kentucky Registry of Election Finance; state that this legislation may be cited as the “Campaign Fund Disclosure and Transparency Act of 2021.” (Prefiled by the sponsor(s).)

**BR159** - Representative Joe Graviss  
(8/19/2020)

AN ACT relating to a tax credit for volunteer firefighters. Create a new section of KRS Chapter 141 to establish a \$1,000 refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit; amend KRS 131.190 to allow reporting. (Prefiled by the sponsor(s).)

**BR160** - Senator Phillip Wheeler  
(7/9/2020)

AN ACT relating to off-highway vehicles and making an appropriation therefor. Create a new section of KRS Chapter 189 to define the terms “off-highway vehicle,” “local government,” and “regional authority”; allow a local government that is located within the boundary of a regional authority, to pass an ordinance allowing for the operation of off-highway vehicles (OHVs) on a roadways under local government jurisdiction and state roadways approved by the Transportation Cabinet; allow a local government to petition the Transportation Cabinet to include state-maintained roadways located within the local government’s jurisdiction, for OHV use under local ordinance; prohibits OHV use on fully controlled access highways; outlines OHV ordinance requirements; allow the local government to assess a fee of \$30 for an annual OHV permit for Commonwealth residents and \$50 for nonresidents; specify that all OHV permits expire on April 1 of each year; permit a local government to contract with a regional authority or a private vendor for the issuance of OHV permits; outline OHV operating requirements for OHV permit holders; require OHV passengers under the age of 18 to wear a helmet; outline OHV signage requirement for local governments and the Transportation Cabinet; require reciprocity between local governments who have passed OHV ordinances; allow the Transportation Cabinet to

prohibit the operation of OHVs on any public highway that crosses a state highway or any state highway if deemed in the interest of public safety; outline exemptions; amend KRS 189.515 to conform. (Prefiled by the sponsor(s).)

**BR162** - Senator Robby Mills  
(7/9/2020)

Urge local governments to make resources available for the protection of monuments, edifices, graves, and lands, and urge peace officers, prosecutors and members of the Kentucky Court of Justice including county attorneys, Commonwealth’s attorneys, and the Kentucky Attorney General to charge and pursue the most stringent violations against defacement and damage of monuments, edifices, graves, and lands, as well as to urge judges of the Circuit, District, and appellate courts to impose and sustain sentences against persons convicted of these offenses to the maximum penalties permitted under law. (Prefiled by the sponsor(s).)

**BR168** - Representative James Tipton  
(9/17/2020)

AN ACT relating to dually employed retirement system members. Amend KRS 61.545 to provide that if a member is working in a regular full-time hazardous duty position that participates in the Kentucky Employees Retirement System or the County Employees Retirement System and is simultaneously employed in a nonhazardous position that is not considered regular full-time with a different participating employer, the member shall participate solely as a hazardous duty member and shall not participate under the nonhazardous position unless he or she makes an election within 30 days of taking employment in the nonhazardous position; amend KRS 61.680 to conform; specify that provisions shall only apply to prospective nonhazardous employment occurring on or after the effective date of the Act. (Prefiled by the sponsor(s).)

**BR169** - Representative Attica Scott  
(9/16/2020)

AN ACT relating to discriminatory practices against a person. Amend KRS 344.010 to provide definitions of “protective hairstyle” and “race” that include traits historically associated with race; amend KRS 158.148 to provide that school disciplinary codes shall prohibit discrimination on the basis of race; establish the short title of “C.R.O.W.N. Act”. (Prefiled by the sponsor(s).)

**BR176** - Representative Tina Bojanowski, Representative Kim Banta  
(7/29/2020)

Direct the commissioner of education to convene a strategic assessment and accountability committee; establish minimum requirements for the composition of the committee; establish the duties of the committee; require

the commissioner to report the findings of the committee to the Interim Joint Committee on Education by December 1, 2021, and December 1, 2022, EMERGENCY. (Prefiled by the sponsor(s).)

**BR180** - Representative Joe Graviss  
(7/14/2020)

AN ACT relating to state employee compensation. Amend KRS 18A.355 to provide for an annual increment for state employees amounting to the average of the consumer price index for the two calendar years prior to the biennium. (Prefiled by the sponsor(s).)

**BR196** - Representative Maria Sorolis  
(9/14/2020)

AN ACT relating to open records. Amend KRS 61.882, relating to open records, to require the award of costs and attorney fees if a court finds there was an absence of a good faith basis to believe the requested records were exempt from disclosure. (Prefiled by the sponsor(s).)

**BR197** - Representative Maria Sorolis  
(9/14/2020)

AN ACT relating to student health. Amend KRS 160.645 to require at least 25 minutes of student physical activity each school day; expand requirement to include students up to grade 8; prioritize free-play activities taking place outdoors. (Prefiled by the sponsor(s).)

**BR198** - Representative Maria Sorolis  
(9/14/2020)

AN ACT relating to open meetings. Amend KRS 61.846 to allow an agency or the Attorney General to vacate actions taken at a meeting where the agency failed to give notice of the meeting; amend KRS 61.848 to require a person to be awarded court costs and attorney fees when a court finds no basis in good faith for an agency’s denial of an open meetings complaint, and to allow a court to vacate actions taken at a meeting where the agency failed to give notice of the meeting. (Prefiled by the sponsor(s).)

**BR199** - Representative Maria Sorolis  
(9/16/2020)

AN ACT relating to epinephrine auto-injectors. Create a new section of Subtitle 17A of KRS Chapter 304 to require health benefits plans to cover epinephrine auto-injectors; cap cost-sharing at \$75 per epinephrine auto-injector; allow cost-sharing cap to be adjusted every 5 years for inflation; amend KRS 18A.225 to require the state employee health plan to comply; EFFECTIVE, January 1, 2022. (Prefiled by the sponsor(s).)

**BR202** - Representative Tom Burch  
(10/12/2020)

AN ACT relating to firearms. Create new sections of KRS Chapter 237 to define

terms; grant authority to District Court to issue search warrants to law enforcement officers to seize firearms from persons believed to be dangerous; grant authority to law enforcement officers to seize firearms from persons believed to be dangerous without a warrant; establish protocols for court hearing to determine dangerousness of person and authority to prohibit person from possessing firearms; establish protocol for petitions to prove person is no longer dangerous; establish protocol for disposition of seized firearms after specified time; require the Administrative Office of the Courts to collect and publish statistics on gun seizures; establish penalties; amend KRS 16.220 to conform.  
(Prefiled by the sponsor(s).)

**BR215** - Senator Richard Girdler  
(8/19/2020)

AN ACT relating to indemnification of prosecutors. Amend KRS 15.753 to provide that the Finance and Administration Cabinet shall reimburse the Attorney General, a Commonwealth’s attorney, or a county attorney for fees or judgments after being sued for an act or omission in the course of his or her duties.  
(Prefiled by the sponsor(s).)

**BR216** - Senator Alice Kerr  
(8/25/2020)

AN ACT relating to youth mental health protection and declaring an emergency. Create a new section of KRS Chapter 210 define sexual orientation and gender identity change efforts, mental health professional, and public funds; to prohibit mental health professionals from engaging in sexual orientation and gender identity change efforts with a person under eighteen (18) years of age or a person who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510; require violations to be subject to board discipline; prohibit public funds from being used for sexual orientation and gender identity change efforts; create a new section of KRS Chapter 211 to require the Department for Public Health to develop, produce, and disseminate educational materials regarding sexual orientation and gender identity change efforts; permit the cabinet to contract for the educational materials; add the short title “Mental Health Protection Act”; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR217** - Representative Buddy Wheatley  
(9/17/2020)

AN ACT relating to polling places. Amend KRS 117.087 and 118.035 to extend the ending voting hour from 6 p.m. to 7 p.m.  
(Prefiled by the sponsor(s).)

**BR223** - Representative Rachel Roberts  
(10/13/2020)

AN ACT relating to elections. Amend KRS 117.085 to provide convenience of the voter as a basis for absentee voting; amend KRS 117.088 to conform.  
(Prefiled by the sponsor(s).)

**BR225** - Representative Jerry Miller  
(9/1/2020)

AN ACT relating to actuarial analysis on retirement bills. Amend KRS 6.350 to establish additional requirements for the completion of the actuarial analysis required for bills pertaining to state-administered retirement systems; specify additional requirements that include projecting costs/savings over a 30-year period rather than 20 years, completing the analysis in a format established by the Legislative Research Commission, and requiring the front page of the analysis to include summary information.  
(Prefiled by the sponsor(s).)

**BR226** - Senator Mike Nemes  
(8/25/2020)

AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation. Propose to amend Section 170 of the Constitution of Kentucky to include in the homestead exemption for owners who are sixty-five years of age or older any increase in ad valorem taxes that are assessed after the latter of the year the owner turned sixty-five, the year the owner purchased the property, or the date this provision was ratified by the voters; add the continued biennial inflation indexing of the homestead exemption amount; make various typographical changes of a nonsubstantive nature; provide ballot language; submit to voters for ratification or rejection; apply to property assessed on and after the January 1st immediately following the date of ratification.  
(Prefiled by the sponsor(s).)

**BR231** - Representative Kim Banta  
(8/27/2020)

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly. Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four terms of office, not including partial terms of two years or less, and to prevent members of the House of Representatives from serving more than six terms of office, not including partial terms of two years or less, beginning with those elected in November 2024; provide ballot language; submit to voters for ratification or rejection.  
(Prefiled by the sponsor(s).)

**BR236** - Representative James Tipton  
(8/25/2020)

AN ACT relating to the Kentucky Educational Excellence Scholarship. Amend KRS 164.7874 to delete the requirement that an eligible high school student and eligible postsecondary student not be a convicted felon for KEES eligibility purposes.  
(Prefiled by the sponsor(s).)

**BR239** - Representative Kathy Hinkle  
(9/4/2020)

AN ACT relating to nonteaching time for teachers. Amend KRS 158.060 to require teachers to be provided

a minimum of 120 minutes per week for nonteaching activities; specify types of teacher-directed activities to be completed during nonteaching time.  
(Prefiled by the sponsor(s).)

**BR240** - Representative Kathy Hinkle  
(9/4/2020)

AN ACT relating to boards of education. Amend KRS 160.280 to require local school board members to be offered health insurance at the same rates offered to district employees.  
(Prefiled by the sponsor(s).)

**BR241** - Representative Walker Wood Thomas  
(9/15/2020)

AN ACT relating to an exemption of income taxation for military pensions. Amend KRS 141.019 to exclude United States military retirees’ pension income from income taxation for taxable years beginning on or after January 1, 2021, and before January 1, 2025; require reporting by the Department of Revenue; amend KRS 131.190 to conform.  
(Prefiled by the sponsor(s).)

**BR243** - Representative Walker Wood Thomas, Representative Kim Banta, Representative Tina Bojanowski, Representative McKenzie Cantrell, Representative Kimberly Moser, Representative Cherlynn Stevenson, Representative Nancy Tate, Representative Richard White  
(8/26/2020)

AN ACT relating to interpersonal violence. Amend KRS 403.720 to include violence against an animal when used as coercive conduct in the definition of “domestic violence and abuse”; amend KRS 403.740 to allow a judge to award possession of a shared domestic animal to the petitioner; amend KRS 456.010 to include violence against an animal when used as coercive conduct in the definition of “dating violence and abuse”; amend KRS 456.060 to allow a judge to award possession of a shared domestic animal to the petitioner.  
(Prefiled by the sponsor(s).)

**BR244** - Representative Walker Wood Thomas  
(9/15/2020)

AN ACT relating to audiology and speech-language pathology. Create a new section of KRS Chapter 334A.010 to enact and enter into the Audiology and Speech-Language Pathology Interstate Compact with all other jurisdictions that legally join in the compact; declare the purpose of the compact; establish definitions; recognize a multistate licensure privilege to practice for audiologists and speech-language pathologists; recognize a multistate licensure privilege for audiologists and speech-language pathologists to practice audiology and speech-language pathology via telehealth; establish provisions for active duty military personnel and their spouses; authorize a remote state to take adverse action against an audiologist or speech-language pathologist’s privilege to practice within that member state; authorize a home state to take adverse action against an audiologist’s or speech-language pathologist’s license issued by the home state; create the Audiology

and Speech-Language Pathology Compact Commission; provide immunity for party states, officers, employees, or representatives of the Commission who act in accordance with the compact; require the Commission to create a database and reporting system containing licensure, adverse actions, and investigative information on all licensed individuals in member states; establish procedures for rulemaking; authorize the Commission to attempt to resolve disputes related to the compact that arise among member states and between member and non-member states; require provisions of the compact to become effective the day it is enacted into law once a state enters the Compact; provide for severability for any provision in the compact that is contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance. (Prefiled by the sponsor(s).)

**BR245** - Representative Walker Wood Thomas, Representative Kimberly Moser (9/15/2020)

AN ACT relating to the Psychology Interjurisdictional Compact.  
Create a new section of KRS Chapter 319 to enact and enter into the Psychology Interjurisdictional Compact with all other jurisdictions that legally join the compact; declare the purpose of the compact; define terms; allow a psychologist to hold one or more compact state licenses at a time; recognize the right of a psychologist licensed in the compact to practice telepsychology in other compact states where the psychologist is not licensed; establish conditions under which a psychologist licensed to practice in a compact state can practice telepsychology; establish the conditions under which a psychologist licensed to practice in a compact state may be granted a temporary authorization to practice; authorize a home state to take adverse action against a psychologist's license issued by the home state; allow a receiving state to take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state; authorize a compact state's ability to issue subpoenas for hearings and investigation as well as cease and desist and injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology and temporary authorization to practice; establish the Psychology Interjurisdictional Compact Commission; require the commission to provide for and maintain a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on psychologists participating in the compact; provide immunity for members, officers, executive director, employees and representatives of the commission who act in accordance with the provisions of the compact; authorize the commission to establish rulemaking procedures; authorize the executive, judicial, and legislative branches of state government to enforce the provisions of the compact; affirm that rules promulgated will have standing as statutory law; require provisions of the compact to become effective on the date the compact is enacted into law in the seventh compact state. (Prefiled by the sponsor(s).)

**BR259** - Representative Ashley Tackett Laferty (10/6/2020)

AN ACT relating to workers' compensation.  
Amend KRS 342.020 to require an employer to pay for medical benefits at the time of injury and thereafter during disability instead of 780 weeks; amend KRS 342.990 to conform. (Prefiled by the sponsor(s).)

**BR260** - Representative Ashley Tackett Laferty (10/6/2020)

AN ACT relating to the taxation of pension income.  
Amend KRS 141.019, relating to the individual income tax, to increase the pension income exclusion from \$31,110 to \$41,110. (Prefiled by the sponsor(s).)

**BR261** - Representative Ashley Tackett Laferty (10/6/2020)

AN ACT relating to a tax credit for volunteer firefighters.  
Create a new section of KRS Chapter 141 to establish a refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit; amend KRS 131.190 to allow confidential tax return information to be shared with the Legislative Research Commission. (Prefiled by the sponsor(s).)

**BR262** - Representative Ashley Tackett Laferty (10/6/2020)

AN ACT relating to occupational disease claims.  
Amend KRS 342.125 to remove the requirement that an affected employee previously diagnosed with occupational pneumoconiosis resulting from exposure to coal dust must have an additional two years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease in order to reopen a claim. (Prefiled by the sponsor(s).)

**BR283** - Representative Jeffery Donohue (8/27/2020)

AN ACT relating to bus operation safety.  
Create a new section of KRS Chapter 158 to require the Department of Education to develop, in cooperation with the Transportation Cabinet, a risk reduction program for school bus operators; outline requirements of the program; outline school district implementation requirements; require reporting of assaults; specify that the provisions also apply to public charter schools; require the Department of Education to promulgate administrative regulations; create a new section of KRS Chapter 281 to require the Transportation Cabinet to develop a risk reduction program for commercial bus operators; outline requirements; outline implementation requirements; require reporting of assaults; amend KRS 281.990 to establish an initial penalty of \$5,000 for failure to implement the program required; if program is not implemented 14 days after the initial penalty is assessed, an additional fee of \$250 per day shall be assessed until implementation. (Prefiled by the sponsor(s).)

**BR284** - Representative Chris Freeland, Representative Tina Bojanowski, Representative Dean Schamore, Representative Richard White (9/25/2020)

AN ACT relating to torture of a dog or cat.  
Amend KRS 525.135, relating to torture of a dog or cat, to add specific acts to definition of torture; make all violations a Class D felony; make each act of torture prosecutable as a separate offense; make the exemptions applicable only where there is no intent to cause, increase, or prolong the pain and suffering of the dog or cat. (Prefiled by the sponsor(s).)

**BR301** - Representative Savannah Maddox, Representative Mark Hart, Representative Joseph Fischer, Representative Thomas Huff, Representative Richard White (9/9/2020)

AN ACT relating to ensuring basic liberties regarding immunizations and declaring an emergency.  
Amend KRS 214.036 to prohibit required immunization of any person by any state agency or instrumentality; create the short title "Ensuring Bodily Autonomy and Informed Consent Act"; EMERGENCY. (Prefiled by the sponsor(s).)

**BR303** - Senator Danny Carroll (9/18/2020)

AN ACT relating to the safety of canines and felines.  
Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed. (Prefiled by the sponsor(s).)

**BR305** - Senator Danny Carroll (9/18/2020)

AN ACT relating to assisted-living communities.  
Create a new section of KRS 194A.700 to 194A.729 to prohibit certification or certification renewal of an assisted-living community if it is owned, managed, or operated by any person convicted of certain crimes or listed on an abuse list; exempt owner of an assisted-living facility certified as of July 1, 2020; amend KRS 194A.700 to amend definitions; amend KRS 194A.707 to make changes to the appeals and renewal processes; amend KRS 194A.717 to prohibit on-site staff person from being shared with another level of care; amend KRS 194A.723 to permit the cabinet to initiate injunctive relief in Circuit Court. (Prefiled by the sponsor(s).)

**BR312** - Representative Jeffery Donohue (9/15/2020)

AN ACT relating to a living wage.  
Create a new section of KRS Chapter 337 to require any employer doing business in Kentucky that receives governmental incentives or subsidies to pay its employees a living wage. (Prefiled by the sponsor(s).)

**BR314** - Representative Joni Jenkins, Representative Lisa Willner (9/4/2020)



AN ACT relating to wages.

Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from \$95,000 to \$500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state minimum wage to \$8.20 per hour on July 1, 2021, \$9.15 per hour on July 1, 2022, \$10.10 per hour on July 1, 2023, \$11 per hour on July 1, 2024, \$12.05 per hour on July 1, 2025, \$13.10 per hour on July 1, 2026, \$13.95 per hour on July 1, 2027, and \$15 per hour on July 1, 2028; raise the state minimum wage for tipped employees to \$2.13 per hour on the effective date of the Act, \$3.05 per hour on July 1, 2022, \$3.95 per hour on July 1, 2023, and \$4.90 per hour on July 1, 2024; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.  
(Prefiled by the sponsor(s).)

**BR315** - Representative Al Gentry, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner  
(9/22/2020)

AN ACT relating to prevailing wage.

Establish new sections of KRS Chapter 337 to create a prevailing wage law for all public works projects; amend KRS 12.020, 99.480, 227.487, 336.015, 337.010, and 337.990 to conform.  
(Prefiled by the sponsor(s).)

**BR316** - Representative Rachel Roberts, Representative Joni Jenkins, Representative Lisa Willner  
(9/4/2020)

AN ACT relating to wages for employment.

Create a new section of KRS Chapter 337 to make it a discriminatory employment action if an employer asks questions about previous salary or wages, relies on previous salary when setting a new salary, or refuses to hire if an applicant does not provide previous salary, except to allow a request for information voluntarily provided in response to an offer of employment; allow previous salary to be considered when required by law, when discovered while looking at other nonsalary information, and for public employee positions; require notice to be posted for employees; amend KRS 337.990 to assess a civil penalty for a violation.  
(Prefiled by the sponsor(s).)

**BR317** - Representative Cherlynn Stevenson, Representative Joni Jenkins, Representative Lisa Willner  
(9/4/2020)

AN ACT relating to earned paid sick leave.

Create a new section of KRS Chapter 337 to require employers to provide earned paid sick leave to employees; provide that employees earn paid sick leave upon the date of hire and can use the leave after being employed for 90 days; set forth allowable uses of earned paid sick time; designate how notice of need to use sick time is provided by employees; amend KRS 337.990 to establish penalty for employers that fail to follow paid sick leave requirements.  
(Prefiled by the sponsor(s).)

**BR318** - Representative Josie Raymond, Representative Joni Jenkins, Representative Rachel Roberts,

Representative Lisa Willner  
(9/4/2020)

AN ACT relating to employment provisions for employees on parental leave.

Create a new section of KRS Chapter 337 to require employers with 50 or more employees to provide 12 weeks of paid parental leave for an employee who has been employed for at least one year; allow an employee to waive the paid parental leave; provide for the promulgation of administrative regulations.  
(Prefiled by the sponsor(s).)

**BR319** - Representative Jim Glenn, Representative Joni Jenkins, Representative Lisa Willner  
(9/16/2020)

AN ACT relating to workers' compensation.

Amend KRS 342.020 to require an employer to pay for medical benefits at the time of injury and thereafter during disability instead of 780 weeks; amend KRS 342.990 to conform.  
(Prefiled by the sponsor(s).)

**BR322** - Representative Jeffery Donohue, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner  
(9/15/2020)

AN ACT relating to employment.

Amend KRS 336.130 to delete references restricting rights of public employees to organize, associate collectively, or strike; amend KRS 336.180 definition of "labor organization" and delete definitions of "employer" and "employee"; amend KRS 336.990 to conform; amend KRS 67A.6904 to allow urban county governments to make an agreement with a labor organization to require as a condition of employment membership therein; amend KRS 67C.406 to allow consolidated local governments to make an agreement with a labor organization to require as a condition of employment membership therein; amend KRS 70.262, KRS 78.470 and KRS 78.480 to remove exceptions; amend KRS 345.050 to allow public employers to make an agreement with a labor organization to require as a condition of employment membership therein; repeal KRS 65.016, KRS 336.132 and KRS 336.134.  
(Prefiled by the sponsor(s).)

**BR324** - Representative Ashley Tackett Laferty  
(10/6/2020)

AN ACT relating to wage theft.

Create a new section of Chapter 514 to create the offense of theft of wages and establish penalties; define employer and employee; amend KRS 336.080 to indicate the secretary may enter places of employment without unreasonable delay to inspect a place of employment; amend KRS 337.020 to allow the commissioner to charge and collect past due wages; amend KRS 337.070 to require certain employers to include rate of pay, the number of hours worked, and the total amount of gross pay earned on wage statements provided to employees; amend KRS 337.320 to require employers to keep certain records for three years; create a new section of Chapter 337 to require employers to provide to an employee a written notice at the time of hire that sets forth employment terms; amend KRS 337.990 to include a civil penalty for failure to provide

the written notice to employee and maintain a copy of the signed notice.

(Prefiled by the sponsor(s).)

**BR327** - Representative Danny Bentley  
(9/16/2020)

A RESOLUTION proclaiming April 26, 2021, to be Diabetic Ketoacidosis Awareness Day in Kentucky. Proclaim April 26, 2021, to be Diabetic Ketoacidosis Awareness Day in Kentucky.  
(Prefiled by the sponsor(s).)

**BR328** - Representative Danny Bentley  
(9/16/2020)

AN ACT relating to reimbursement for pharmacist services.

Create a new section of Subtitle 12 of KRS Chapter 304 to establish certain insurance practices relating to the reimbursement of pharmacists; amend KRS 304.14-135 to establish a clean claim form for the reimbursement of certain pharmacist services or procedures; amend KRS 304.17A-844 and 304.17B-011 to conform; amend KRS 18A.225 to require the state employee health plan to comply with pharmacist reimbursement requirements; amend KRS 342.020 to require workers' compensation employers, insurers, and payment obligors to comply with pharmacist reimbursement requirements.  
(Prefiled by the sponsor(s).)

**BR329** - Representative Danny Bentley  
(9/16/2020)

AN ACT relating to the taxation of incontinence products. Amend KRS 139.472 to exempt prescription incontinence products from sales tax and use tax when sold to a person with a medical diagnosis of incontinence and a prescription for the product; amend KRS 139.190 to allow the Department of Revenue to report the exemption to the Legislative Research Commission by October 1 each year; EFFECTIVE August 1, 2021.  
(Prefiled by the sponsor(s).)

**BR333** - Representative Dean Schamore  
(10/16/2020)

AN ACT relating to the Kentucky National Guard Adoption Assistance Program and declaring an emergency. Amend KRS 36.477 to raise the amount of available assistance from the Kentucky National Guard Adoption Assistance Program; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR334** - Representative Dean Schamore, Representative Joni Jenkins, Representative Rachel Roberts  
(9/16/2020)

AN ACT relating to prevailing wage in the Commonwealth.

Create new sections of KRS Chapter 337 to create a prevailing wage law for all public works projects; amend KRS 12.020, 99.480, 227.487, 336.015, 337.010, and 337.990 to conform.

(Prefiled by the sponsor(s).)

**BR336** - Representative Maria Sorolis, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner  
(9/16/2020)

AN ACT relating to leave from employment.  
Amend KRS 337.415, relating to court-ordered appearances by employees, to prohibit employers from discharging or retaliating against an employee who is a crime victim when the employee takes leave to attend proceedings associated with a crime; require an employee to give an employer reasonable notice to take leave when practicable; provide guidelines for use of paid leave; require the employer to maintain confidentiality of records and communication with employee crime victim; create a private right of action for improper discharge, discrimination, retaliation, and failing to maintain confidentiality; define terms; amend KRS 337.990 to establish penalties in the case of violation by employer.  
(Prefiled by the sponsor(s).)

**BR344** - Representative Jason Nemes  
(9/18/2020)

AN ACT relating to paid parental leave.  
Create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and to establish requirements for the paid leave of absence; amend KRS 18A.025 and 18A.110 to conform.  
(Prefiled by the sponsor(s).)

**BR346** - Representative Dean Schamore  
(9/16/2020)

AN ACT relating to public procurement.  
Create new sections of KRS Chapter 45A to set forth findings of the General Assembly and establish a policy of the Commonwealth of Kentucky to promote the Kentucky and United States economies by requiring a preference for iron, steel, aluminum, and manufactured goods produced in Kentucky and the United States; define “manufactured in Kentucky,” “manufactured in the United States,” and “United States”; require preference for iron, steel, aluminum, and manufactured goods made in Kentucky in construction and maintenance contracts and subcontracts; provide for a waiver of the Kentucky preference requirement; require preference for iron, steel, aluminum, and manufactured goods made in the United States if the Kentucky waiver is granted; provide for a waiver of the United States preference requirement; establish a short title of “Kentucky Buy American Act”; amend KRS 45A.343, 45A.352, 65.027, 162.070, 164A.575, 176.080, and 424.260 to require compliance.  
(Prefiled by the sponsor(s).)

**BR349** - Representative Rob Wiederstein  
(10/7/2020)

AN ACT relating to adopting the most cost-effective alternative in administrative regulations having a major economic impact on the Kentucky economy.  
Create new sections of KRS Chapter 13A to establish requirements and procedures for an administrative regulation that constitutes a major economic action; create the Regulatory Economic Analysis Advisory Group to consult on these regulations; set the group’s membership, powers, and duties; require a promulgating agency to provide listed documents to the group and the public at least 60 days before filing the regulation; direct an agency to conduct and publish a detailed analysis of any major economic action regulation, including a cost-benefit analysis; establish filing requirements for these regulations; require an agency to publicly provide a framework for assessing the regulation; designate a short title of the “Kentucky Regulatory Cost Minimization Act of 2021”; amend KRS 13A.010 to define a major economic action; amend KRS 13A.030 to add a defective major economic action to the list of reasons a subcommittee may find a regulation deficient; amend KRS 13A.3104 to establish certification letter procedures for a major economic action regulation; stagger the initial terms of the appointed members of the advisory group.  
(Prefiled by the sponsor(s).)

**BR350** - Representative Rob Wiederstein  
(10/7/2020)

AN ACT relating to eliminating the certificate of need in order to control healthcare costs through competition and declaring an emergency.  
Amend KRS 13B.020 to delete reference to certificate of need hearings; amend KRS 194A.010 to delete reference to the certificate of need and the state health plan; amend KRS 194A.030 to delete reference to the certificate of need; amend KRS 211.192 to conform; amend KRS 205.634 to delete requirement for certificate of need; amend KRS 216.361 to delete requirement for certificate of need; amend KRS 216.380 to delete requirement for certificate of need and reference to the state health plan; amend KRS 216.560 to conform; amend KRS 216.885 to delete requirement for certificate of need; amend KRS 216B.015 to delete and correct definitions relating to certificate of need; amend KRS 216B.020 to delete exemptions to the certificate of need; amend KRS 216B.042 to delete reference to the certificate of need; amend KRS 216B.0445 to delete the requirement for a certificate of need; amend KRS 216B.065 to delete the requirement for a certificate of need; amend KRS 216B.066 to delete the requirement for a certificate of need; amend KRS 216B.115 to delete reference to the certificate of need; amend KRS 216B.131 to delete reference to the certificate of need; amend KRS 216B.185 to conform; amend KRS 216B.250 to change Human Resources to Health and Family Services; amend KRS 216B.300 to conform; amend KRS 216B.332 to delete exemption from certificate of need; amend KRS 216B.455 to delete the requirement for a certificate of need; amend KRS 216B.457 to delete the requirement for a certificate of need; amend KRS 216B.990 to delete penalty for not obtaining a certificate of need; amend KRS 218A.175 to conform; amend KRS 304.17-312, 304.17-313, 304.17-317, 304.18-035, 304.18-037, 304.32-156, 304.32-280, 304.38-210, and 311.760 to replace the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board with the Cabinet for Health and Family Services; amend KRS 304.17A-147 to conform; amend

KRS 304.17A-1473 to conform; amend KRS 304.38-020 to delete reference to the certificate of need; amend KRS 304.38-040 to delete required evidence of a certificate of need; amend KRS 304.38-090 and KRS 304.38-130 to replace the Kentucky Certificate of Need and Licensure Board with the Cabinet for Health and Family Services; amend KRS 311.377 to delete references to the certificate of need; amend KRS 314.027 to delete reference to the certificate of need; amend KRS 347.040 to delete reference to the state health plan; repeal KRS 211.9523, 216B.010, 216B.035, 216B.040, 216B.061, 216B.0615, 216B.062, 216B.085, 216B.086, 216B.090, 216B.095, 216B.125, 216B.130, and 216B.180; establish short title; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR353** - Representative Buddy Wheatley  
(9/24/2020)

AN ACT relating to collective bargaining for public employees.  
Create a new section of KRS Chapter 336, relating to collective bargaining for public employees; amend KRS 336.010 to define “public employees”; amend KRS 336.130 to allow employees of the Commonwealth of Kentucky to collectively bargain.  
(Prefiled by the sponsor(s).)

**BR354** - Representative Rob Wiederstein  
(10/19/2020)

AN ACT relating to health care to provide for an all-payer claims database and making an appropriation therefor.  
Create a new section of KRS Chapter 194A to require the executive director of the Office of Health Data and Analytics to establish an advisory committee to make recommendations regarding the creation of a Kentucky all-payer claims database; establish the Kentucky all-payer claims database fund; require the executive director to establish the database if certain conditions are met; set forth requirements for the database; amend KRS 304.2-100 to require the commissioner of the Department of Insurance to assist; create a new section of Subtitle 99 of KRS Chapter 304 to require the commissioner to promulgate administrative regulations designating the assessment of a fine for persons that do not comply with reporting requirements; establish short title; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR357** - Representative Josie Raymond  
(10/6/2020)

AN ACT related to preschool education programs.  
Amend KRS 157.320 to define “at-risk”; amend KRS 157.3175 to expand eligibility for preschool education programs to children who reside in households with an income at or below 200% of the federal poverty level.  
(Prefiled by the sponsor(s).)

**BR362** - Representative Maria Sorolis  
(9/18/2020)

AN ACT relating to election districts and making an appropriation therefor.  
Create new sections of KRS Chapter 5 to establish the Advisory Redistricting Commission, which shall be composed of members appointed by the General Assembly and members of the public at large; define terms; establish commissioner pay, conditions, powers, and duties; provide that commissioners’ terms correlate with obligations of each census cycle; establish the conditions, powers, and duties of the commission; require the commission to draft redistricting plans for legislative and congressional districts, with parameters prescribed; establish standards to be followed by the commission for commissioners who develop plans; require the commission to submit its redistricting plans to the Legislative Research Commission; require the General Assembly to consider the commission’s plans; allow the General Assembly to enact or reject the plans of the commission by a date certain or to return to the commission for adjustment; provide that if the General Assembly does not enact the plans, the plans shall be returned to the commission, which may incorporate changes requested by the General Assembly, but shall not be required to incorporate changes; require the commission to submit to the General Assembly new redistricting plans for enactment at a date certain; allow General Assembly to enact its own redistricting plans after a date certain; provide for penalties and fine upon conviction of persons attempting to influence, or commissioners accepting influence, per the duties of the commission; include severability clause and delay clause; amend KRS 5.005 to remove the Secretary of State being named as a defendant in any action challenging the constitutionality of any legislative district and replace with the Advisory Redistricting Commission being named the defendant; provide that the Act may be cited as the “Fair Maps Act.”  
(Prefiled by the sponsor(s).)

**BR371** - Representative Buddy Wheatley, Representative Rachel Roberts  
(10/13/2020)

AN ACT relating to elections.  
Amend 118.025 to remove straight-party voting as a ballot option in a regular election; amend KRS 117.125, 117.381, 117.155, and 117.205 to conform.  
(Prefiled by the sponsor(s).)

**BR379** - Senator John Schickel  
(10/5/2020)

Honor Randy Poe upon being appointed to the Kentucky Board of Education.  
(Prefiled by the sponsor(s).)

**BR389** - Representative Kimberly Moser  
(9/25/2020)

A CONCURRENT RESOLUTION establishing the Severe Mental Illness Task Force.  
Create the Severe Mental Illness Task Force to study the provision of mental health services to adults with a severe mental illness; outline task force membership; require the task force to meet monthly during the 2021 Interim and to submit findings and recommendations to the Legislative Research Commission by December 1, 2021.

(Prefiled by the sponsor(s).)

**BR415** - Representative Jeffery Donohue  
(9/30/2020)

AN ACT relating to railroads.  
Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.  
(Prefiled by the sponsor(s).)

**BR418** - Senator Richard Girdler  
(10/12/2020)

AN ACT relating to immunization and declaring an emergency.  
Amend KRS 214.036 to prohibit required immunization of any person by any state agency or instrumentality; create a new section of KRS Chapter 338 to prohibit required immunization of any employee by an employer as defined in KRS 338.015; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR467** - Representative Nancy Tate  
(10/14/2020)

AN ACT relating to life insurance for members of the Kentucky National Guard.  
Create a new section of KRS Chapter 38 to set forth the adjutant general’s duties regarding the state-sponsored group life insurance program for the Kentucky National Guard.  
(Prefiled by the sponsor(s).)

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\* - denotes primary sponsorship of BRs

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## House

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**Police, State**

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# Testimony highlights potential for local government power over fluoride, tobacco marketing

by Jordan Hensley

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FRANKFORT— Advocates for and against adding fluoride to tap water testified before lawmakers on the Interim Joint Committee on Local Government on Sept 22.

For decades, the Centers for Disease Control and Prevention has recommended that safe amounts of fluoride be added to tap water to prevent tooth decay. State regulations require water to be fluoridated in most water districts across the state.

Sen. Stephen West, R-Paris, opened the discussion on giving local governments control over water fluoridation.

Although he has concerns about fluoridation, West said he isn't "anti-dental care" and that the state could work on ways to enhance dental care in Kentucky, especially in the eastern part of the state where dental issues are more prevalent.

Cindi Baston, a mother and registered nurse, then shared how she believes fluoride in drinking water has negatively impacted her family.

"My sister was diagnosed with hypothyroidism, which is a concern for ingesting fluoride," Baston said. "And her physician asked her to filter it out of her water."

Baston also said her daughter has experienced dental fluorosis, which is a condition that causes changes in the tooth enamel due consumption of fluoride during a child's teeth-forming years.

Dr. John Kall, a Louisville dentist and a fellow in the Academy of General Dentistry, also spoke in favor of giving local governments the power to remove fluoride from drinking water.

"In my opinion, and from my perspective even as a dentist, the core issue here is about freedom of choice, informed consent and whether our state government has the right to put the brains of my current and future grandchildren at an increased risk of harm," Kall said.

Kall said peer-reviewed research from medical journals shows fluoride in tap water results in loss of IQ, increased levels of attention deficit hyperactivity disorder (ADHD) and increased thyroid issues.

Dr. Darren Greenwell, a Radcliff dentist and president of the Kentucky Dental Association, disagreed.

"Fluoridation has been the second, single most effective public health measure to prevent tooth decay," Greenwell said. "... I have seen on a daily basis the devastation of tooth decay in my patients, children, adults."

Greenwell argued that there is also "good" science showing fluoridation is safe and effective in preventing tooth decay. He also said when fluoride was removed from tap water in Juneau, Alaska, the city saw an increase the amount of Medicaid dollars spent on repairing children's teeth in the aftermath.

On the topic of local government control and public health, Sen. Julie Raque Adams, R-Louisville and Rep. Kimberly Poore Moser, R-Taylor Mill, testified in favor of giving local governments more control over tobacco sales and marketing.

"I believe that allowing local control of the marketing and the sales of tobacco products in Kentucky is the next logical, cost free step for Kentucky to reduce tobacco-related illnesses and the associate healthcare expenses as well as the business productivity and losses in the Commonwealth," Moser said.

During her presentation, Moser cited statistics that show Kentucky ranks high in smoking-related illnesses.

"These smoking-related health issues are very expensive in our state," Moser said. "The annual cost of healthcare related to smoking-related illnesses is \$1.92 billion annually."

The piece of legislation in mind would allow counties and cities to require health warnings on retail tobacco displays, limit tobacco product advertising in stores near schools and playgrounds and create buffer zones between schools and tobacco retailers.

"I believe that local communities ought to have the right to adopt measures that their constituents want and that those communities are ready to enforce," Adams said.



# Legislative panel studies updating ethics code

by Jim Hannah

FRANKFORT – A group of lawmakers recently discussed a proposal that would incorporate changes to the legislative code of ethics that have been recommended by the Kentucky Legislative Ethics Commission.

Rep. Kimberly Poor Moser, R-Taylor Mill, testified during the Sept. 22 meeting of the Interim Joint Committee on State Government that she hopes to file legislation during the 2021 Regular Session that would make sexual harassment or discrimination by legislators a form of ethical misconduct. She said that because the current ethics code contains no specific prohibitions against sexual harassment or discrimination by legislators, the ethics commission has applied general provisions of the code to address sexual harassment complaints.

Moser and Rep. Kelly Flood, D-Lexington, co-sponsored House Bill 168 during the 2020 Regular Session to make the recommended changes to the ethics code. Some provisions were ultimately enacted in Senate Bill 157 from that session. Moser said the proposed bill for the next session would build on that momentum.

The proposed bill would specifically define sexual harassment and discrimination as those acts that are unlawful under existing federal and state law, Moser said. It would do this, in part, by giving specific examples of prohibited conduct, such as unwanted sexual advances or sexually demeaning behavior. She said the penalties for ethical misconduct could include a \$2,000 fine, public reprimand and possible recommendation to the House or Senate for further action such as censure or expulsion.

Laura Hendrix, the ethics commission's executive director, testified that the proposed changes are a result of a bipartisan effort from Moser, Flood and others.

"We feel like defining it in this way, rather than leaving it in the catch-all provision where it lives now, would really assist the General Assembly itself – the people who work here and the legislators," she said of the proposed bill. "It puts everyone on the same page."

Rep. James Tipton, R-Taylorsville, said the proposal is the result of three years of work.

"Quite frankly ... I find it troubling and somewhat embarrassing that we, as the General Assembly, have not passed this legislation," he said. "As elected officials, we ask our constituents to put their trust and their faith in us. For us to not establish this common-sense rule to ourselves is very troubling."

Rep. Joe Graviss, D-Versailles, said the bipartisan effort to change the ethics code is commendable because it is the responsibility of elected officials to serve as role models for the type of behavior that constituents expect.

"I'm excited about getting it over the goal line," Graviss said of the prospects of the proposal becoming law.

Rep. Tom Burch, D-Louisville, said he worked for General Electric for 39 years, and any manager who was accused of sexual harassment was fired. He said legislators should not be treated differently.

"There is no reason anyone should have to work in fear of ... being harassed," Burch said.

Committee Co-chair Sen. Wil Schroder, R-Wilder, asked what the consequences of a legislator not paying the \$2,000 fine recommended in the proposed legislation. Hendrix said the ethics commission could take a violator to court for not paying a fine or for failing to comply with rulings of the commission. She added that the commission would not have the power to deem a legislator ineligible to run for re-election.



Rep. Kimberly Poore Moser, R-Taylor Mill, testified about proposed legislation that would incorporate changes to the legislative code of ethics during the Sept. 22 meeting of the Interim Joint Committee on State Government.

# 2021 REGULAR SESSION CALENDAR

## JANUARY – PART I

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 New Years' Day	2
3	4	5 Part I Convenes (1)	6 (2)	7 (3)	8 (4)	9
10	11	12	13	14	15	16
17	18 Martin Luther King, Jr. Day	19	20	21	22	23
24	25	26	27	28	29	30
31						

## FEBRUARY – PART II

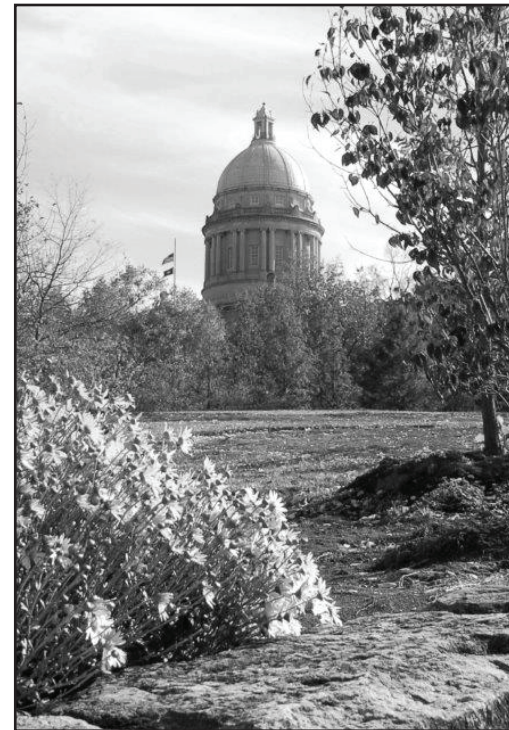
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 Part II Convenes (5)	3 (6)	4 (7)	5 Last Day for Bill Requests (8)	6
7	8 (9)	9 (10)	10 (11)	11 (12)	12 Last day for new Senate bills (13)	13
14	15 Presidents' Day HOLIDAY	16 Last day for new House Bills (14)	17 (15)	18 (16)	19 (17)	20
21	22	23 (18)	24 (19)	25 (20)	26 (21)	27
28						

Denotes break between Parts I and II. Bill drafts may be requested during this period for introduction when Part II convenes.

## MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 (22)	3 (23)	4 (24)	5	6
7	8 (25)	9 (26)	10 (27)			
14	15 Concurrence (28)	16 Concurrence (29)	17 VETO	18 VETO	19 VETO	20 VETO
21	22 VETO	23 VETO	24 VETO	25 VETO	26 VETO	27 VETO
28	29	30 SINE DIE (30)	31			

( ) Denotes Legislative Day



## Calendar set for General Assembly's 2021 session

*LRC Public Information staff report*

FRANKFORT – The 2021 Regular Session of the Kentucky General Assembly is scheduled to begin on Jan. 5 and will last 30 legislative days.

As usual during an odd-numbered year, the session will have two parts. The first four days of the session – Jan. 5 to Jan. 8 – will focus on organizational work, such as electing legislative leaders, adopting rules of procedure and organizing committees. The introduction and consideration of legislation can also begin during this time.

The second part of the session begins on Feb. 2, with final adjournment scheduled for March 30.

The veto recess – the period of time when lawmakers commonly return to their home districts while the governor considers the possibility of issuing vetoes – begins on March 17. Lawmakers will return to the Capitol on March 30 for the final day of the session.

The 2021 session calendar is online at: [https://legislature.ky.gov/Documents/21RS\\_Calendar.pdf](https://legislature.ky.gov/Documents/21RS_Calendar.pdf).

2020 Interim  
**LEGISLATIVE  
RECORD**

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The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

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