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General Assembly to begin 2022 session on Jan. 4

Staff Report - *LRC Public Information*

FRANKFORT – State lawmakers have finalized a calendar for the 2022 Regular Session with plans to convene the General Assembly on Jan. 4 and adjourn April 14.

The session is scheduled to last 60 days, the maximum allowed under the state constitution in even-numbered years. Lawmakers will have until Feb. 28 to introduce bills in the House and March 2 to introduce bills in the Senate.

The General Assembly will not meet on Jan. 17 in observance of Martin Luther King, Jr. Day or on Feb. 21 in observance of Presidents' Day. The calendar also provides a 10-day veto recess from March 31 through April 12, a time when lawmakers typically return to their home districts to await possible vetoes from the governor.

Legislators are scheduled to return on April 13 and 14 for the final two days of the session.

The 2022 session calendar is available at: https://legislature.ky.gov/Documents/22RS_Calendar.pdf



Lawmakers hear testimony on student mental health crisis

by Jordan Hensley - LRC Public Information

FRANKFORT — Children of all ages across the Commonwealth are facing a major mental health crisis.

Student mental health professionals testified Oct. 5 before the Interim Joint Committee on Education on what the Kentucky legislature can do to help students suffering from mental illness and suicidal ideation.

The speakers proposed legislative solutions that include more mental health first aid training for teachers at all grade levels and more social-emotional learning programs to prevent mental health issues before they begin. A workforce shortage in the mental health field is also a concern along with a dearth of funds to hire professionals in schools.

Linda Tyree, the crisis response director for the Green River Regional Educational Cooperative (GRREC), said the cooperative is typically called into schools after a death or serious injury of a student or staff member. More recently, GRREC has been called in to aid students suffering from depression, anxiety and suicidal ideation.

The COVID-19 pandemic has led to a nationwide mental health crisis, especially for students who spent most of the last school year learning remotely, Tyree said.

“We know there was a lot of exposure to trauma, to stress, family stress, and even exposure to pornography when they’re learning online,” Tyree said. These challenges, along with the normal problems of adolescence, have taken a major toll, she added.

Amy Riley, a school counselor at Mercer County Schools, said her school is suffering severely from the student mental health crisis.

“There were weeks this past spring, shortly after returning from virtual learning, that we would assess two to three students a day for viable suicidal threats,” Riley said. “Many students had to be hospitalized or closely monitored.”

Riley told lawmakers she works with children who are 8 to 10-years-old and before coming



Rep. Shane Baker, R-Somerset, asks what parents can do to help the student mental health crisis during the Interim Joint Committee on Education meeting Oct. 5.

to testify, she did a suicide risk assessment on a 9-year-old.

Riley said Kentucky’s schools are in desperate need of more mental health professionals.

“It is my earnest plea that when making crucial funding decisions you not forget the mental health needs of Kentucky students,” Riley said. “Any money and resources spent on mental health needs in Kentucky schools is money that will have an infinite return for the investment.”

Marsha Duncan, a social-emotional learning specialist for LaRue County Schools, testified that in the last two years she’s done risk assessments on children as young as third-grade, which was a first for her in more than 20 years in public education.

“The needs are many, but the resources are

few,” Duncan said, adding a lack of people entering the mental health field and a lack of funding for schools and communities to address mental health needs is a major issue facing the Commonwealth.

Duncan said many students are dealing with grief. Some are mourning the loss of someone they knew to COVID-19 and others are mourning the loss of fun activities and normalcy. Children are also afraid of getting sick or losing someone else they love, she added, and adults in schools are suffering from mental health issues too.

Following the testimony, committee co-chair Rep. Regina Huff, R-Williamsburg, asked if the speakers had statistics on the youth suicide rate in Kentucky.

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Bipartisan bill extending unemployment eligibility to domestic violence victims in the works

by Jordan Hensley - *LRC Public Information*

FRANKFORT— Domestic violence victims often face many barriers when it comes to escaping their abuser.

Two Kentucky lawmakers shared plans Sept. 23 with the Interim Joint Committee on Economic Development and Workforce Investment that they hope will eliminate one of those barriers.

Rep. Nima Kulkarni, D-Louisville, and Rep. Samara Heavrin, R-Leitchfield, are drafting a measure to allow anyone who loses their job or must quit their job due to dating violence or abuse, sexual assault or stalking to qualify for unemployment insurance.

Kulkarni, Heavrin and others filed a similar bill during the 2021 regular legislative session, but the measure did not make it to the House or Senate floor for a vote. Kulkarni said they hope to pre-file the bill again for the 2022 regular session.

“This is something that I’ve worked on for the past few sessions that was brought to me by constituents,” Kulkarni said. “And it’s an issue that at the same time it is desperate and urgent, (it is) something that is also clouded with silence and a lot of stigma attached to it.”

Katie Showalter, a social work professor at the University of Kentucky and a gender-based violence and employment expert, testified that gender-based violence is a major issue in Kentucky.

“Kentucky is the second highest state in the U.S. for rates of domestic violence with 1 in 3 women and 1 in 8 men experiencing (domestic violence) in their lifetime,” Showalter said.

Survivors often experience 15 days of work loss per year, and many victims are financially dependent on their abusive partners, Showalter added. Abusers often use control of finances to further isolate and abuse their partners.

“Income loss is a huge issue for survivors, but it is also tied to the



Rep. Nima Kulkarni, D-Louisville, and Rep. Samara Heavrin, R-Leitchfield, present a bill they are drafting for the 2022 regular session to help domestic violence victims qualify for unemployment insurance during the Interim Joint Committee on Economic Development and Workforce Investment meeting on Sept. 23.

loss of other resources like social relationships and benefits for the survivor,” Showalter said. “So it’s really like a chain reaction that survivors are experiencing...”

“We are seeing lots of unemployment and specifically unemployment insurance would really help victims who are experiencing intimate partner violence, sexual violence or stalking to regain stability.”

Kulkarni said 39 other states already extend some form of unemployment insurance benefits to domestic violence survivors.

The current draft of Kulkarni and Heavrin’s bill would require survivors to provide documentation in order to qualify for benefits. Currently, that documentation could be police or court records, a sworn statement from the survivor or other documentation from a shelter worker, attorney, member of the clergy or medical professional.

Kulkarni said benefits would be charged against the state’s pooled account and would not be a financial burden on employers.

Sen. Phillip Wheeler, R-Pikeville, asked if there would be any sort of counseling requirement. Kulkarni said the current draft of the bill does not have one, but added that some states waive the job search requirement if an applicant is seeking counseling.

Heavrin also responded that she is hesitant to add a counseling requirement since not everyone is ready to seek counseling right away.

“They’re not always able to go to counseling because the job might not allow them, so hopefully we can find a middle there that is helpful with the employee and employer,” Heavrin said. “But just to be empathetic, I think it is hard to push somebody to do counseling until they’re ready.”

Heavrin added survivors often have children and other things to consider when seeking help, but she is open to discussing the issue.

Kulkarni said they hope to work with more legislators and stakeholders before finalizing the draft and pre-filing the bill.

Legislative panel hears testimony on issues facing municipal utility companies

by Jordan Hensley - LRC Public Information

FRANKFORT — Three representatives from the municipal utility industry informed lawmakers on Sept. 21 about how the COVID-19 pandemic is affecting local power, water, sewer, internet and telecommunication providers.

The representatives said action from the Kentucky General Assembly may be needed in the 2022 legislative session to help municipal utility companies combat workforce and infrastructure issues, among others.

Gary Larimore, executive director of the Kentucky Rural Water Association, told the Interim Joint Committee on Local Government his top legislative priority would be state financial incentives for employers that expand water and wastewater apprenticeships.

“We do have workforce issues, and we do need more qualified people,” he said.

Sen. Phillip Wheeler, R-Pikeville, asked what the legislature can do to support rural areas in providing water and wastewater services.

While the legislature recently allocated millions toward increasing access to clean water, Larimore said outdated infrastructure needs to be replaced in many areas, even in water districts with infrastructure that is only 50 years old.



Sen. Phillip Wheeler, R-Pikeville, asks a question about what the legislature can do to help with water access during the Interim Joint Meeting on Local Government on Sept. 21.

Workforce and infrastructure issues are not the only problems facing municipal utility companies. Many are facing financial issues. Larimore used a water district covering three

Kentucky counties as an example.

The Warren, Butler and Simpson County

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Student mental health, from page 2

Comparing a three-month period in the last year to the same time in 2019, the youth suicide rate increased 57%, Tyree said. Just last Thanksgiving, GRREC assisted a school district following the suicide of an 11-year-old. Tyree said that's the youngest death by suicide she's seen.

Rep. Shane Baker, R-Somerset, asked what parents, educators and community members can do in regards to prevention.

Riley responded that one thing parents can do is become very involved in the social-emotional learning at their child's school and to advocate for a strong tier-one social-emotional learning curriculum.

Tyree agreed, adding that tier-one social-emotional learning means

that every kindergartener and first-grade student participates in lessons on how to articulate their feelings, regulate their feelings, and develop other social-emotional skills.

Although lawmakers cannot take legislative action on this issue until 2022, Rep. Tina Bojanowski, D-Louisville, who is also an elementary special education teacher, said she would strongly support additional funding for mental health counselors in schools.

Rep. James Tipton, R-Taylorsville, said he would reach out to university presidents about their mental health professional programs and recruitment.

Proposed bill aims to give first responders COVID-19 death benefits

by Jordan Hensley - LRC Public Information

FRANKFORT— While most of the world quarantined, first responders faced the COVID-19 pandemic head on.

Unfortunately, some first responders have died from COVID-19 after being exposed in the line of duty, and their families quickly learned they did not qualify for first responder death benefits.

Rep. Thomas Huff, R-Shepherdsville, told lawmakers on the Interim Joint Committee on State Government on Oct. 19 he hopes to change that with Bill Request 430.

Huff was inspired to write the legislation after tragedy struck his home district. Last December, the Zoneton Fire Protection District in Bullitt County lost its fire chief and its interim fire chief to COVID-19 related complications within two months of each other.

“This is a bill for first responders; these are our heroes,” Huff said. “They jump in there when your house is on fire... they don’t take your temperature. They don’t put a mask on. They run in there and get you out.”



Rep. Thomas Huff, R-Shepherdsville, presents Bill Request 430 to lawmakers on the Interim Joint Committee on State Government on Oct. 19 alongside Zoneton Fire Protection District Chief Kevin Moulton.

BR 430 would amend current statute on death benefits to include COVID-19 on the list of illnesses that can qualify a deceased first responder’s family for death benefits. Statute already defines first responders as police officers, firefighters, emergency medical services

personnel, correctional officers and active duty Kentucky National Guard members.

Huff told lawmakers BR 430 would be retroactive, meaning any first responders who died due to COVID-19 complications since March 6, 2020, would qualify. Huff said when he prefiled the bill on Aug. 30, there had been 11 first responder deaths in Kentucky. He expects more have died since then.

If the bill becomes law, families who qualify would receive \$80,000.

Minority Caucus Chair Rep. Derrick Graham, D-Frankfort, said he would like to see medical personnel who work in correctional facilities included in the bill.

“I think they’re first responders too,” Graham said. “... That’s the thing I think many of us are concerned about. We don’t want to leave out anyone who are first responders.”

Lawmakers cannot take action on BR 430 until the 2022 legislative session, which begins Jan. 4.

The next Interim Joint Committee on State Government meeting is scheduled for Nov. 22 at 1 p.m.

Municipal utilities,

from page 4

Water District saw net income decrease by 35% during the 2020 calendar year, Larimore said.

A reduction of customer usage has played a major role. So has lost revenue from a moratorium on late fees and service suspensions during the early months of the pandemic, when many people were out of work, Larimore added.

“That left us with over \$660,000 worth of delinquent electric and internet bills,” said Jeff Hurd, general manager of the Hopkinsville Electric System (HES) and president of the Kentucky Municipal Utilities Association.

Municipal utilities have been working to recuperate some of the lost revenue related to late fees. However, it is unlikely every customer will be able to pay off their debt, despite financial assistance being offered to customers, officials reported.

For HES, only 84% of customers with delinquent bills completed their six month repayment plan, Hurd said. He also estimates HES lost around \$55,000 in late fee payment revenue.

The cause for reduction of customer usage

varies, Larimore said. Some areas have been monitoring a predicted decrease in population but the pandemic did exacerbate the issue.

Chase Azevedo, general manager of Georgetown Municipal Utilities, said the industry is also having supply chain and inflation issues. Chemicals to treat wastewater are in short supply, and prices of certain essential materials continue to fluctuate.

“Obviously this is all going to impact rates,” Larimore said. “Water rates are going to go up. That’s just inevitable.”



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Committee Meetings

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 3rd Meeting
of the 2021 Interim
September 15, 2021

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Agriculture was held jointly with the Interim Joint Committee on Natural Resources and Energy on Wednesday, September 15, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; Senators Jared Carpenter, David P. Givens, Jason Howell, Dennis Parrett, Damon Thayer, Robin L. Webb, Stephen West, and Whitney Westerfield, Representatives, Jonathan Dixon, Myron Dossett, Daniel Fister, Kelly Flood, Derrick Graham, Mark Hart, Kim King, Matthew Koch, Nima Kulkarni, Shawn McPherson, Phillip Pratt, Josie Raymond, Brandon Reed, Cherlynn Stevenson, Nancy Tate, Walker Thomas, and James Tipton.

Guests: Rebecca Goodman, Secretary, Energy and Environment Cabinet; Kenya Stump, Executive Director, Office of Energy Policy, Energy and Environment Cabinet; Kent Chandler, Chair, Public Service Commission; Dr. Alison Davis, H.B. Price Professor, Department of Agricultural Economics, University of Kentucky; Tom FitzGerald, Executive Director, Kentucky Resources Council; Shellie Hampton, Legislative Director, Kentucky Association of Counties; Will Mayer, Executive Director, Clark Coalition; Julie Burton, Vice President, Citizens Voice of Mason County, Inc.; Mark Walter, Director of Legislative & Regulatory Affairs, Savion, LLC; Emily Williams, Director of Development for Kentucky, Geenex Solar; and Betsy Engelking, VP of Policy and Strategy, National Grid Renewables.

LRC Staff: Stefan Kasacavage, Kelly Ludwig, Nathaniel Smith, Janine Coy, Susan Spoonamore, Committee Assistant, and Rachel Hartley, Committee Assistant.

The August 26, 2021, minutes were approved by voice vote, without objection, upon motion of Representative Reed and seconded by Representative Hart.

Large Scale Solar and Land Use

Secretary Rebecca Goodman stated the cost of installing solar has declined, which has made solar competitive as an energy resource. Kentucky has many features that make solar feasible including: access to two wholesale electricity markets, PJM

Interconnection and Midcontinent Independent System Operator (MISO), and land areas with favorable characteristics that are near robust and reliable transmission infrastructure. There is increased interest for solar energy production because there is corporate demand for renewable energy.

Local communities can control the development of solar projects through local planning and zoning ordinances. Agricultural land can be maintained along with solar development, and installing a solar project is a decision made between the landowning farmer and the developer.

Kenya Stump stated the Kentucky Office of Energy Policy (OEP) is Kentucky's non-regulatory state energy policy program. It was established by the General Assembly during the 2018 legislative session through a reorganization of the Department for Energy Development and Independence. The OEP is designated as the state authority on energy policy issues affecting the citizens of the Commonwealth.

Solar siting in Kentucky is a local land use planning decision. Kentucky has an established process through the Kentucky Electric Generation and Transmission Siting Board for review of any independent solar project meeting the definition of a merchant generating facility. The OEP remains resource-neutral and provides information to all stakeholders for informed decision making.

In Kentucky renewable generating technologies accounted for approximately eight percent of the total net electricity generation in 2020. The largest share comes from the hydroelectric resources.

Currently, there are 28 merchant solar projects pending with the Kentucky Electric Generation and Transmission Siting Board. The projects represent 3,267 megawatts of proposed capacity and will use 30,000 acres. In general, one megawatt of installed solar requires 10 acres. Out of 25 million total acres in Kentucky, approximately 12 million acres is used for agriculture. The proposed 30,000 acres represents 0.23 percent of the agricultural land.

The National Laboratories of the United States Department of Energy uses models to predict future solar use. The impact of agricultural land use by 2040 is projected to be one percent. The most aggressive modeling for solar use projects three percent use of agricultural land, which would represent 55 percent of Kentucky's net electricity generation.

In response to Senator Wheeler, Ms. Stump stated there are no state incentives for solar, but there are federal tax credits. There would be an expanded workforce for construction at the onset of the project, but only three to six workers are required to operate the solar arrays once constructed.

In response to Representative Bowling, Ms. Stump stated any large scale utility project that would have ratepayer impact would be evaluated by the Public Service Commission (PSC). There is increased solar

development because the cost has declined to be cost competitive with coal and natural gas resources. Solar cannot replace baseload resources unless solar is paired with a storage technology.

Merchant Solar Siting and the Electric Generation and Transmission Siting Board

Kent Chandler stated the PSC is a three-person panel that regulates the rates and service of nonmunicipal utilities across the Commonwealth, except electric providers that receive power from the Tennessee Valley Authority.

Merchant generation is a generation facility that is not owned by a utility. A siting board is created each time a merchant generator proposes to build a facility and applies for a construction certificate. The county or counties where the facility will be located dictate some of the members on the siting board for that project. The siting board review focuses on such factors as noise, visual impacts, economic impacts, and the potential impact on transmission lines. There are always five permanent members of any siting board including: the three members of the PSC, the secretary of the EEC or designee, and the secretary of the Cabinet for Economic Development or designee. There are also two local members, with one appointed by the Governor.

Mr. Chandler provided a brief overview of the siting board process and made recommendations for statutory changes including the need for an applicant to provide an explicit decommissioning plan to be approved by the siting board.

In response to Representative Gooch, Mr. Chandler stated the PSC is only involved in the siting process for merchant solar.

In response to Senator Hornback, Mr. Chandler stated individual projects are owned by Limited Liability Corporations (LLCs). It is important to know who owns the LLCs to know if they have a good environmental history and if they satisfy legal standards. Senator Hornback stated the taxpayers should not pay for decommissioning, instead it should be paid for by the LLCs.

Relationship Between Local Planning and Zoning and the State Solar Siting Process

Tom FitzGerald stated public involvement in the siting process is very important. The public needs to understand plans that are developed in their communities and the companies involved.

There was a need to find the best practices for zoning around the country and adapting them for Kentucky. The first issue for consideration is setbacks, which local communities can determine through zoning and planning ordinances. Setbacks should apply to property lines, and not just the neighborhood as a whole. The second issue is the threshold for siting board jurisdiction should be lowered from 10 megawatt projects or greater because on average, 5-10 acres is used to produce one megawatt. The third issue is a construction certificate is required only when a facility is commenced to be constructed. A property can be damaged even before construction begins. Local communities should consider defining what activities are allowed on a property where a solar array has been proposed. The fourth issue is public

notice should be required before property acquisition. The last issue is there is no clarity in the siting board statute as to whether local zoning approval or a construction certificate is needed first.

Adequate funding of decommissioning plans is essential. The landowner should not have to enforce any lease agreement against an LLC at the end of the solar array's useful life. A bond should be sufficient to assure that if the LLC defaults, then a third party could perform the decommissioning.

Shellie Hampton stated there has been increased interest in some counties about leasing or purchasing property for solar energy generation. There are 57 counties that have some form of planning and zoning. The Kentucky Association of Counties provides information to members regarding solar projects and helps to educate them on current law. County level decision making is critical.

Consideration for Future Utility Scale Solar Farm Developments

Dr. Alison Davis, H.B. Price Professor, Department of Agricultural Economics, University of Kentucky, stated that she had facilitated numerous land use discussions regarding the optional placement of utility-scale solar farms in and around residential, commercial agriculture, and industrial. She said that Kentucky was not yet a significant player in utility-scale solar farming. However there are several other states that have been involved with solar farming for several years, which means that Kentucky and local communities will be able to review their policies and comprehensive plans in order to make sound decisions. Dr. Davis stated that it is important that individual farmers, communities, and local leaders prioritize lands of marginal use for utility-scale solar farming instead of using prime farm land. Other considerations should include having lease contracts reviewed by a lawyer familiar with industry practices and requiring that contracts contain stipulations that the lands be preserved. In addition, for farmers over 60, it is critical to make decisions regarding succession plans. Local communities should proactively adopt policies within its planning and zoning ordinances. The more community leaders and developers understand local values and policies, the easier it will be to develop a project that is acceptable to the community. There are positive and negative consequences with utility-scale solar farming, and these land use decisions should be given careful consideration.

In response to Senator Hornback, Dr. Davis said that there has been some conversation about using the PACE program or a PDR program to help with retaining farmland.

Industrial Solar on Farm Land

Will Mayer, is the Executive Director, of the Clark Coalition, which is a land use advocacy organization promoting smart growth, sustainable economic development, and governmental transparency in Clark County. The coalition was formed in May 2020, to address the complex industrial solar issues facing the community. He said that there are over 100 proposed industrial-scale solar developments throughout Kentucky totaling 25 to 60 million solar panels. Mr. Mayer stated that there is a significant

lack of understanding solar development, federal tax policy, and the siting framework. He said that most solar ordinances and laws in Kentucky are being changed by aggressive out-of-state and foreign developers which allow the majority of benefits to accrue to the developers, while the costs are borne by Kentuckians. Some of the complex issues include the environmental, economic, fiscal, property value impacts, as well as the effect on the quality of life in the community. If handled correctly, industrial solar could present an opportunity. If not, then there would be a threat to existing industries, property owners, and local and state government entities. He said the state's role should include regulating decommissioning and reclamation, ensuring adequate bond requirements, and providing sufficient code and environmental regulation enforcement. Local communities should maintain local control of siting decisions and develop a comprehensive plan to include preserving high value farmland. He said the agricultural fiscal impact for Clark County is approximately \$197,034,444.

Julie Burton, Vice President, Citizens Voice of Mason County, said that their group has been meeting to discuss agricultural solar issues and appreciated the information presented today.

Comments from Solar Providers

Mark Walter, Director of Legislative and Regulatory Affairs, Savion, LLC, said that Savion was a utility scale solar and energy storage development company that does not own or operate the assets. Savion works to get all the local agreements in place with communities to do the interconnection work with the utility. When the project is ready to be constructed, it is sold to someone else who will own and operate the solar utility. Mr. Walter said that Savion has over 900 megawatts in development in Kentucky, which equates to approximately \$1.2 billion in capital investments to be made within the next three to five years. He said that Savion is a member of the Mid-Atlanta Renewable Energy Coalition (MAREC) whose mission is to improve and enhance the opportunities for renewable energy. According to information collected by MAREC, the percentage of prime farmland that could realistically be used in Kentucky for solar is 0.2 percent.

Mr. Walter explained that the Martin County project is close to having a local hearing with the siting board, and then a decision will be made in November. Once approved, construction will begin by 2022. He also noted that the project is sited on a re-claimed surface coal mine. Savion will pay the Martin County community \$300,000 a year for thirty years under the agreement.

Mr. Walter stated that Savion leads the way in decommissioning standards for solar facilities. He said that SB 760 recently passed in Texas and is the top of the line standard for decommissioning. He said the bill also created standards for the salvage value that can or cannot be counted. He noted that Savion's decommissioning standards are tied to the lease – not the permit or the owner.

Emily Williams, Director of Development for Kentucky, Geenex Solar, explained that solar provides the cheapest levelized cost of electricity and that is why more utilities are mixing renewables in their

portfolio. Communities benefit from the economic impact and high paying jobs that come with building solar projects. She said the reason that certain sites were more suitable for solar projects is because of their proximity to transmission assets and capacity availability. She said that Geenex hosts events in order to educate folks on solar and the use of their land. In response to an earlier question, she stated that the Commonwealth of Kentucky's Constitution prohibits a locality from offering a direct tax abatement. It has to go through the industrial revenue bond process. Industrial revenue bonds not general obligation bonds, meaning that a county would not be responsible for the bond.

Betsy Engelking, VP of Policy and Strategy, National Grid Renewables (NGR), stated that NGR is a leading North American independent developer and operator of utility-scale renewable energy and battery storage products. NGR was founded by a farmer who thought some deals being offered to him and other farmers by developers to put wind turbines on farmland in Minnesota were not good for the farmer. She said that NGR consults with farmers, invests in the community, and creates a charitable fund for 20 years as the project operates. She stated that developers are private investors that bring investments into a state and make agreements with homeowners who want solar farms. She said that decommissioning bonds were more like an insurance policy that is paid to make sure that the money is there to take everything out of the ground at the end of a project. NGR feels that a lot of the development in the renewable industry is about helping farmers to preserve their farms.

In response to Senator Hornback, Ms. Engelking stated that every form of energy generation receives some kind of a federal subsidy.

Meeting adjourned.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 4th Meeting of the 2021 Interim

September 24, 2021

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Friday, September 24, 2021, at 12:00 PM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Tom Crawford, Executive Director, Office

of Property Valuation, Department of Revenue; Greg Harkenrider, Deputy Executive Director, Governor's Office for Economic Analysis, Office of the State Budget Director; Shane Schuler, General Manager, Finishing Operations, Unity Aluminum; Nate Haney, Senior Vice President, Global Affairs & Commercial Operations, Unity Aluminum; Gregg Whigham, General Manager, Unity Aluminum; Bernardo Bulnes, Raw Materials Manager, Unity Aluminum; Greg Rush, Vice President for Finance and Administration, Kentucky State University; and Dr. Aaron Thompson, President, Council on Postsecondary Education.

LRC Staff: Jennifer Hays, Cynthia Brown, Katy Jenkins, Kevin Branscum, Sarah Watts, and Chase O'Dell

Discussion of the State Property Tax Rate

Tom Crawford, Executive Director, Office of Property Valuation, Department of Revenue, discussed the state property tax rate.

Mr. Crawford testified that KRS 132.020 subsection 1(a) establishes the state ad valorem tax rate at 31.5 cents per \$100 of valuation. Subsection two of the same statute provides for the state tax rate on real property to be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent. The assessment of new property, the assessment from property which is subject to tax increment financing, and the assessment from property which is owned and financed by a government agency which is subject to industrial revenue bond financing are all assessments excluded from subsection two. Unmined coal assessments are not included in the state tax rate calculation.

In 1978, the state real property tax rate was set at 31.5 cents per \$100 of assessed valuation. There has been a steady decrease of the state rate since then, due to the increase of the aggregate assessed value of real property in Kentucky. In 2021, the state rate was set at 11.9 cents per \$100 of assessed valuation.

By far, the assessment work done by property valuation administrators (PVAs) is the most important factor on the state real property tax rate calculation. PVA property assessments account for 97.5 percent of the total real property assessment.

In 2021, residential, farm, and commercial real property assessments totaled \$297.5 billion. Oil and gas property and public service company real estate assessments totaled \$6.8 billion. The total estimate of real property assessments in Kentucky in 2021 totaled \$305 billion.

In response to a question from Representative Tipton, Mr. Crawford stated that the \$192 billion in residential real property assessments for 2021 accounts for the removal of property with homestead exemptions. In response to another question, Mr. Crawford said that the farm property assessment total reflects the agricultural assessment, not the fair market assessment. In response to a final question, Mr. Crawford stated that sheriffs collect 97.5 to 98 percent of property taxes in Kentucky.

In response to a question from Senator Carroll, Mr. Crawford testified that new revenues coming from new property eventually get onto the tax roll, but that

it sometimes occurs a year or two later than it should have due to staff shortages in PVA offices.

In response to a question from Representative Bridges, Mr. Crawford stated that 'dark store theory' is the theory that big box retailers are petitioning property assessors to value their property as if it is vacant. These retailers have had success with this argument in other states, where it has caused a tremendous loss in the property tax base in those areas. Some states are now enacting laws to prohibit that type of valuation from being considered. In response to another question from Representative Bridges, Mr. Crawford testified that next year, the executive branch would like to get funding for statewide aerial photography flyovers that would meet the standards for all PVAs in Kentucky.

Recap of the August Consensus Forecasting Group Meeting

Greg Harkenrider, Deputy Executive Director, Governor's Office for Economic Analysis, Office of the State Budget Director, provided a recap of the August Consensus Forecasting Group (CFG) meeting.

Mr. Harkenrider testified that the CFG estimated that total general fund revenues will grow 0.9 percent in fiscal year 2022, 2.3 percent in fiscal year 2023, 3.9 percent in 2024, 2.7 percent in fiscal year 2025, and 2.8 percent in fiscal year 2026.

Individual income revenues are expected to only grow 0.9 percent in fiscal year 2022, despite 5.9 percent growth in withholding receipts. Sales and use tax receipts are expected to grow 4.8 percent in the same year. The combined business taxes are expected to decline 14.9 percent, which is mostly a result of 2021 Regular Session House Bill 278. The revenues from business taxes will see little growth in the short-run, but will grow again in fiscal years 2024, 2025, and 2026.

CFG's August planning estimate projects actual general fund revenues totaling \$12.9 billion, which would imply revenues in excess of budgeted totaling \$1.09 billion.

Road fund revenues grew 10.1 percent in fiscal year 2021. CFG expects road fund revenues to grow 3.9 percent in fiscal year 2022. In fiscal year 2023, revenues are expected to grow 1.7 percent. In fiscal year 2024, revenues are expected to decline 0.5 percent. Fiscal years 2025 and 2026 are expected to see growth of 1.4 percent in road fund revenues. Motor fuels tax revenues are expected to grow 5.7 percent in fiscal year 2022. Motor vehicle usage receipts are expected to grow 4.2 percent to \$647.2 million.

CFG estimates that tobacco Master Settlement Agreement receipts will total \$109.8 million in fiscal year 2022, down from 126.3 million in actual receipts from fiscal year 2021.

Braidy Industries and Successors

Shane Schuler, General Manager, Finishing Operations, Unity Aluminum; Nate Haney, Senior Vice President, Global Affairs & Commercial Operations, Unity Aluminum; Gregg Whigham, General Manager, Unity Aluminum; Kristin Derscha, Quality Manager, Unity Aluminum; and Bernardo Bulnes, Raw Materials Manager, Unity Aluminum, discussed Braidy Industries and its successors.

Mr. Haney testified that things look much better for Unity Aluminum than they did when the company last appeared before the legislature. Unity Aluminum played a video for the committee and then submitted to questions.

In response to a question from Representative Flood, Mr. Haney stated that Unity Aluminum could not get into specific details regarding funding from Rusal due to a confidentiality agreement. However, Mr. Haney confirmed Rusal's public statement that Rusal would not be financing Unity moving forward. There will be no further Russian ownership of Unity Aluminum. Ms. Derscha testified that for the design of its mill, Unity is focusing on the desires of its customers.

In response to a question from Senator McDaniel, Mr. Haney stated that Unity Aluminum has roughly 20 employees in Kentucky. In response to further questioning, Mr. Haney testified that permanent project financing has not been completed. The company has shifted away from the incremental financing done previously. Unity does not anticipate needing to ask for another extension on financing in March of 2022.

The acting CEO of Unity Aluminum is Terry Gill. Mr. Haney was unsure of how much Mr. Gill is paid. In response to further questioning from Senator McDaniel, Mr. Haney stated that Mr. Gill was the Secretary of the Cabinet for Economic Development within the administration of Governor Matt Bevin. The incentives given to Braidy Industries by the Commonwealth were approved during this time. Mr. Haney continued to say that the question of Unity Aluminum repaying the \$15 million provided by the Commonwealth would be a question for the board of directors. In response to more questions, Mr. Haney testified that Unity Aluminum does not own a golf course. The only property owned by the company is the 240-plus acres for the aluminum rolling facility.

In response to a question from Representative Nemes, Mr. Haney testified that he and Mr. Gill are the only Unity employees who were officials within the administration of Governor Bevin. He continued to say that he was unsure if there were investors in the company who were involved with the Governor Bevin administration.

In response to a question from Senator Carroll, Mr. Haney testified that Unity is currently in a leased building. The company owns land at East Park Industrial Center. That land is roughly 240 acres and contains three buildings purchased by Unity Aluminum. Some ground work has been completed.

In response to Representative Tipton, Mr. Haney stated that assuming full financing is reached, Unity Aluminum is targeting customer quantity trial coils to be shipped in the second half of 2025. There will be a 30 to 36 month total construction period where 1,200 to 1,500 full-time construction workers will construct the facility. In response to another question, Mr. Haney stated that Unity has a great partnership with Ashland Community College.

In response to a question from Senator McDaniel, Mr. Haney testified that Unity's goal is that by March 31, 2022, Unity Aluminum will have one billion dollars for construction and equipping of its aluminum

mill, and that construction or site development will have commenced. In response to another question, Mr. Haney stated that Unity Aluminum will have a supply agreement with Rusal, but that there will be no other collaboration with the Russian government or citizens of Russia. Mr. Bulnes testified that the only obligation will be for Rusal to supply 60,000 metric tons of rolling slab per year starting the first year of production. He continued to say that these are common commercial terms which have been signed between Unity Aluminum and Rusal America. There is no other obligation between Unity and any Russian organization.

In response to a question from Senator Carroll, Mr. Haney testified that the team at Unity is focused on receiving financing. Mr. Haney pledged to rebuild trust with the legislature.

Kentucky State University Leadership Transition Update

Greg Rush, Vice President for Finance and Administration, Kentucky State University, presented an update on leadership transition at Kentucky State University.

Mr. Rush testified that in July, 2021, Kentucky State University (KSU) staff alerted the board of regents regarding financial concerns at the university and a \$15 million shortfall. The board informed the Council on Postsecondary Education and the Governor's Office. The board's review of the issues led to a leadership transition on July 20, 2021.

KSU is focused on getting students back on campus and rebuilding trust and transparency. The university is working through culture concerns. Employee separations have resulted in \$700,000 in payroll deduction. The university has also implemented a suspension of purchasing, hiring freeze, and restricted travel. The university has moved to address staff shortages in housing and security.

University leadership began a review of the overall financial situation of the university on July 20, 2021. At this time, the university had \$2.8 million of cash and accessible state appropriation left. Approximately \$2.3 million of payroll expenses were due the next week. Another four million dollars was owed to vendors, approximately \$1.7 million of that amount was over 4 months old. The university worked with CPE and the State Budget Office to advance its fourth quarter budget allotment, totaling \$5.4 million, so that the university could make payroll and begin paying its vendors.

KSU faces a budget shortfall in 2022 due to prior year issues. The university holds a \$5.2 million deficit in construction accounts with the state. Additionally, \$4.3 million in prior year invoices will be paid in fiscal year 2022. The university also had to repay a prior year revenue anticipation note totaling five million dollars. Thus far, Mr. Rush has found no evidence of money being used for non-university purposes.

The KSU board of regents regularly receives new reports on cash position, aging schedule of payables, current accounts receivable, personnel actions, and additional reports recommended by CPE.

Executive Order requiring CPE to review Kentucky State University

Dr. Aaron Thompson, President, Council on Postsecondary Education, discussed the executive order requiring the Council on Postsecondary Education (CPE) to review Kentucky State University.

Dr. Thompson testified that the executive order does not supersede the board of regents, rather it grants CPE equal powers to look at the finances, structure, and culture of KSU. CPE is taking the lead at finding a new president for KSU. CPE is working to ensure that KSU is organizationally stable and its finances are accurately reported. CPE will also be hiring consultants to assist building academic structures for a 21st century historically black college and university (HBCU).

In response to a question from Senator Thomas, Mr. Rush testified that KSU will not have enough money to operate past April 2022, without assistance from the legislature. He continued to say that KSU has begun to work on ensuring that all students on campus have a financial path to paying their balances.

In response to another question from Senator Thomas, Dr. Thompson stated that under the executive order, CPE must submit a management improvement plan to the Governor and the legislature before asking for additional funds. CPE is in the process of selecting a search firm and creating a search committee for the selection of a new president. Dr. Thompson expressed his desire for CPE to present a list of final candidates for president to the board of regents by April 2022. He continued to stress the importance of building a pipeline for students from Kentucky schools to attend KSU.

In response to a question from Senator McDaniel, Mr. Rush stated that KSU will come to the general assembly for supplementary finance requests in the next legislative session. Senator McDaniel stated that he also wanted an operational request from the university and that students of the university are not being served properly.

In response to a question from Representative Tipton, Mr. Rush testified that the fiscal year 2021 audit has not yet begun. The university's goal is to begin the audit by December 2021, with the goal of finishing the audit in March 2022. In response to another question from Representative Tipton, Mr. Rush testified that 180 students live in hotels as a result of inadequate residence hall space. This costs the university approximately \$600,000 to \$800,000 a year. The new residence hall is desperately needed.

In response to a question from Representative Bechler, Mr. Rush testified that budget information presented to the board of regents in recent years was not reflective of the actual financial position of the university. The partnership with CPE is the first step in ensuring that this does not happen again. CPE now has access to all financial records and information for KSU.

With no further business before the committee, the meeting was adjourned at 2:11 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

**Minutes of the 4th Meeting
of the 2021 Interim**
September 24, 2021

Call to Order and Roll Call

The fourth meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Friday, September 24, 2021, at 8:30 AM, in Room 131 of the Capitol Annex. Senator Michael J. Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Michael J. Nemes, Co-Chair; Representative Myron Dossett, Co-Chair; Senators Robby Mills, Adrienne Southworth, and Reginald Thomas; Representatives Kevin D. Bratcher, Jeffery Donohue, Jim Gooch Jr., Derrick Graham, Mark Hart, Adam Koenig, Michael Meredith, Suzanne Miles, Phillip Pratt, Nancy Tate, and Buddy Wheatley.

Guests: Mark Harmon, Auditor of Public Accounts (APA); Sara Beth Gregory, Chief of Staff, APA; Tim Gutman, Director of Financial Operations, APA; JC Young, Executive Director, KY Coal and Mineral County Coalition (CMCC); Steve Henry, Webster County Judge-Executive and Vice President, KY CMCC; Dan Mosley, Harlan County Judge-Executive and President, KY CMCC; David Fields, Pendleton County Judge-Executive.

LRC Staff: Emma Mills, David Talley, Joey Holt, and Spring Emerson.

Approval of Minutes

A motion was made by Representative Pratt to approve the minutes of the August 4, 2021 meeting. The motion was seconded by Representative Donohue, and the minutes were approved without objection.

Auditor of Public Accounts

Auditor Harmon and Ms. Gregory provided a brief overview of the APA and its budgetary concerns.

In response to questions from Representative Graham regarding recruitment and retention, Ms. Gregory said most employees who earn enough overtime to receive a block-50 payout would rather receive the payout than have those hours roll over to sick leave time. They would not necessarily be interested in saving their sick time for retirement benefits. There is also a legal concern regarding federal wage and hour laws. There are approximately 124 employees on staff at the APA currently, and the personnel cap is 140 full-time and about eight part-time or interim employees. Representative Graham commented that the APA is designed to protect public funding in all agencies, as well as bring in additional revenue for the Commonwealth.

In response to a question from Representative Graham regarding how their service differs when

dealing with local or county governments, Ms. Gregory said the APA does not routinely audit city or county governments, as they are done by outside CPA firms. If the APA is involved with cities or counties, those are typically special examinations in fraud abuse situations, rather than audits.

Senator Thomas commended Ms. Gregory, who served in the Senate in his first year here. Auditor Harmon said Ms. Gregory started out as his colleague in the House, before going to the Senate.

Representative Koenig commented that a consideration to be made for the upcoming budget would be to look at pay raises across-the-board in all agencies. Money could be saved in the long run, and it is overdue. Counties that do not have enough resources to pay their bills should look into merging with other counties.

Chair Nemes commented that the entities paying for the audits would be paying for an outside firm anyway, and most likely the outside audit would cost more. Auditor Harmon said one major problem is the retention rate. If employees could be retained, more audits could be performed more efficiently.

KY Coal and Mineral County Coalition

Judge-Executives Henry, Mosley, and Fields, along with JC Young, provided an overview of the KY CMCC and its budgetary concerns.

Representative Graham commented that the coal industry has been a very important part of Kentucky's history, and coal-producing counties should try to attract and promote a variety of businesses to their areas.

In response to a question from Representative Graham regarding the number of counties impacted by coal and mineral rights, Mr. Young said there are 101 counties that receive some type of mineral funds, with 26 counties being active producers. He added that those numbers are consistently changing, due to the ebb and flow of production.

Representative Gooch commented that Judge Henry does a good job, and expressed his appreciation for what the Coalition does.

In response to a question from Chair Nemes regarding mineral tax on rock quarries, Mr. Young said some in-state industries are interested in making sure out-of-state industries pay the tax. He said the Coalition would be glad to work with the General Assembly to come up with a solution that is palatable for everyone.

In response to a question from Chair Nemes regarding funds for pneumoconiosis, also known as black lung disease, Judge Henry said the fund has helped some coal operators offset the costs. He added that the coal mining workforce is aging, which could have an effect going forward.

Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 9:30 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

**Minutes of the 5th Meeting
of the 2021 Interim**
October 6, 2021

Call to Order and Roll Call

The fifth meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, October 6, 2021, at 9:00 AM, in Room 131 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mike Adams, Secretary of State; Jenni Scutchfield, Assistant Secretary of State; Terrance Sullivan, Executive Director, Commission on Human Rights; and, Jay Hartz, Director, Legislative Research Commission.

LRC Staff: Joey Holt, Emma Mills, and Spring Emerson.

Approval of Minutes

A motion was made by Representative Tate to approve the minutes of the September 24, 2021 meeting. The motion was seconded by Co-Chair Nemes, and the minutes were approved without objection.

Secretary of State

Secretary Adams provided an overview of the Office of Secretary of State (SOS) and its budget.

In response to a question from Chair Dossett regarding staffing needs, Secretary Adams said the agency needs three Information Technology employees and one Business Services person.

In response to a question from Co-Chair Nemes regarding the Photo ID program, Secretary Adams said the election last year had been successful. Kentucky was the only state to implement Photo ID for voting during the pandemic. Photo ID was implemented for both absentee voters and in-person voters. Only a tiny subset of people voted through personal recognizance. An even smaller number voted through reasonable impediment. There were over two million voters, and there were no complaints about anyone being denied access to the ballot.

Senator Thomas commented that the SOS needs another person just for business filings, since he files many of those for his business and corporate clients.

In response to questions from Representative Graham, Secretary Adams said there is a tiered system in statute that allows for other means of identification than a photo ID, and no one was turned away last year. The office of SOS now has thirty employees, with authorization for thirty-two, and a maximum of thirty-six. The office had fifty employees ten years ago.

In response to questions from Representative Wheatley, Secretary Adams said the number of voters is updated on the last Friday of each month, and Kentucky is the only state to do so. There are only hundreds removed per month, not thousands. Assistant Secretary Scutchfield said there is a master index which indicated a number of voters had been removed due to death. Chair Dossett commented that some voter removals result from military transfers as well. Secretary Adams agreed, stating that the military base at Ft. Campbell is a prime example.

In response to questions from Senator Thomas, Secretary Adams said there are three special elections slated for November this year, for two House seats and one Senate seat. Early voting will be allowed for three days, October 28 through October 30, then the regular election will be held on Election Day in November. The highest record number was a sixty-six percent voter turnout. In 2020, the primary election saw twenty-nine percent, with the November election showing a sixty percent turnout. Information will be provided at a later date regarding denial of provisional ballots.

In response to a question from Representative Graham, Secretary Adams said voters are notified if denied.

Chair Dossett thanked the office of SOS on behalf of the voting precinct in his district, and expressed his appreciation for the smooth process.

Kentucky Human Rights Commission

Director Sullivan provided an overview of the Kentucky Human Rights Commission (KHRC) and its budgetary needs.

In response to questions from Chair Dossett, Mr. Sullivan said staffing decreases resulted from employee retirements and attrition, and they cannot be replaced due to budgetary constraints. The allotment is for twenty-two employees, and they have only eighteen, with no funds to hire more. The KHRC appropriation in 2022 is \$2.1 million, and to fill the needed positions they would need approximately \$2.8 million overall.

In response to a question from Representative Miller, Mr. Sullivan said the agency is researching the possibility of sharing office space to save money.

In response to questions from Representative Bratcher, Mr. Sullivan said although the KHRC does not have the power to assess individual fines and penalties, there is a process that moves through the legal system for a judgement or settlement. The agency does not receive any restricted funds or fees from this process. Case determinations are made on the third Thursday of each month and are uploaded to the web to be accessed. They are also available in the Commission book that creates a record and highlights every case.

In response to questions from Representative Graham, Mr. Sullivan said during investigations

performed in 2008, the KHRC had eighteen employees with a budget just under \$2.5 million. The budget appropriated in 2020 was \$2.1 million. Mr. Sullivan will provide information relating to population comparisons with other states at a later date.

In response to a question from Co-Chair Nemes regarding an inability to adhere to legal guidelines, Mr. Sullivan said the client can petition the court after 180 days, and those cases are considered on a first come, first serve basis. The US Department of Housing and Urban Development (HUD) has a stricter timeline for housing issues, with a 100-day policy.

In response to a question from Representative Koenig regarding the reason why positions cannot be filled, Mr. Sullivan said they cannot post for positions if they do not have the funds to pay for them. He added that a \$30,000 per year salary would cost close to \$98,000 when retirement contributions and other benefits are paid. Representative Koenig commented that statute changes are needed.

In response to a question from Representative Koenig regarding complaints about smokers being a protected class, Mr. Sullivan said his office has not seen any of those in a while.

In response to a question from Senator Southworth regarding the HUD contract, Mr. Sullivan said the HUD and Equal Employment Opportunity Commission (EEOC) contracts are literally what keep their lights on.

In response to a question from Representative Miller regarding open board seats, Mr. Sullivan said three board members were reappointed a month ago.

In response to a question from Senator Thomas regarding a change in cases, Mr. Sullivan said upon review, it seems that people have become bolder in expressing hatred toward certain communities.

In response to a question from Representative Wheatley regarding protected classes in surrounding states, Mr. Sullivan said the most common is gender, and the source of income for housing is another.

Legislative Research Commission

Director Hartz provided an overview of the Legislative Research Commission (LRC) personnel issues and the resulting necessary budgetary needs.

Representatives Graham and Tate expressed their appreciation for LRC staff and commented that they are outstanding employees.

Senator Thomas commented that the turnover rate is alarming, and asked what can be done. Director Hartz said the easy answer is to pay them more.

In response to a question from Senator Southworth regarding the possibility of dividing time between full-time and part-time employees, Director Hartz said there are scheduling issues for legislators which create unpredictability, making employee flexibility necessary.

Chair Dossett commented that there are amazing people at the LRC, and he would like to keep them.

Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 11:15 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE

Budget Review Subcommittee on Human Resources

Minutes of the 4th Meeting of the 2021 Interim

September 24, 2021

Call to Order and Roll Call

The 4th meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations & Revenue was held on Friday, September 24, 2021, at 10:30 AM, in Room 129 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 Danny Bentley, Co-Chair; Senators Ralph Alvarado, Karen Berg, and Danny Carroll; Representatives Adam Bowling, Deanna Frazier, Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Lisa Lee, Commissioner and Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services; and Melinda Burchett, President and Kelly Upchurch, Legislative Chair, Kentucky Association of Adult Day Centers.

LRC Staff: Miriam Fordham, Kevin Newton, and Katie Carney.

Approval of Minutes

Co-Chair Bentley made the motion to approve the minutes from the August 4, 2021, meeting of the subcommittee. Senator Carroll seconded the motion, and the minutes were approved without objection.

Medicaid Budget Update: Fiscal Year 2021 Year-End Report and Fiscal Year 2022 Outlook

Commissioner Lee provided an overview of the duties of the Department for Medicaid Services (DMS). Mr. Bechtel provided an update on the Medicaid program's number of enrollments and the department's budgetary status.

In response to questions from Representative Bentley, Mr. Bechtel stated that university directed payments increased due to the expansion of the program. Mr. Bechtel noted that at one time university directed payments went only to the Universities of Kentucky and Louisville. Federal guidelines have changed, allowing DMS to extend payments to any university that has a graduate medical education program and allowing programs to include outpatient services.

In response to a question from Representative Sheldon, Mr. Bechtel confirmed that in the last year, drug rebate receipts had been higher than previous receipts. Commissioner Lee noted that the capitation rate was maintained while transitioning to a single pharmacy benefit manager (PBM) to increase ease of implementation of the single PBM.

In response to questions from Chair Meredith, Mr. Bechtel noted that he doesn't believe that DMS' actual administrative expenses would exceed ten

percent of all expenditures. Mr. Bechtel stated that DMS' budget request looks at current expenses and trends for times ahead, though the request would not include funding for any additional legislation that the General Assembly might pass.

Reimbursement for Adult Day Health Centers
Ms. Burchett and Mr. Upchurch provided a presentation regarding reimbursement rates for adult day health centers.

In response to a question from Representative Gibbons Prunty, Mr. Upchurch stated that some patients that were unable to go to adult day centers were moved to an in-home service model.

In response to a question from Senator Berg, Mr. Upchurch noted that adult day health centers provide skilled health care services.

There being no further business before the subcommittee, the meeting was adjourned at 11:59 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE

Budget Review Subcommittee on Justice and Judiciary

**Minutes of the 4th Meeting
of the 2021 Interim**
September 24, 2021

Call to Order and Roll Call

The 4th meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations & Revenue was held on Friday, September 24, 2021, at 8:30 AM, in Room 129 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senator John Schickel; Representatives McKenzie Cantrell, Angie Hatton, C. Ed Massey, and Jason Nemes.

Guests: Robyn Bender, General Counsel, Justice and Public Safety Cabinet; and Cookie Crews, Commissioner and Hilary Dailey, Deputy Commissioner, Department of Corrections.

LRC Staff: Perry Papka, Zachary Ireland, and Katie Carney.

Approval of Minutes

A motion was made and seconded by multiple legislators to approve the minutes of the August 4, 2021, meeting of the subcommittee. The minutes were approved without objection.

Department of Corrections

Ms. Bender provided a presentation regarding the Department of Corrections (DOC) granting conditional commutations for offenders during the COVID-19 pandemic.

In response to a question from Chair Carroll regarding population levels, Ms. Dailey responded that as of September 23, DOC had approximately 10,000 inmates within state facilities and 8,500 in community facilities.

In response to a question from Representative Nemes

regarding criteria for commuting sentences and the recidivism rate of commuted prisoners, Ms. Bender responded that criteria for commuting sentences included those who were medically vulnerable, over the age of 65, or had less than five years left to serve. The standard recidivism rate is twenty percent over a one-year period.

Chair Carroll requested an updated list of inmates released through the COVID-19 commutations that did not meet the parameters for release, but may have been released due to good time credits or other factors.

In response to a question from Senator Schickel regarding the percentage decrease in overall population of state prisons and county jails, Ms. Dailey said that information would be provided at a later date.

In response to questions from Chair Carroll relating to the number of positive COVID-19 cases, Ms. Bender stated the data was not analyzed prior to the releases. There is specific data for COVID-19 cases at the state institutions, but not at local jails.

In response to questions from Chair Carroll relating to the number of cases, deaths, and vaccinations, Ms. Crews responded that there were 8,064 inmates that tested positive, and 48 inmates and seven staff members have died due to COVID-19. She added that 84.16 percent of the state inmate population is vaccinated, and approximately 1,500 are unvaccinated. The trend and number of cases within the inmate population is decreasing.

In response to questions from Representative Massey regarding notification to the court systems, Ms. Bender stated that there is no procedure in place to notify those entities; however, the one process that was utilized for any type of inmate release was the VINE service which notifies victims and interested parties that have requested notification of a specific inmate's release.

In response to a question from Representative Massey, Ms. Bender stated that inmates may voluntarily request to receive the vaccination.

In response to questions from Chair Carroll in regard to the DOC budget, Ms. Dailey stated that the inmate population projections are currently under development by the Office of the State Budget Director.

In response to questions from Chair Carroll in regard to the body mass index (BMI) of inmates, Ms. Bender said they were following CDC recommendations and no additional testing was done to expand the field of potential candidates to be released.

Chair Carroll expressed concern that the process to determine eligibility for release was flawed and prosecutors and victims should have been better notified. He added that decreasing the prison population can never be a priority over justice being served.

Representative Nemes requested a list of individuals that were released and have reoffended, as well as what they were charged with and convicted of since their release.

In response to a question from Representative Nemes regarding healthcare, Ms. Crews responded that the RFP fell under the procurement department and she did not have the information, but Amy Monroe could be consulted to respond.

Chair Carroll indicated that the Legislative Oversight and Investigations Committee would possibly discuss these topics at a future meeting. He thanked the presenters, expressing his appreciation for their efforts.

There being no further business before the subcommittee, the meeting was adjourned at 9:23 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

**Minutes of the 4th Meeting
of the 2021 Interim**
September 24, 2021

Call to Order and Roll Call

The fourth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Friday, September 24, 2021, at 10:30 AM, in Room 131 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Sal Santoro, Co-Chair; Senators Brandon J. Storm, Robin L. Webb, and Mike Wilson; Representatives Chris Fugate, Samara Heavrin, Shawn McPherson, Jason Petrie, Phillip Pratt, Rachel Roberts, Cherynn Stevenson, and Ken Upchurch.

Guests: Jim Gray, Secretary, KY Transportation Cabinet (KYTC); James Ballinger, State Highway Engineer, KYTC; and John Moore, Assistant State Highway Engineer, KYTC.

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

Approval of Minutes

A motion was made by Co-Chair Santoro to approve the minutes of the August 4, 2021 meeting. The motion was seconded by Representative McPherson, and the minutes were approved without objection.

Update on Mega Projects

Secretary Gray provided a brief overview of three major projects; the Brent Spence Bridge companion crossing, the ORX I-69 interstate highway corridor and bridge, and the Mountain Parkway expansion.

Representative Stevenson commended the KYTC for their work on the Mountain Parkway, and expressed her appreciation.

In response to questions from Chair Higdon regarding grant funding, Secretary Gray said the Brent Spence Bridge is getting attention through the federal infrastructure package that is currently in Congress, and the KYTC expects to apply for a grant for that project. He added that they already applied for a grant for the I-69 project. Matching funds are required in most cases, and due to the competitive nature of the market, some require more than a twenty percent match.

In response to a question from Chair Higdon regarding tolls, Secretary Gray said tolls are

speculation at this point, and it is preferred that they be avoided, if possible.

In response to questions from Representative Roberts, Secretary Gray said the Brent Spence Bridge is scheduled to reopen after the painting project is complete, which is slated for this fall. Mr. Ballinger said the traffic pattern change that impacts the on and off ramps from the outer loop of I-275 to I-471 will be addressed within the next several months.

In response to questions from Representative Petrie, Secretary Gray said there are other semi-major projects, and a list will be provided to the subcommittee. Representative Petrie requested that a list of major regional projects currently in process be provided, as well as a list of infrastructure grants being applied for which includes the amount of required matching funds, and any local components that would be required. Mr. Moore added that fiscal support is the best support that can be demonstrated.

S.H.I.F.T. Process and Priorities

Mr. Moore provided a brief explanation of the Strategic Highway Investment Formula for Tomorrow (SHIFT) process and priorities.

In response to a question from Chair Higdon regarding SHIFT meetings, Mr. Moore said they would keep in mind that meetings should be scheduled to include legislators.

In response to a question from Chair Higdon regarding SHIFT scores and priorities, Mr. Moore said those were not previously included on the Six-Year Road Plan, but it will be considered for future Road Plans.

Senator Storm commented that the World Chicken Festival will be held in London this weekend, and he invited all to attend.

Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 11:15 AM.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 2nd Meeting of the 2021 Interim

September 14, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, September 14, 2021, at 11:00 AM, in Room 154 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Bart Rowland, Co-Chair; Senators Ralph Alvarado, Rick Girdler, Jason Howell, Morgan McGarvey, Dennis Parrett, John Schickel, Brandon Smith, and Brandon J. Storm; Representatives Danny Bentley, Joseph M. Fischer, Patrick Flannery, Deanna Frazier, Jim Gooch Jr., Norma Kirk-McCormick, Adam Koenig, Nima Kulkarni, Derek Lewis, Matt Lockett, Shawn McPherson, Michael Meredith, Rachel Roberts, Sal Santoro, Tom Smith, Cheryl Lynn Stevenson, Ken Upchurch, and Susan Westrom.

Guests: Sharon Clark, Commissioner, Kentucky Department of Insurance; David Dillon, Lewis & Ellis; and Thomas Stephens, Executive Director, Kentucky Association of Health Plans.

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

Approval of August 3, 2021 Minutes

Representative Lockett moved to approve the minutes from the August 3, 2021, meeting. The motion was seconded by Representative McPherson. The minutes were approved.

Update on Long Term Care Insurance Care Rate Increases

Sharon Clark, Commissioner of the Kentucky Department of Insurance (KDOI), stated that long-term care insurance has been on the market for approximately 40 years and has been challenging economically and actuarially. The number of insurers writing long-term care policies has decreased from 100 to less than 20. It is crucial for insurance regulators to balance consumer protection while preserving solvency for these companies. Kentucky is one of many states seeking solutions to long-term care policy premium rate increases. The National Association of Insurance Commissioners (NAIC) has submitted proposals to the U.S. Congress for assistance to policy holders. One proposal would allow long-term care insurance to be purchased with 401K funds. The major challenge facing this industry is pricing, which involves longer life spans, increase in care costs, underpriced legacy policies, and inaccurate actuarial assumptions.

David Dillon of Lewis and Ellis, presented graphs illustrating how a flat premium for older long-term care insurance policies did not work due to increasing claims costs. When long-term care was new, the pricing for premiums was insufficient. He explained that insurers failed to correctly estimate investment returns and how many people would make claims on their policies. He presented a graph showing the importance of addressing these issues quickly. If insurers had sought rate increases earlier, they would not have needed as much of an increase. However, it can be hard to know early on if your pricing is wrong.

Mr. Dillon explained that neither the insurer nor the consumer should take the full risk hit when an insurer is wrong. The NAIC has different committees to help address these issues and what needs to be done at a state level. States have different approaches to rate stabilization, which requires more conservative pricing, so hopefully if things go wrong, it doesn't go so badly that you need big rate increases. Several variations are being considered in states, which involve different alternatives, margins, and protections for consumers. Prospective present value, also called the Texas approach, is one of the key approaches. Other approaches include landing spots, which are benefit reductions, cap increases, blend increases, and buyout options, which mitigate the increases but still focus on company solvency.

Next, he presented charts to members showing that since 2010, approximately 300 rate filings were submitted to the KDOI and only one third of those rate increases were approved as requested. The

average rate increase request submitted is almost 50 percent and the average approved increase is about half of what was asked for.

Mr. Dillon discussed the rate increase request for Transamerica, an insurance company that asked for a flat 61 percent rate increase for four blocks of business, the largest of which was a group of policies for the Kentucky Retired Teachers Association (KRTA). The KRTA group had very rich policy benefits, which contributed to a 100 percent loss ratio on that block of business. After reviewing all of the options for rate stabilization in this case, the KDOI approved a 40 percent rate increase for the KRTA coverage. The other blocks of business that has less generous benefits received approval for a 15 percent rate increase. These approvals included a ten year rate guarantee, so consumers will not get another increase for ten years.

In response to Senator Alvarado's questions regarding increasing premium rates and Kentucky-specific factors, Mr. Dillon stated that probably 80 percent of the increases are due to policy lapses and improved mortality, most new policies have corrected for the issue, and Kentucky is fairly comparable to other states in terms of rate increases because any Kentucky-specific factors that may impact policy costs were likely accounted for in the initial premiums. In response, Senator Alvarado stated that he'd like to see a breakdown of Kentucky's baseline premium costs compared to those of other states.

Senator Schickel commented that he receives frequent questions from his constituents about long-term care insurance and that some consumers do not read the fine print and are led to believe that premiums will not go up. In response to Senator Schickel's question about the best benefit period for consumers, Mr. Dillon explained that a lifetime benefit is probably too expensive and that most sales are in the five year benefit period. He stated that the industry is working to modify policy language moving forward to ensure that the terms are clear.

In response to Representative McPherson's question relating to the average age of individuals going into long-term care, Mr. Dillon stated that he did not have that information. In response to Representative McPherson's question about families caring for loved ones because of three or five year benefit periods instead of lifetime benefits, Mr. Dillon explained that family care is being considered prior to a loved one moving into a facility due to the reduced benefit.

In response to Representative Smith's questions about assets being used for long-term care expenses, Commissioner Clark explained that people buy long-term care insurance to protect themselves from this situation. Commissioner Clark also stated that she was unaware of additional revenue in the recent budget for long-term care costs, and that the Cabinet for Health and Family Services may have more information about attaching assets for long-term care expenses.

In response to Representative Lockett's question relating to corrections that can be made to long-term care and what they think the future of long-term care will be, Commissioner Clark explained that the policies being sold today are hybrid policies which are tied in with annuities or with another type of financial planning. The legacy plans are no longer being

offered. They are trying to reach the most fair and equitable conclusion when addressing rate increases. Mr. Dillon agreed with Commissioner Clark and said that he believes the hybrid products are the new direction for long-term care insurers.

Kentucky Association of Health Plans – Industry Update

Thomas Stephens, Executive Director of the Kentucky Association of Health Plans (KAHP), gave an industry update. KAHP is made up of seven major carriers that offer health plans in Kentucky. He provided information regarding the average employer contribution for single coverage, the percentage of single coverage premiums paid by employers, and the industry's contributions in terms of taxes and employees. Employer-sponsored health coverage utilizes the collective market power of plan members to achieve cost savings. It also provides a tremendous benefit to employees, with the top benefits being coverage for prescription drugs, emergency care, and preventive care.

Next, Mr. Stephens discussed the four pillars of the KAHP. The first pillar is advocacy. One critical area of advocacy for KAHP is mandates, which are benefits insurers are required to cover. Mandates are well-intended but typically result in higher premiums and can reduce access to care. Mr. Stephens stated that over the last four regular sessions, Kentucky had more introduced mandates than the national average, which if passed, would have resulted in over a half billion per year in additional premium costs. Mandates typically have adverse impacts on small businesses.

The second pillar is education. Mr. Stephens discussed the KAHP's efforts to work with stakeholders, which included working with ambulance providers to implement HB 8 from the 2020 Regular Session. He also discussed the importance of talking about prior authorization because it is a key element of the health insurance process. Prior authorization ensures that providers adhere to nationally recognized care criteria, encourages the use of generic drugs, prevents drug interactions, provides checks on cost drivers, and curbs waste, fraud, and abuse.

The third pillar is innovation. The biggest area of innovation is telehealth, which has been important during the COVID-19 pandemic. KAHP also addresses issues relating to social determinates of health, such as food insecurity, loneliness, and transportation.

The last pillar is collaboration, which promotes fellowship and the sharing of knowledge. KAHP's chief medical officers and behavioral health teams get together on a regular basis to share their experiences. KAHP also regularly collaborates with the KDOI, Cabinet for Health and Family Services, and Department for Medicaid Services. KAHP is a member of the HJR 57 task force, which studies the feasibility of a bridge insurance program, and recently joined the chamber of commerce.

Mr. Stephens discussed the KAHP's COVID-19 vaccine outreach efforts. They have utilized radio commercials, social media, and YouTube videos. In Eastern Kentucky and other areas, KAHP is working to find novel ways to encourage vaccinations, such as partnerships with local officials, programs, and events. Mr. Stephens also discussed the outreach

efforts in Clay County as a case study and referred to a list of the several other outreach programs being run by KAHP members.

In response to Representative Rowland's questions regarding the health plans offered by KAHP members, Mr. Stephens stated that by January 1, 2022, all seven members plan to be in the individual insurance market space and that depending on the membership, members are also involved in employer-sponsored plans, Medicare advantage, and Tricare. In response to Representative Rowland's question about where Kentucky ranks with the number of member companies offering plans in the state versus other states, Mr. Stephens stated that he has not seen that but can get the number. Rep. Rowland also commented that Kentucky has the first in the country insurance regulatory sandbox and that KAHP members looking for opportunities to do something new and creative that might expand health plan access to citizens should keep the sandbox in mind.

Senator Alvarado informed the committee that KAHP presented inaccurate information in its presentation relating to inappropriate diagnostic imaging and misleading information relating to unnecessary or unsafe ordered medical care.

In response to Representative Lewis' question as to whether insurers will continue flexibility in prior authorizations relating to pharmacy services, Mr. Stephens stated that he believes it is an obligation of the health insurance industry to proactively eliminate prior authorization when it's not required. He said it is a challenging area and that insurers waived prior authorization in most cases when asked to do so by the state.

Senator Girdler commented that tort limits for medical malpractice will cut health care costs and be better for consumers because consumers can no longer afford to pay for perfect care.

In response to Representative Stevenson's question relating to proposals to increase insurance costs for unvaccinated people, Mr. Stephens replied that the proposal to stop waiving cost sharing is not something his membership has seen in Kentucky. In regard to higher premiums, he stated that it is an interesting idea to push people to make certain health decisions, similar to giving a discount on policies to those who are nonsmokers, and that it's a possibility if it gives a competitive advantage or benefit to the consumer.

Representative Koenig said he agreed with KAHP regarding the problems with mandates. In response to his question surrounding incentives to get the COVID-19 vaccine, Mr. Stephens stated that Kentucky actually ranks third in the southeast in vaccination rates and that Kentucky is improving their vaccination numbers.

In response to Chairman Carpenter's question relating to partnerships in the community, Mr. Stephens stated that they set up an outreach booth at the state fair and have partnered with different health departments across the Commonwealth. It is important for KAHP to have partnerships to help spread positive information in rural communities. Chairman Carpenter commented that genuine conversations with trusted community members works better to increase vaccinations and discussed his personal experience with vaccination.

Senator Alvarado stated that COVID has resulted in Kentucky being in a crisis situation with access to critical care, that he doesn't want to continue seeing bad things happen to people because of COVID or the lack of access to care, and that compassionate discussions with people about getting information from the medical community is needed because the medical community is going to be looking out for your best interest.

In response to Representative Lockett's question as to where Kentucky ranks in the southeast in terms of positivity rate, Mr. Stephens stated that he does not have that information. Representative Lockett commented that a correlation between the vaccination rate and positivity rate would be a great selling point to convince individuals to receive the vaccine. Senator Alvarado commented that Kentucky's positivity rate is high, but that projections are showing a flattening out or decline. He urged caution as there are two additional variants of the virus that make the future uncertain.

There being no other business, the meeting was adjourned.

COUNTY CLERK OFFICE MODERNIZATION TASK FORCE

**Minutes of the 4th Meeting
of the 2021 Interim
September 22, 2021**

Call to Order and Roll Call

The 4th meeting of the County Clerk Office Modernization Task Force was held on Wednesday, September 22, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Senator Jason Howell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Dan Pullium, Polly Penna, Colleen Borys, Sarah Hunsicker, Cox Automotive; Jason Wilson, President, Kentucky Auto Dealers Association; Heather Stout, Executive Director, Kentucky Transportation Cabinet; and John Eiler, Project Manager, Kentucky Transportation Cabinet.

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

Approval of Minutes from August 25, 2021 Meeting

Senator Wheeler motioned to approve the August 25, 2021, minutes, seconded by Representative Bridges, and passed by voice vote.

Overview of Ohio's Electronic Motor Vehicle System

Jason Wilson, President, Kentucky Auto Dealers Association (KADA), described the economic impact of Kentucky automobile sales and the effect COVID-19 had on the industry. Mr. Wilson added that having an electronic titling and lien system in place would allow for dealer personnel to effectively produce and file vehicle registrations and transfer title

documents. KADA has had productive conversations with Kentucky's county clerks about the advances being made in surrounding states utilizing an electronic system.

Dan Pullium, Senior Government Affairs Manager, Cox Automotive, described the electronic solutions offered by Cox Automotive for the modernization of motor vehicle registration and titling systems. Cox Automotive currently serves 16 states and each system is customized based on state law and requirements allowing for approximately 60 million titles to be processed daily with approximately 20,000 dealers. Mr. Pullium stated that the objective of installing electronic registration and titling systems is to preserve and protect the role of the county clerk.

In response to Representative Meredith, Mr. Pullium stated that in Ohio there are two competitors to Cox Automotive and approximately five national vendors in surrounding states that produce electronic systems.

In response to Representative Bridges, Mr. Wilson stated that the cost associated with modernizing current technology could be provided by the American Rescue Plan Act funds.

In response to Senator Howell, Mr. Pullium stated that jurisdictions are initially advised to adopt the electronic lien and titling system, which can take approximately nine to twelve months to program. Adopting an electronic registration and titling system is more complex and requires an additional 18 to 24 months of program development.

In response to Senator Howell, Sarah Hunsicker, Director of Government Affairs, Cox Automotive, stated that the placement of a lien on a title depends on the functionality of the electronic lien and title program. Several states, which have adopted electronic lien and title programs, are including a lien filing transaction where the lien could be placed by either the lien holder or an auto dealer. Mr. Pullium added additional information regarding the lien process.

In response to Senator Howell, Ms. Hunsicker stated that the electronic lien and titling program could have an effect on mobile and manufactured housing. Mr. Pullium stated that the electronic systems could be built around Kentucky's statutory systems and technical specifications.

In response to Representative Meredith, Mr. Pullium stated fees collected from consumers or dealers are transferred to the state or county jurisdiction. Mr. Pullium, responding to Senator Wheeler, added that Georgia, Ohio, and Colorado's statutory framework is similar to Kentucky's, if the legislature would like to look at model legislation.

In response to Senator Howell, Ms. Hunsicker stated that initial registration is a core transaction for states with the electronic registration and titling systems. Only a handful of states with an electronic registration and titling systems allow for registration renewal on an annual basis. Additionally, states with electronic lien and titling systems have a function incorporated into the system that would allow a lien holder to release their lien at a later date.

Implementation of the New Motor Vehicle Information System

John Eiler, Project Manager, Kentucky Transportation Cabinet presented a project update on the Kentucky Automated Vehicle Information System (KAVIS) development. Mr. Eiler stated that the next module produced for the county clerk offices is projected to be complete in December 2022. KAVIS is a web-based application that allow county clerks to have immediate access to documents and other technological enhancements for ease of use. KAVIS allows the system to be transitioned from a vehicle centric model to a customer centric model. Mr. Eiler discussed further module updates and data integrity updates that have been streamlined for future implementation.

In response to Representative Meredith, Mr. Eiler stated the Kentucky Transportation Cabinet is confident that the December 2022 deadline will be met. Heather Stout, Executive Director, Kentucky Transportation Cabinet added that the 2022 deadline will not be affected by the recently reported technical issues from the current AVIS system.

Representative Meredith requested research be conducted on the length of time and cost of implementing an electronic titling and registration system within the KAVIS program.

There being no further business, the meeting adjourned at 12:23 p.m.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 4th Meeting of the 2021 Interim

September 23, 2021

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 23, 2021, at 9:00 AM, in Room 154 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Representative Samara Heavrin; Representative Nima Kulkarni; Katie Showalter, Assistant Professor, College of Social Work, University of Kentucky; Dr. Jillian Carden, Executive Director, Silverleaf Sexual Trauma Recovery Services; Tanya Thomas, Executive Director, Springhaven Domestic Violence Program; Representative Randy Bridges; Tammy Stansbury, Vice President of Development,

Woda Cooper Companies; Mike Hynes, CEO, Winterwood Incorporated; Brett Harrell, Former Member of the Georgia House of Representatives; Marty Hammons, Commissioner, Department of Workforce Investment, Education and Workforce Development Cabinet; Michelle DeJohn, Executive Director, Kentucky Career Center Office of Employer & Apprenticeship Services, Education and Workforce Development Cabinet; Adam Watson, Government Relations Chairman, Kentucky Guild of Brewers; and Charley Hamilton, President, Kentucky Guild of Brewers.

LRC Staff: Andrew Manno, Drew Baldwin, Kirk Smith, and Sasche Allen.

Approval of Minutes

A motion to approve the minutes of the August 26, 2021, meeting was made by Senator Wheeler, seconded by Representative Calloway, and approved by voice vote.

Unemployment Insurance for Victims of Domestic Violence and Abuse

Representative Kulkarni and Representative Heavrin discussed proposed legislation that would make victims of domestic violence and abuse eligible for unemployment insurance benefits if the victim has left work, is unable to work, or is separated from employment due to circumstances directly resulting from domestic violence and abuse, dating violence and abuse, sexual assault, or stalking. Katie Showalter, an Associate Professor in the College of Social Work at the University of Kentucky, stated, according to her research on gender based violence, Kentucky has the second highest rate of domestic violence in the country, and sexual violence and stalking rates are higher in the Commonwealth than national averages.

About \$15 million is spent on domestic violence costs in regards to healthcare and loss of productivity in the workplace, and survivors of sexual violence and stalking experience an average of 15 days of work loss per year. In addition, victims of intimate partner abuse can be unemployed for up to six years after the abuse has ended due to the mental and physical impacts. Ms. Showalter explained that in situations of intimate partner abuse, abusive partners will financially control victims in ways that greatly affect their employment. Dr. Jillian Carden, Executive Director of Silverleaf Sexual Trauma Recovery Services, detailed a specific case of a victim of sexual assault in which the assault critically impacted the victim's employment, income, and mental health. Tanya Thomas, Executive Director of the Springhaven Domestic Violence Program, described the hardships faced by victims that are impacted by financial abuse. It has been reported by 83 percent of domestic violence survivors that their ability to work was negatively impacted by an abusive partner.

Representative Kulkarni gave an overview of provisions in the proposed legislation which include evidentiary requirements, training of Office of Unemployment Insurance staff, and reporting requirements for the Secretary of the Labor Cabinet of the number of domestic violence related unemployment insurance claims filed.

Responding to a question from Representative Webber, Representative Kulkarni said 39 other states, Puerto Rico, U.S. Virgin Islands, and Washington D.C. have some type of legislation pertaining to unemployment insurance benefits for domestic violence victims. The cost to employers in other states with similar legislation has been minimal due to the low number of claims filed under the domestic violence provision. In the last two years, Connecticut reported \$169,000 being paid out in domestic violence related unemployment insurance benefits, and Montana reported a yearly average of \$25,000 to \$60,000 of domestic violence related unemployment insurance benefits being paid.

Answering a question from Representative King, Representative Kulkarni explained that the legislation would allow sworn statements provided to a human resource administrator as it pertains to the evidentiary requirement. However, considering that victims are often not comfortable disclosing information to a human resource administrator, human resource departments may not be well versed in intimate partner abuse, or human resource departments may not want to get involved for liability reasons, Representative Kulkarni pointed out that there are various sources that would qualify as supporting documentation for the evidentiary requirement.

Replying to Representative Huff, Representative Kulkarni stated that a victim would be eligible for the same number of weeks of unemployment insurance benefits as any other unemployment insurance claimant. The victim would be eligible for benefits as long as issues stemming from the abuse persisted.

Addressing Senator Wheeler, Representative Kulkarni said the bill does not have a counseling requirement for the victim, but some other states that have similar legislation waive the unemployment insurance job search requirement to give victims the opportunity to seek counseling from a mental health professional.

Responding to comments made by Senator Southworth, Representative Kulkarni stated that the legislation is a work in progress, and a victim counseling requirement could be considered as an addition to the bill before it is prefiled. Representative Heavrin added that a compromise could be reached that could accommodate employees and employers while remaining empathetic to victims of intimate partner abuse.

Answering a question from Representative Calloway, Representative Kulkarni said the Labor Cabinet was consulted throughout the drafting process, and the processing of domestic violence unemployment insurance claims would be included in the Office of Unemployment Insurance's regular staff training.

Kentucky Affordable Housing Act

As a result of the limited availability of affordable housing options across the state, Representative Bridges and members of the Commonwealth Alliance for Housing Solutions have crafted legislation that will provide workforce housing tax credits. Prior to the Covid-19 pandemic, Kentucky was about 75,000 housing units short of what would be considered sufficient, and due to obstacles created by the pandemic,

housing and construction costs have increased. It has been estimated that if the state added 65,000 units, then it would generate approximately \$178 million in tax revenue for state and local governments and add 3,500 jobs.

More than 20 other states have enacted similar legislation, including Georgia. In 2016, Georgia's housing tax credit program resulted in the construction of 1,200 new housing units, generated \$150 million in local income, produced \$40 million in tax revenue, and created over 2,000 jobs. Projections for annual credits issued total about \$12.5 million, and there is a five year sunset clause that would allow for assessment of the economic impact of the program.

Tammy Stansbury, Vice President of Development for Woda Cooper Companies and Secretary of the Kentucky Affordable Housing Coalition, made comments about affordable housing compared to public housing and described the state's critical need of housing solutions for working families, veterans, senior citizens, and many others.

Former Georgia Representative Brett Harrell testified about his state's successful low income tax credit program that has led to the construction of over 136,000 living units since the program was established in 2001. Mike Hynes, the CEO of Winterwood Incorporated, briefly added that in order to attract employers to the state in the future, the housing shortage must be addressed.

Responding to Senator Wheeler, Representative Bridges stated that the housing shortage must be addressed with a workforce housing tax credit program due to the target group which includes senior citizens, veterans, and others that may be on a fixed income. Ms. Stansbury also explained the difference between market rate housing and affordable housing, noting that the tax credit will be more beneficial to investors and allow them to have lower rental prices.

Answering a question from Representative King, Representative Bridges confirmed that the program would not affect the role of county Planning, Zoning, and Building Code Enforcement offices.

Apprenticeship Program Update

The Commonwealth's Registered Apprenticeship Program is housed in the Office of Employer & Apprenticeship Services of the Kentucky Career System within the Department of Workforce Investment at the Education and Workforce Development Cabinet. The program combines both on the job training and job related instruction, results in industry recognized national credentials, and develops skill specific career employees. In addition, registered apprenticeships reduce turnover rates for employers, lower the cost of recruitment, and stabilize the employer talent pipeline. State dollars and two registered apprenticeship federal grants fund the program, with one federal grant scheduled to end in June 2022 and the other ending June 2023. About 347 employers across the state participate through 590 different programs and 585 various occupations. Among the 4,165 apprentices, 8.12 percent are minorities, 16.69 percent are women, and 4.68 percent are veterans. There are also over 400 youth apprentices that participate in the Tech Ready Apprentices for Careers in Kentucky program. The

Office of Employer & Apprenticeship Services of the Kentucky Career System has added 29 new programs and 44 new occupations in the current calendar year and is working to campaign for diversity, equity, and inclusion in all programs.

In response to Representative Webber, Michelle DeJohn, Executive Director of the Kentucky Career Center Office of Employer & Apprenticeship Services, stated the average starting wage of an apprentice that has completed an apprenticeship program varies based on occupation.

Craft Breweries

In the Commonwealth, there are craft brewers, craft distillers, and small farm wineries that are independently owned producers within their authorized product sector. Product sectors include beer, distilled spirits, and wine. Annual production limits to be considered craft are different for beer than distilled spirits and wine. The Alcohol and Tobacco Tax and Trade Bureau define craft, for tax purposes, as two million barrels per year. The National Brewers Association's definition of craft is six million barrels per year and the brewery must be independent. However, Kentucky defines craft microbreweries with an annual production not to exceed 50,000 barrels. The barrel limits in the Commonwealth drastically vary from other states and federal requirements. Although breweries across the state are considered to be small businesses, these establishments have a major impact on the retail, hospitality, and tourism industries. Breweries have both a direct and indirect economic impact in the Commonwealth with industry sales generating federal, state, and local revenue. Kentucky breweries generate \$872 million in annual economic activity.

Overall, U.S. beer volume sales were down three percent in 2020 while craft brewery sales declined nine percent. Throughout the pandemic, Kentucky brewers saw decreases in product volume, sales, and revenues. Disruptions in supply chains, increased costs of supplies and materials, and costs to businesses to comply with COVID-19 requirements have been obstacles for breweries. Craft brewers provide over 1,000 jobs across the state but were forced to furlough or lay off many employees due to the pandemic and are currently struggling to find employees. Despite setbacks across the industry, there are 93 craft breweries in the Commonwealth, 10 new breweries in planning, and 27 that have expanded or will expand in the next 18 months. The Kentucky Guild of Brewers would like to see statutory changes to enhance Kentucky craft brewers' ability to compete with craft brewers in bordering states, legislation that would reduce barriers for new and existing brewers, changes to the alcohol tax structure, and modernization of laws to match business practices.

Responding to Senator Wheeler, Adam Watson, the Government Relations Chairman for the Kentucky Guild of Brewers, stated that a shortage of keg and barrel sales has led to brewers having to can their product which has created a shortage of cans.

Senator Mills made comments about the struggles that breweries and other small businesses are still facing due to the COVID-19 pandemic despite other businesses already starting to recover.

Answering questions from Senator Southworth, Mr. Watson explained that some craft breweries were eligible for emergency pandemic funds. Charley Hamilton, the President of the Kentucky Guild of Brewers, elaborated on incentives available for new breweries and said access to incentives and assistance varies for each new brewery based on location.

Replying to questions from Representative Webber, Mr. Watson said that many breweries have halted openings or expansions due to the pandemic, but he is confident that those plans will resume once the industry and economy stabilize.

Addressing a question from Representative Bechler, Mr. Watson stated there are very few brewers that currently have an issue with the 50,000 barrel limit. However, he clarified that it may become a problem for some once the industry recovers.

Responding to Representative Webber, Mr. Watson said he would need to consult with the members of the Kentucky Guild of Brewers about other legislative priorities.

There being no further business before the committee, the meeting adjourned at 10:42 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

**Minutes of the 4th Meeting
of the 2021 Interim
September 1, 2021**

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Education was held on Wednesday, September 1, 2021, at 1:00 p.m., in Room 149 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Regina Huff, Co-Chair; Senators Danny Carroll, David P. Givens, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Gerald A. Neal, Adrienne Southworth, Robert Stivers, Reginald Thomas, Stephen West, and Mike Wilson; Representatives Shane Baker, Kim Banta, Tina Bojanowski, Jennifer Decker, Jeffery Donohue, Myron Dossett, Mark Hart, Adam Koenig, Scott Lewis, C. Ed Massey, Bobby McCool, Charles Miller, Felicia Rabourn, Steve Riley, Attica Scott, Killian Timoney, James Tipton, Russell Webber, Richard White, and Lisa Willner.

Guests: Jim Flynn, Executive Director, Kentucky Association of School Superintendents; Eric Kennedy, Director of Advocacy, Kentucky School Boards Association; Will Hodges, Superintendent, Green County Schools.

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

Chair Wise welcomed members, special guests, and guest legislators to a specially called meeting of the committee. He briefly introduced some of the issues that schools are facing regarding mitigation of COVID-19 and legislative proposals to address those needs. He began with funding and attendance, noting that for schools who have needed to close for COVID-19 quarantine, it affects their number of

instructional days and cuts into their available make-up days. In one district alone, there are over 400 students in quarantine due to eight students testing positive for COVID-19, and that has resulted in the need to close schools. We cannot eradicate or eliminate the threat, but we can manage it with common sense. He hopes legislation can be written that outlines localized metrics for local control and decision making, because a one-size-fits-all approach does not make sense. An example of a local model was the “Test and Stay” program being implemented by some schools in his district. Instead of quarantining the entire classroom, this program allows those who were exposed to take daily tests in order to stay in the classroom as long as they remain negative.

He pointed out that shortages of teachers and substitutes are also a critical issue facing schools. Temporary waivers should be considered to utilize emergency language already in statute to increase the number of available individuals for substitute teaching. These procedures will still be safe but will expedite the process for temporary certification and background checks. He also proposed the need to allow superintendents to utilize probationary candidates. In order to protect the workforce, there is a need to incentivize vaccination among teachers, staff, and eligible students. He emphasized that the legislature does not want to utilize mandates on school districts. Rather, they would prefer to allow local level control.

Jim Flynn, Executive Director, Kentucky Association of School Superintendents, spoke regarding the needs of schools as it relates to funding and to share the concerns of Kentucky’s superintendents. They have been working hard to keep educational services in place, with an emphasis on in-person instruction, but in a way that protects everyone’s well-being and reduces spread to lessen impact on local healthcare facilities. School superintendents need good data and evidence for guidance to navigate these complex decisions. A top priority for superintendents is funding stabilization. Low in-person attendance in the current school year will have a dramatic impact on next year’s budget due to the way SEEK is calculated. This has driven some schools to close rather than record very low attendance. Regardless of attendance, schools will need adequate funding to provide in-person services to everyone in the 2022-23 school year. If superintendents can be guaranteed that their funding will be adequate next year, they will be able to effectively plan for the lower numbers experienced today. He requested an option to use 2018-2019 funding levels, as was allowed in the past, or even the 2019-2020 attendance data. He did point out that some districts may have had significant enrollment increases since then, so they should be allowed to apply for an exemption to increase funding.

In response to a question from Chair Wise, Mr. Flynn said superintendents do consider the impact of attendance on funding when making the decision to use an NTI day, but largely the lack of teachers, substitutes, and school bus drivers is more often what results in the cancellation of in-person learning. Schools need a mechanism to deal with individual schools in the district or individual classrooms in the face of staffing shortages.

Responding to a question from Senator Givens, Mr. Flynn said there is currently a great difficulty getting CDL-licensed bus drivers. Interested individuals are able to take the necessary training courses but cannot schedule tests for licensure. He suggested that schools may need to access other pools of already CDL-licensed drivers, such as city bus drivers. He also noted there are constraints on retired teachers that prevent them from coming back as substitutes. Retired staff are also generally more vulnerable to severe COVID-19 and fearful for their health by coming into classrooms right now. He suggested the schools need to mitigate learning loss in the short term and to look at how to recover learning loss in the future. Mr. Flynn suggested lifting constraints on pre-service and student teachers to serve as substitutes by addressing background checks, which are a hurdle due to time, location, and cost. Responding to another question from Senator Givens, Mr. Flynn said pre-service teachers are those that are on a schedule that would allow them to substitute, but they do not have all their classroom hours yet.

Responding to questions from Senator Wilson, Mr. Flynn said schools are providing remote services to those students who are at home due to a positive COVID-19 diagnosis or in quarantine, but it is challenging. Teachers are in classrooms working with in-person students, covering classrooms as substitutes, and also remotely supporting students in quarantine or isolation. It is an incredible burden. If schools could get more teachers, it would improve the supports given to homebound students. Mr. Flynn also explained that NTI is different than virtual academies, in that NTI is used for the entire district to provide non-traditional instruction, and prior to the pandemic was largely used for weather-related closures. It is a useful tool for districts to have to respond to the pandemic, but the priority remains providing in-person instruction. Virtual academies are a remote learning option for individual schools or classrooms and could provide flexibility to districts wishing to create them.

Responding to questions from Representative Tipton, Mr. Flynn said current funding is based on Average Daily Attendance (ADA), but allowing for funding to be based on Average Daily Membership (ADM) and ADA combined, or for an exemption from recent years’ attendance, might be desirable for districts. He also suggested including criteria for enrollment growth in the mechanism. Mr. Flynn further addressed Representative Tipton’s questions, saying that as long as schools can respond as needed when there are not adequate staff to allow in-person instruction safely, they will be satisfied. That mechanism could be remote learning flexibility, limited use of NTI for the district, or a more targeted, classroom level tool.

Responding to a question from Representative McCool, Mr. Flynn said 140 districts have applied for virtual academies to offer families who wish to have a virtual option. These academies utilize a performance-based funding model and usually service middle and high schools; although, some schools are creating elementary level options during the pandemic. It is a riskier option because of performance based funding. If legislation addressed the funding issue by allowing

the use of 2018-2019 school year ADA for next year's funding, that might help more schools establish virtual academies. At this time, when staffing is limited and students are receiving virtual instruction, schools do not have access to any funding exception.

Senator Neal commented that he appreciates the need for flexibility, but there is a great deal of uncertainty around the future of COVID-19 and funding concerns. He suggested that some consideration should be given to legislatively allowing more NTI days to give districts the flexibility necessary to deal with the uncertainty. Chair Wise answered that the committee may want to look at that, but there is not an appetite among legislators for providing unlimited NTI. NTI can be abused and risks child safety. Senator Neal agreed that he does not advocate for unlimited NTI, but increasing the number of available days needs to be considered. Chair Wise said that NTI may be addressed in a special session but also can be considered in January during regular session as it was when the pandemic began.

Responding to a question from Chair Wise, Mr. Flynn said if the number of required school days is changed to hours of instruction, it would provide more flexibility by allowing districts to extend the school day by a few minutes to make up the time after the current period of COVID-19 intensity subsides.

Senator Stivers commented that some approaches from last year were not effective as evidenced by lower test scores, and they created struggles for working families. Historically, individual schools were allowed to petition KDE with an NTI plan that was customized for their district. The legislature needs to allow that flexibility again because there may also be a bad winter that schools will need to address using NTI days. Mr. Flynn agreed a one-size-fits-all approach will not work. Superintendents need to have the flexibility to make the decisions based on local context. However, he asked for more data because it is difficult to justify their decisions when there is not meaningful data from local, regional, and state sources. More clarity will help when combined with the immediate relief options discussed. He also asked for a framework in January for other potential variants based on what has been learned in the last 18 months. Senator Stivers agreed saying schools need to get through this semester, and then the legislature will reevaluate the dynamics in January for the spring semester.

Responding to a question from Representative Rabourn, Mr. Flynn said there is a need for consistency of messaging from state health agencies and a consistency of application of policies. Some schools are using innovated approaches, such as allowing proof of vaccination to delay or prevent the need for quarantine in the event of exposure or the use of testing. Not all schools know which options are available to them to address quarantine requirements nor do they have the resources necessary to implement something like a testing program. Additionally, local health departments are giving different advice than some doctors, creating an unevenness that is difficult for superintendents to navigate. There needs to be a uniform policy and more access to different options.

Representative Willner commented that real people's lives are at stake, and it is clear the legislature

needs to take this seriously in taking action. There is a need for flexibility and stable funding, both to address equipment needs and staffing shortages, and to particularly address custodial staff shortages at a time when there is increased demand for sanitation. She asked if there had been much discussion of using a hybrid model, such as was used in Jefferson County and many other districts last year, to allow teachers to have smaller, more socially distanced classrooms while still providing in-person instruction. Mr. Flynn said there was some discussion among superintendents about the effective use of hybrid models last year. It does allow for in-person instruction and reduces student density. Superintendents would not be opposed to having that tool as an option, but there is evidence that masking helps mitigate student density concerns. The choice to utilize a hybrid model is also influenced by the size and floor plan of the school buildings, community incidence rates, and the impact on families that would have to provide care for children on the days they are not in-person in a classroom.

Responding to a question from Chair Wise, Mr. Flynn answered there is no statewide data right now on the number of students in quarantine who are positive versus negative, but the overwhelming majority of those in quarantine are not positive. Additionally, it seems that those who are testing positive are getting COVID from the community, not from contact in a school setting.

The committee next heard from Will Hodges, Superintendent, Green County Schools, regarding their use of a "Test to Stay" program. With support from the Cumberland Health Department and Cumberland Family Medical practice, nurses and nurse practitioners have been assigned to Green County Schools to implement a strategy for testing in local school districts that has not been promoted statewide. This testing strategy is not easy, but it is worthwhile and is keeping students in classrooms. After the recent peak in case rates, the process for testing has become more streamlined and efficient. He did advise that schools wishing to adopt this strategy will need a good healthcare partner. Also, this program is not mandatory. Parents can still choose to quarantine students if they do not want them tested. The testing is also only offered to students who have a school-level exposure, not household/community exposure. In his experience, those students who were exposed at home tended to become positive.

The "Test to Stay" program works by identifying students who may have been exposed in school, following the CDC criteria of close contact, and allows those students to test daily for six days. If the exposed student remains negative, they are allowed to continue to attend school. Students are tested on days one through six, with the day of exposure as day zero. Weekends count towards the six days, however students are not tested on the weekend. If Saturday or Sunday would have been the sixth day, students are tested on the Monday following. Tests do not have to occur first thing in the morning so this allows for testing to be spread throughout the day. Students in the program test 24 hours apart so if they test at 10:00 a.m. on day 1, that is the time they test every day for the period of testing. While participating in the testing

program, students must wear a mask in classrooms. Students who are not in the program are not mandated to wear masks but may if they wish. Out of the 1675 students in Green County Schools, so far 159 have participated in the program and 92 percent continue to be negative. This has allowed keeping those 146 students in school for in-person instruction. Most families have chosen to participate in this program, not only because it means the students have remained in school, but parents have not had to lose work or face the stress of finding alternative childcare. It has also illustrated that spread is not taking place at school as much as at home or in the community. So far the "Test to Stay" program has drastically cut down on quarantines. Only those with household contact with COVID-19 have been required to quarantine, which is currently 79 students or 5 percent of the school population. Mr. Hodges credited the ability of the school to keep the number of students in quarantine low to this program. He also wanted to thank the healthcare partners for their assistance. While the school year has just started, things could change in a moment, but for right now this seems to be helping. He also echoed earlier superintendent concerns about staffing shortages.

In response to a question from Chair Wise, Mr. Hodges said there is no cost to families for participating in the program. The school is utilizing federal relief funds to pay for the program so that the district also does not experience a budget shortfall. Mr. Hodges said there were other counties using the same model program including Russell County.

In response to a question from Representative Rabourn, Mr. Hodges said they use the nasal swab test. Responding to a follow-up question from Senator Southworth, he said it is a rapid test which produces results in 15 minutes, so students only miss class time for that period of time. If the results are questionable, they are sent on to a nurse practitioner for follow-up and retesting. Mr. Hodges was also not aware of any risk of testing shortages, and healthcare professionals seemed to be comfortable with the risk of continued exposure should the student test negative for a couple of days before testing positive. This process so far has detected positives and prevented increased spread.

Responding to a question from Senator Givens, Mr. Hodges said Green County had not utilized any NTI days, and they are on their 22nd day of school. Responding to questions from Senator Carroll, Mr. Hodges added that the nurse schedules any symptomatic students, even those with negative tests, for a PCR test. He reiterated he does not know of any testing shortages currently. Chair Wise commented that he knew the state had approximately 80,000 kits right now, but did not know how long that reserve would last if all schools implemented "Test to Stay" or when they could get more tests if they needed more.

In response to questions from Representative Riley, Mr. Hodges said it only takes 15 minutes to perform the test per student. In response to a question from Representative Fleming, Mr. Hodges said Green County has one nurse per building of approximately 500 students. A ratio like that should be able to accommodate even the larger districts in the state, because testing is spread throughout the day. It would be critically necessary for schools wishing to

implement “Test to Stay” to develop a partnership with a local healthcare agency to read the test results. There are also waves of infection that the school will experience, and it becomes very tiring for the staff during those busy periods. Representative Fleming said Jefferson County would have to ramp up the number of nurses, because currently many school buildings share a single nurse.

Responding to questions from Senator Higdon, Mr. Hodges said there is daily testing of students with symptoms and parents are notified to provide permission for testing. However, less than two percent of the total student population is currently positive for COVID-19.

Chair Wise thanked Mr. Hodges, and said he hoped that this kind of outside the box thinking could provide movement forward for districts.

Eric Kennedy, Director of Advocacy, Kentucky School Boards Association, spoke about concerns school board members have regarding COVID-19 and possible solutions to be considered by the legislature. Largely, school board members agree with the concerns raised by school superintendents and the suggested solutions. During a recent regional meeting, the largest concern and driver of school closures was the lack of adults in schools to allow them to operate safely. Twenty-three districts have already paused in-person learning and 9 have used NTI for some of their closed days. He expects that number will continue to grow. School board members have concerns about using NTI, though, before the winter weather comes. Retention of staff is a concern, as some school board members have taken on the burden of contact tracing, which some teachers and staff have been performing above and beyond their existing duties. Contact tracing is an exhausting job and has led to many heated conversations between school staff and families at a time when tensions are already too high. This is driving employee burnout and some school staff are walking away, further compounding the staffing crisis. Many schools are down to one substitute per school so anything that can help increase numbers of teachers is welcome by school boards.

He said clarifying that “Test to Stay” is an approved policy would be helpful, but urged legislators and others to also help schools find the necessary healthcare partners to make the program work. The State Department of Health has indicated fully- vaccinated individuals do not have to quarantine without symptoms, but schools are wary to act on that without more explicit recommendations. This is a guideline that could encourage more vaccinations among bus drivers, custodians, and food service staff. If a school could reach 100 percent vaccination among teachers and staff, it would help prevent quarantine of staff and closure of schools. There is a critical need to promote vaccination efforts and increase the vaccination rate, even if this is not addressed legislatively.

Representative Bojanowski said as a teacher she hears students expressing concerns about their own safety. Also, in her school, they would need more than one nurse for “Test to Stay,” because the nurse on staff already has a full workload apart from additional COVID-19 testing and contact tracing. She worries about parents sending students to school even though

they are positive or have a sibling or family member who is positive. Front line teachers and healthcare workers are feeling pressure and burnout. They are scared for themselves and vulnerable family members. She provided members with feedback from teachers, those who are teaching asynchronous virtual and in-person classes, and those who are concerned about using their own sick leave for quarantine or isolation. She urged members to consider allowing for school closures versus district-wide closures or the development of hybrid models. All the teachers she spoke with support a mask mandate, because they are concerned if that decision is left to local school boards it will be politically motivated instead of motivated by true health concerns. She stressed that children under 12 cannot be vaccinated and are only protected by masking, but there is general opposition to a vaccine mandate for teachers. She closed by suggesting schools be considered as vaccination sites for children when the vaccine becomes available for those under age 12. She has memory of her school performing such vaccinations when she was a child, and the program would have support from families.

In response to questions from Senator West, Mr. Kennedy said it may be a case where the state health department or local health departments would have the authority to create and implement a “Test to Stay” program for schools without needing to modify statute. However, the availability of “Test to Stay” is not in the guidelines for quarantine from the Department for Public Health, so clarity and explicit recognition of that program as an option would help local school districts and health departments relieve doubts.

Responding to a question from Senator Thomas, Mr. Kennedy said it would be problematic to incentivize vaccination by tying funding to vaccination because it is not practical to create a mandate that would be hard for schools to comply with, and there are laws in place that prevent the use of coercive or discriminatory policies regarding health mandates.

In response to questions from Senator Southworth, Mr. Kennedy said the number of hours is specified in statute and funding is tied to meeting the statutory requirements for instructional hours. There is no definitive number of staff necessary for a school to be open, but superintendents use their experience to determine when the number of staff is too low for adequate student supervision and safety. Public health criteria are outside his area of expertise, and he would defer to the health officials in determining what measures might be able to change regarding quarantining of students and staff. Superintendents and school board members are not health experts and are relying on those that are to issue the guidance documents used for testing, vaccination, masking, and quarantine decision making.

Responding to a question from Representative McCool, Mr. Kennedy said the restrictions that were relaxed previously to allow staff such as bus drivers and retired teachers to return is being used to its maximum ability, but there are limitations from the teachers retirement system and the federal government that prohibit much more relaxation. The need to allow for retirees to serve as substitutes is high, and anything that can be done to make it easier

for retirees to come back as substitutes would be supported by school boards.

In response to a question from Representative Rabourn, Mr. Kennedy said every district is different in determining the percentage of absentees that results in a school closure. Typically, that is around 85 to 87 percent attendance. However, if the previous year’s average daily attendance (ADA) was not used for funding calculations some schools may consider staying open when they drop below the 85 percent threshold since it would not negatively impact funding in the upcoming school year. The proposal to permit that has support from the school boards association. Mr. Kennedy also said most superintendents make the decision to use an NTI day based on how many days have already been used, whether students or families just need a break, and based on what the probabilities of needing NTI for inclement weather may be for their area. Many schools are hesitant to use NTI days now that they may need for bad weather in the winter. In closing, he reiterated the need to allow flexibility for these times of rapid change. However, there needs to be stability from the state to allow for uniform application of existing guidance. One example is in the guidance surrounding contact tracing, where the guidance is consistent but the process for application is imprecise because of the challenges facing staff in the real world classrooms. He urged everyone to remember that school staff are doing the very best they can in these challenging times.

Chair Wise thanked everyone for their testimony, questions, and comments. He encouraged all members to continue collecting suggestions and bring that input to members for inclusion in possible legislation. With no further business to come before the committee, the meeting adjourned at 3:07 p.m.

INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

**Minutes of the 5th Meeting
of the 2021 Interim
September 22, 2021**

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, September 22, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Karen Berg, Danny Carroll, David P. Givens, Denise Harper Angel, Jason Howell, Alice Forgy Kerr, Stephen Meredith, Michael J. Nemes, and Max Wise; Representatives Danny Bentley, Adam Bowling, Josh Bray, Tom Burch, Ryan Dotson, Daniel Elliott, Ken Fleming, Deanna Frazier, Mary Lou Marzian, Melinda Gibbons Prunty, Felicia Rabourn, Josie Raymond, Steve Riley, Scott Sharp, Steve Sheldon, Nancy Tate, Russell Webber, Susan Westrom, and Lisa Willner.

Guests: Nancy Galvagni, President, Jim Musser,

Vice President, Policy and Government Relations, Kentucky Hospital Association; Irfan Budhani, M.D., Pulmonologist, Critical Care Medicine Specialist, Crestview Hills, Kentucky; Cory Meadows, Deputy Executive Vice President, Director of Advocacy, Kentucky Medical Association; Donna Meador, MSN, RN, CENP, CPHQ, President, Board of Directors, Kentucky Nurses Association; Dr. Kris Williams, Chancellor, Ms. Kim Nealis-Williams, RN, MSN, Executive Director of Applied Programs and Experiential Learning, Kentucky Community and Technical College System; Dr. Jaclyn Bitterman, RN, MSN, Dean of Nursing, Jefferson Community and Technical College; Steven J. Stack, MD, MBA, FACEP, Commissioner, Department for Public Health, Cabinet for Health and Family Services; Jan Chamness, MPH, Public Health Transformation Project Lead, Director, Division of Women's Health, Department for Public Health, Cabinet for Health and Family Services; Sara Jo Best, President, Kentucky Health Department Association; and Laura Begin, Staff Assistant, Department for Community Based Services, Cabinet for Health and Family Services.

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

Approval of Minutes

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

Vaccination Rates and Hospital Capacity Statewide

Nancy Galvagni, President, Kentucky Hospital Association (KHA), testified regarding the high number of hospitalizations due to a surge in COVID-19 cases. She discussed the lack of available intensive care unit (ICU) beds available, the low supply of the monoclonal antibody treatments that is now federally allocated to states, and the percentage of people that are fully vaccinated. She discussed the high percentage of unvaccinated patients with COVID-19 in ICU beds, new policies that require hospital employees to be vaccinated or file for a medical or religious exception, and the impact of hospital staffing shortages. She provided recommendations to the committee for assisting hospitals with the impacts of the COVID-19 crisis.

Irfan Budhani, M.D., Pulmonologist, Critical Care Medicine Specialist, Crestview Hills, Kentucky, discussed the increase in the severity of COVID-19 cases driven by unvaccinated individuals. He discussed the difficulty of transferring patients for tertiary level care services. He emphasized that COVID-19 is a preventable illness.

In response to questions and comments from Senator Alvarado, Dr. Budhani stated the COVID-19 pandemic has taken a toll on healthcare workers with some workers are retiring early or leaving the health industry. He stated that there is no cure for the COVID-19 virus. Ms. Galvagni stated that hospitals across the state tell her that their main problem is staffing. She stated that there was \$1 billion in losses to hospitals that were not covered by federal funds.

In response to questions and comments from

Representative Moser, Dr. Budhani stated that the Centers for Medicare and Medicaid Services (CMS) reimburses a hospital for the extracorporeal membrane oxygenation (ECMO) code at approximately \$150,000 and this amount does not include the cost of the entire hospital stay.

In response to questions and comments from Representative Dotson, Dr. Budhani state that 95 percent of the patients who are in the ICU and critically ill are unvaccinated. He stated the vaccinated patients in the ICU fair better than younger, unvaccinated patients. He stated that immunity from the COVID-19 vaccine is not dependent on antibody levels alone.

In response to questions and comments from Representative Fleming, Ms. Galvagni stated that KHA follows the Centers for Disease Control and Prevention (CDC) guidelines for employees returning to work after testing positive for COVID-19 and for unvaccinated staff exposed to someone with COVID-19. She stated that some hospitals employ paramedics to work within the hospital.

In response to questions and comments from Representative Burch, Ms. Galvagni stated that KHA endorses the COVID-19 vaccine for hospital staff.

In response to questions and comments from Representative Webber, Ms. Galvagni stated that there have been some staff terminated for not receiving the COVID-19 vaccination. She stated that hospitals are reporting to KHA that there have not been any operational impacts due to the terminations.

In response to questions and comments from Senator Meredith, Ms. Galvagni stated that schools and daycares closing due to COVID-19 were a larger problem for staff at the beginning of the pandemic.

In response to questions and comments from Representative Webber, Ms. Galvagni stated that hospital staff are required to have other vaccines as well as the COVID-19 vaccine.

Health Care Worker Shortages

Cory Meadows, Deputy Executive Vice President, Director of Advocacy, Kentucky Medical Association, testified that the health care worker shortage is not only an immediate, acute issue but also a long-term, chronic problem that needs a long-term solution. He reviewed the causes for the physician shortage and the barriers in recruiting new physicians. He reviewed new ideas to recruit new physicians and other health care staff.

Donna Meador, MSN, RN, CENP, CPHQ, President, Board of Directors, Kentucky Nurses Association (KNA), testified about the ongoing nursing workforce shortage exacerbated by COVID-19. She gave recommendations to the committee from nurse leaders to train, retain, and recruit nurses.

Dr. Kris Williams, Chancellor, Kentucky Community and Technical College System (KCTCS), reviewed the healthcare training funds and the list of associate degree, diploma, and certificate programs available in the health care field. She discussed KCTCS collaboratives and other education partners that work to meet healthcare pipeline needs, and identified workforce barriers for students and faculty. Dr. Jaclyn Bitterman, RN, MSN, Dean of Nursing, Jefferson Community and Technical College, discussed the licensed practical nurse (LPN) apprenticeship program

at the Carrollton KCTCS campus. Dr. Williams listed KCTCS funding priorities to expand opportunities for the healthcare workforce.

In response to questions and comments from Representative Gibbons Prunty, Mr. Meadows stated that healthcare practitioners have decided to have more stable work hours and would like to have more efficient ways to handle the administrative burden on practices.

In response to questions and comments from Representative Bowling, Dr. Williams stated that some of KCTCS colleges were approved and some denied additional nursing students spaces. She stated that KCTCS is working with nurse leaders and KBN to increase the number of students permitted in nursing programs.

In response to questions and comments from Representative Bray, Dr. Williams stated that KCTCS can follow up with more in-depth information on the status and job placement of graduates. She stated that enrollment numbers have been falling over the past three years but that more students are graduating.

Department for Public Health Transformation Update

Steven J. Stack, MD, MBA, FACEP, Commissioner, Department for Public Health (DPH), Cabinet for Health and Family Services, testified that the legislature collaborated with the local health departments, constituents, and DPH to bring about needed reforms in public health.

Jan Chamness, MPH, Public Health Transformation Project Lead, Director, Division of Women's Health, Department for Public Health Cabinet for Health and Family Services, reviewed the number of local health departments in financial crisis and progress due to the 2020 Regular Session House Bill 129 to core public health programs and local health priorities.

Sara Jo Best, President, Kentucky Health Department Association (KHDA), testified regarding the need for the DPH transformation to produce better health outcomes. She reviewed how focused services, the stabilization of the pension system, and equitable funding work together to support the public health transformation.

Items Received for Review

Representative Moser recognized that the half-year block grant status reports for the Child Care and Development Fund (CCDF), Community Services Block Grant (CSBG), Social Services Block Grant (SSBG), and Temporary Assistance for Needy Families (TANF) block grants are available in the meeting materials for review.

In response to questions and comments from Representative Fleming, Laura Begin, Staff Assistant, Department for Community Based Services (DCBS), Cabinet for Health and Family Services, stated that she would follow up with the number of past due cases regarding children in protective services.

Consideration of Referred Administrative Regulations

The following referred administrative regulation

was placed on the agenda for consideration: **201 KAR 009:290 Proposed** - Athletic trainers; interpretation and application of KRS 311.901(1) and 311.903(2). Concerns regarding the regulation were made by Senator Alvarado. A motion to defer the administrative regulation was made by Representative Gibbons Prunty and seconded by Representative Fleming, and accepted by voice vote. The administrative regulation **201 KAR 009:290 Proposed** was deferred.

The following referred administrative regulations were placed on the agenda for consideration: **202 KAR 007:201 Proposed** - Emergency medical responders; **202 KAR 007:301 Proposed** - Emergency Medical Technician; **202 KAR 007:330 Proposed** - Advanced Emergency Medical Technician; **202 KAR 007:401 Proposed** - Paramedics; **202 KAR 007:540 Proposed** - Emergency Medical Services data collection, management, and compliance; **202 KAR 007:601 Proposed** - raining, education and continuing education; **902 KAR 002:221 Emergency** - Repeal of 902 KAR 2:220; **908 KAR 001:390 Proposed** - voluntary Employer Substance Use Program (VESUP); **921 KAR 003:026 Emergency** - Repeal of 921 KAR 003:025; and **921 KAR 003:027 Emergency** - Technical requirements. The administrative regulations were reviewed.

Adjournment

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

INTERIM JOINT COMMITTEE ON JUDICIARY

**Minutes of the 4th Meeting
of the 2021 Interim**
September 17, 2021

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Judiciary was held on Friday, September 17, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll. The minutes from the August 5th 2021 meeting were approved.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative C. Ed Massey, Co-Chair; Senators Karen Berg, Danny Carroll, Gerald A. Neal, John Schickel, Wil Schroder, Robert Stivers, and Phillip Wheeler; Representatives Kevin D. Bratcher, McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Joseph Fischer, Samara Heavrin, Nima Kulkarni, Derek Lewis, Savannah Maddox, Chad McCoy, Patti Minter, Kimberly Moser, Jason Petrie, and Attica Scott.

Guests: The Real Young Prodigys, Cookie Crews, Kiernyn Fannin, Robyn Bender, John Moberly, Greg Speck, Jeff Hancock, Mike Bosse, and Tyler Whitworth.

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

Approval of the September 17, 2021 Minutes

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

CROWN (Creating a Respectful and Open World for Natural Hair) Act

Senator Westerfield welcomed Senator McGarvey and his guests “The Real Young Prodigys” of Louisville. The group presented a video it had created support on the CROWN Act and discussed legislation that will expand the definition of race and extend statutory protection to hair texture and protective styles in the workplace, K-12 public schools, and charter schools.

Inmate Classification and Transfer

Kiernyn Fannin, Director of the Division of Population Management, Department of Corrections, stated by definition that a controlled intake inmate is an inmate sentenced to the Department of Corrections after judgment, who is pending classification to a jail program or awaiting admission to an Assessment Center. Director Fannin reviewed the classifications used by the department as required under KRS 532.100.

Director Fannin stated that DOC uses an objective based risk instrument that was developed in the 1980s, with assistance of the National Institute of Correction (NIC). With the most recent version implemented in October of 2020. The classification manual is reviewed and updated in accordance with recommendations from valid and reliable studies.

Director Fannin stated that the instrument includes levels of custody and scored risk factors that include disciplinary behavior, severity of current offense, history and severity of other convictions, escape history, age, high school diploma or GED, employment status or attending school at the time of arrest, and kyRAS peer companion and family social score. The department also has a discretionary override if the committee feels that the inmate’s final score is incorrect and does not accurately show the risk the inmate poses.

Director Fannin stated that the classification process begins at sentencing. Once the inmate is sentenced, probation and parole will add the inmate into the offender management system for controlled intake. There are approximately 1,500 inmates per month being classified as controlled intake, compared to approximately 1,900 per month prior to the pandemic. During classifications, staff reviews each offender and enters a projection for that offender in regards to program eligibility and a projected trustee level. Inmates can be classified into a jail program, classified pending admission to an assessment center, or transferred directly to state penitentiary, if it is a death penalty sentence. The inmate has the right to appeal the classification and is eligible for custody review every 90 days at request of the jail. After any triggering event, an inmate classification is automatically reviewed.

Director Fannin stated in 2019, DOC has classified an average of 992 inmates per month into jail programs. The number decreased in 2021, with those being transferred resulting from the pandemic, the average classifications was 691 per month. On average it takes 30 to 40 days to classify an inmate. Director Fannin identified several factors that impact those time frames. Additionally, Director Fannin stated that the institutional process for classification is

different than the jail program.

In response to an inquiry from Senator Westerfield, Director Fannin provided further information regarding protocols instituted as a result of COVID-19 during transfers. Inmates are tested for COVID-19 before and after transfer to a facility. Additionally, staff reviews the impact of receiving the vaccination would have on the length of time an inmate is in quarantine. Upon admission into an assessment center, each inmate is assigned to a classification treatment officer and has a classification hearing. The pandemic significantly impacted classifications and transfers. Director Fannin further stated that upon intake of transferred inmates, it is protocol to hold an inmate in quarantine for 14 days. If an inmate tests positive for COVID-19 after the 14 day quarantine, they will not be released from quarantine until a negative test has been recorded. In response to Senator Westerfield, Commissioner Crews added further information regarding the testing process.

Director Fannin stated that the Department of Corrections has added additional assessment centers as a result of the number of inmates waiting for classification. Those centers are now closed due to critical shortage of staff, but while they were running, an additional 254 inmates were able to be transferred.

Director Fannin reviewed the transfer status of inmates in controlled intake in February 2021, and in September 2021. In response to Senator Westerfield, Director Fannin stated that classification is to be completed within ten days upon the receipt of the judgment and PSI being received. Senator Westerfield asked how insufficient staffing would cause the classification process to exceed past ten days. Commenting that there have been numerous complaints from local correctional facilities and practicing attorneys who have been waiting three years for clients to be classified. In response to Senator Westerfield, Director Fannin stated that the classification date does not begin until after sentencing and receipt of the court order. Commissioner Crews, added that the complexity of classifying inmates does not allow for the ten day statutory requirements to be met.

In response to an inquiry by Senator Schickel, Commissioner Crews agreed to provide him information regarding the restrictive custody centers.

Representative Petrie requested DOC review the statutory requirements regarding timing of classifications and provide an analysis of necessary statutory or budgetary modifications of existing nonfunctioning procedures. Senator Carroll requested a current state-wide census count.

Law Enforcement Reciprocity

Senator Carroll advised the committee that the issue being discussed arose from a certification issue in Pulaski County and has resulted in further conversations to help officer shortages in the law enforcement community.

Major Jeff Hancock, Pulaski County Sheriff’s stated in March 2021, he had an impressive interview with an officer from Alabama. After the interview a reciprocity process was initiated through the Kentucky Law Enforcement Council, but the officer did not meet the criteria for reciprocity. Sheriff Jeff

Speck also commented on the officer's qualifications.

John Moberly, Executive Director of the Kentucky Law Enforcement Council, stated that KLEC's sole purpose is to hold Kentucky's law enforcement and training accountable. Director Moberly stated that as a part of the council they are statutorily required to do pre-employment testing to determine if an individual is suitable for long-term employment and officer reciprocity. The council includes 25 members, half of which are appointed by the Governor. Director Moberly stated that decisions were made by council members to promulgate an amended regulation allowing employment opportunities in Kentucky to out-of-state officers, adding that the current statute states that 50 credit hours were required before reciprocity.

Director Moberly stated that organizations such as the Fraternal Order of Police, police chiefs, and KLEC agreed that the current regulation be amended. Drafts reflecting language changes were submitted to the Legislative Research Commission in August of 2021. Public comment been scheduled for October of 2021.

Officer Whitworth discussed his training and desire to work with the Pulaski County Sheriff's Office.

Responding to Officer Whitworth, Senator Carroll recognized the importance of changes to be made on reciprocity. Stating that the additional credentials and experience of officers being recruited that meet the one year completion of training upon transfer would greatly benefit the Commonwealth.

In response to Senator Carroll, Director Moberly stated the military to law enforcement program known as the Skill Bridge program would allow for substantial recruitment opportunities. Under this program, military personnel, no longer actively serving, can be paid to attend six months of civilian-based academy training for potential employment.

In response to Representative Moser, Director Moberly stated that 70 online classes have been implemented for online training courses at universities across the nation. The Department of Criminal Justice monitors individuals during the online testing process, providing limitations and capturing the screening process.

There being no further business the meeting adjourned at 12:44 PM.

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

**Minutes of the 4th Meeting
of the 2021 Interim
September 23, 2021**

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Thursday, September 23, 2021, at 11:00 AM, in Room 131 of the Capitol Annex. Representative Adam Koenig, 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 Jimmy Higdon, Christian McDaniel, Michael J.

Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Kevin D. Bratcher, Tom Burch, Patrick Flannery, Al Gentry, Thomas Huff, Matthew Koch, C. Ed Massey, Chad McCoy, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Phillip Pratt, Sal Santoro, and Killian Timoney.

Guests: Rebecca Hartsough, Ph.D., Policy Director, Babbage Cofounder; Heather Wagers, Executive Director, Office of Trafficking and Abuse Prevention and Prosecution, Office of the Attorney General; Major Jeremy Murrell, Director, Division of Information Technology, Kentucky State Police; Julie Campbell, Administrator, Kentucky Board of Cosmetology; Adam Haley, Executive Director, Kentucky Academy of Audiology; Greg Brotzge, Government Affairs Consultant; Hearing Aid Association of Kentucky; State Representative Jonathan Dixon; Dave Chrisman, Monster Cleaning, Inc., and Anne Sabatino Hardy, Executive Director, Horse Country Tours.

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

Approval of Minutes from August 12, 2021, Meeting

Representative Koch motioned to approve the minutes from the August 12, 2021, meeting and Representative Timoney seconded the motion. Motion was approved by voice vote.

Massage Therapy Licensing Issues

Representative Koch asked for feedback on the massage therapy licensing legislation to improve it. The equine portion of the bill was removed, and color photos being required was added in the latest version. He also said the Federal Bureau of Investigations (FBI) has requested a correction to the language requesting a criminal background check proposed by the Massage Therapy Association. His hope is to get the FBI's approval on the new language prior to the next session of the General Assembly.

Ms. Heather Wagers, Executive Director, Office of the Attorney General, said Public Law 92-544 authorizes the FBI to exchange criminal history record information (CHRI) with officials of state and local government agencies for licensing and employment purposes. This can only be authorized by a state statute which has been approved by the Attorney General of the United States. The FBI, with the assistance of the United States Department of Justice, has determined the parameters of Public Law 92-544 with respect to obtaining criminal history record information. The criteria are as follows: the statute must exist as a result of a legislative enactment; it must require the fingerprinting of applicants who are to be subjected to a national criminal history background check; it must, expressly ("submit to the FBI"), authorize the use of FBI records for the screening of applicants; it must identify the specific categories of licensees/employees falling within its purview; it must not be against public policy; and it may not authorize receipt of the CHRI by a private entity. Additionally, FBI policy requires that fingerprints be initially submitted to the state identification bureau (for a check of state records) and thereafter forwarded to the FBI for a "national" criminal history check.

Representative Koch noted the FBI needs to be included on the language that will ensure sexual

predators are not being licensed to give massages to the public. He also said a second issue, that will be a separate bill, is to crack down on the bad actors in the massage therapy industry.

Audiologists and Specialists in Hearing Instruments

Representative Thomas testified in support of the audiologists. Adam Haley, Executive Director, Kentucky Academy of Audiology (KAA) said there is a documented shortage of primary care health professionals in Kentucky. According to the Health Resources and Services Administration, Kentucky has 176 total primary care Health Professional Shortage Areas (HPSA). Kentucky's population living in a primary care HPSA equals 1,166,737, which represents 26 percent of the overall population of Kentucky. There are 200 licensed audiologists in the Commonwealth of Kentucky who could help. Of the more than 36 million Americans who experience hearing loss, 30 percent are 65-74 years old and 47 percent are 75 years old and older. Kentucky has 916,000 residents with hearing loss, which represents 20.5 percent of the state population. Untreated hearing loss results in a greater occurrence of other physical and mental conditions in elderly patients, substantially reducing the quality of life for older adults and increasing Medicare spending. Treated hearing loss enhances the quality of life and reduces health care costs. Also, every 18 seconds, an older adult is treated in an emergency room for a fall. The average cost for a fall injury is \$30,000 and the direct medical cost for falls is \$50 billion annually. Among older adults (those 65 or older), falls are the leading cause of injury death. They are also the most common cause of nonfatal injuries and hospital admissions for trauma. Elderly falls are preventable as are their associated financial and societal costs. Audiologists reliably diagnose and treat the vestibular disorders and help prevent older adult falls.

The KAA and its members are dedicated to delivering evidence-based diagnostic and treatment services, including hearing aid dispensing and fitting services that ensure optimal patient outcomes. Unfortunately, archaic regulations impose significant barriers for audiologists seeking to practice in Kentucky. These regulations have not kept up with evolving standards of practice. Kentucky is only one of six states that requires licensed audiologists to hold two separate licenses for duplicative hearing loss treatment and habilitative services. KAA recognizes the importance of licensure for professionals involved in fitting and dispensing hearing aids as a means of consumer protection. However, requiring audiologists to hold two licenses for the same services offers no additional protection to the consumer. Therefore, the appropriate licensure requirements for the practice of audiology should be universally and singularly contained under one licensure statute for Audiology.

Dr. Casey Rutledge-Roof, Immediate Past President (KAA), and Professor, University of Louisville, said under Kentucky statutes, audiologists who graduated after 2007 are required to hold a clinical doctorate (a Doctorate of Audiology (Au.D.) degree) for licensure. Audiologists who graduated in the year 2007 or prior are required to hold a minimum of a Master's degree

in Audiology to practice. Today, an Au.D. degree is required for new graduates to enter clinical practice in every U.S. state and territory. Every one of the 70 university audiology training programs nationwide, including the top-ranked program at the University of Louisville, has eliminated master's level degrees in audiology altogether. Additionally, at 30 hours per two-year renewal period, Kentucky audiologists have some of the extensive continuing education requirements in the country.

In late 2017, President Trump signed the FDA Reauthorization (FDARA) into law. The bill contained several amendments including the Over-the-Counter Hearing Aid Act. This legislation was designed to allow adults with perceived mild-to-moderate hearing loss to purchase a new class of hearing aids without being seen by a professional. In 2016, the U.S. Food and Drug Administration (FDA) also announced that it had voluntarily stopped enforcing the medical clearance requirement that called for a "physician waiver" or a medical evaluation prior to obtaining a hearing aid. It is reasonable to anticipate a demand from consumers who need comprehensive hearing health care services, including assistance with comprehensive audiologic testing, hearing aid evaluations, fittings, and counseling services.

The KAA urges the Kentucky General Assembly to eliminate unnecessary dual licensure requirements and make it easier for consumers to access the hearing health services they need by removing the anti-competitive regulatory framework, as well as ensuring that provider disciplinary issues are brought to the most appropriate venues. By addressing these unnecessary barriers to practice, it will help address the shortage of providers in Kentucky's HPSA's and bring much-needed updates to Kentucky's licensure laws.

Greg Brotzge, Government Affairs Consultant, Hearing Aid Association of Kentucky (HAAK), said the HAAK was formed in 1967, and is a 501C6 organization. Its mission is to promote and uphold the welfare of the hearing impaired, establish communication between hearing healthcare professionals, promote best practices, and address matters affecting Hearing Aid Dispensers within the Commonwealth of Kentucky.

Steve Clark, Past Chair, Licensing Board for Specialists in Hearing Instruments and Current Board member (HAAK), said KRS 334 was created in 1972 when there was a need across the country to enact state laws that governed the sale and fitting of hearing aids. The FDA created a set of guidelines and rules, but they did not offer enough protection to the consumer. KRS 334 was written by a group of consumers, hearing instrument specialists, audiologists, lawyers, and hearing industry representatives. The objective of the authors of the Kentucky law was to have one of the strongest consumer protection laws available for the hearing impaired. Anyone in Kentucky is required to be licensed under KRS 334 to sell a hearing instrument.

The need for more hearing aid specialists is significant, considering the number of baby boomers entering the market. It should not matter whether they are audiologists or hearing instrument dispensers as long as training and education are stressed and the

consumer is protected. The HAAK is eager to work with KAA to come up with a resolution to satisfy both sides. It believes the law has worked well with few consumer complaints, and the goal of the association is to maintain a strong law that protects the consumer.

Mr. Brotzge said in addition to maintaining strong consumer protection laws, it is vital for dispensers to continue to practice as independent professionals. Dispensers provide needed access points to care and increase consumer choice. They currently dispense 50 percent of hearing aids to the general public. Audiologists are required to take the dispensing exam and abide by the consumer protection provisions under KRS 334. Legislation the past two sessions would delete these requirements and insert the consumer protection provisions into the audiology statute, KRS 334A. HAAK believes the most cost-effective option is to enforce the consumer protections laws under the dispensing board. Chairman Koenig has suggested combining the two Boards, and HAAK is receptive to this option, but noted the Audiology Board is already combined with the Speech-Language Pathology Board. Mr. Brotzge said he feels the two sides are close to an agreement.

Responding to a question from Senator Thomas, Mr. Brotzge said dual licensure is not the main concern of the HAAK, but enforcing consumer protection laws is of upmost importance. Mr. Clark said the reason for dual licensure ensures the audiologists are 100 percent qualified to fit hearing aids. Anyone in sales needs to be trained in following these laws when dealing with the general public. Senator Thomas said Kentucky has strong consumer laws in place, and Representative Thomas noted consumer protection laws were written in the 1970's. The most appropriate venue should a patient have a concern would be the Board of Audiology.

Responding to Representative Santoro, Mr. Haley said the hearing aids are available to purchase online although that does not mean consumers should purchase through the internet. Again, increased sale in hearing aids are expected in near future so need to have these laws ironed out.

Chairman Koenig said strong consumer protection is important, but effective consumer protection laws is what the committee is striving for. He wants both KAA and HAAK to keep that in mind as negotiations continue and a compromise is worked on.

HVAC License Exemption for Duct Cleaning

Representative Jonathan Dixon discussed his bill 22RS BR 492 to obtain feedback to strengthen the bill. Currently, a person in Kentucky who owns a cleaning business must have a HVAC license to clean air ducts. Dave Chrisman, Monster Cleaning, Inc., Henderson, Kentucky, testified in support of the legislation. Mr. Chrisman said the demand for air duct cleaning is vast and surrounding states, such as Indiana, do not require HVAC licenses for simple cleaning of air ducts. The HVAC requirement is hindering his ability to hire people and run his cleaning business effectively.

Responding to Chairman Schickel, Representative Dixon said this legislation did not pass the House of Representatives last session. Mr. Chrisman explained the process of air duct cleaning and why a HVAC license should not be required to perform this valuable

service to residential houses.

Responding to Representative Bratcher, Mr. Chrisman said residential home fires are a concern and the need for air duct cleaning is essential in preventing these fires. Reducing unneeded requirements for workers to clean them will lower the cost of the service and the more people that will be willing to pay for the service.

Responding to Chairman Koenig, Mr. Chrisman said a state inspector told him if he removed a cover from a furnace then he must have a HVAC license. He did not speak with Housing and Construction, or the HVAC Board.

Other Aspects of the Horse Industry

Anne Sabatino Hardy, Executive Director, Horse Country Tours, said Horse Country Inc. is an organization of horse farms, equine medical clinics and equine attractions dedicated to sharing the stories of Kentucky's horse country. The hope is to create emotional experiences by sharing the story of the horses, the land, and the people with our guests; ultimately to develop fans of farms and clinics through tourism experiences. It was created in 2014 as a non-profit organization.

Horse Country, Inc. said 75 percent of its customers are from outside of Kentucky and their average stay in the Commonwealth is four days. This equates for tourism dollars for Kentucky hotels, restaurants, and other businesses. Customers are highly satisfied and leave Kentucky with a more favorable view than before coming. The horse industry has a \$6.5 billion impact on the Kentucky economy, and \$1.5 billion is the tourism impact. The Kentucky Tourism Industry has requested funds from the American Rescue Plan Act of 2021, equivalent to less than 3.5 percent of the total funds issued. She also said keeping sales tax parity, local control, and maintenance of Historical Horse Racing (HHR) rates are very important to the company. She extended an invitation to the committee to take a tour of a horse farm.

Responding to a question from Representative Miller, Ms. Hardy said NPS stands for the Net Promoter Score, which is the industry standard for customer satisfaction scores and recommendations. Horse Country Tours received a 91 NPS score. She also said maintaining current HHR rates helps to support the equine industry.

Responding to Representative Koch, Ms. Hardy said out-of-state investment in the horse industry has increased with tourism and tours. Over \$1 million was invested in the first three years of tours, especially with partnership opportunities. Microshares are growing in popularity which allow regular customers to own small shares of racehorses.

Senator Thayer said he has met with members of the Kentucky Tourism Industry and he will make a budget request to include \$75 million in funds to help Kentucky tourism recover funds lost during the pandemic. Ms. Hardy said the biggest difference between the horse industry and the bourbon industry is that it is easier to book as a one-stop-shop through the on-line website as 95 percent of tours are booked through the internet. She discussed the difference in the tours and this appeals to a wide variety of people and allows them easier access to see the horse industry

up close.

Chairman Schickel invited all members to a luncheon provided by the Kentucky Distillers Association immediately following the meeting on October 21, 2021.

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

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

**Minutes of the 5th Meeting
of the 2021 Interim
September 21, 2021**

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Local Government was held on Tuesday, September 21, 2021, at 10:00 AM, in Room 154 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 Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Michael J. Nemes, Wil Schroder, Adrienne Southworth, Damon Thayer, and Phillip Wheeler; Representatives Danny Bentley, Josh Bray, George Brown Jr., Jeffery Donohue, Ken Fleming, Deanna Frazier, Regina Huff, Mary Beth Imes, DJ Johnson, Adam Koenig, Matt Lockett, Mary Lou Marzian, Jerry T. Miller, Brandon Reed, Rachel Roberts, and Walker Thomas.

Guests: Dana Nickles and Sara Jo Best, Kentucky Health Departments Association; Georgia Heise, Three Rivers District Health Department; Scott Lockard, Kentucky River District Health Department; Sarah Moyer, Louisville Metro Department of Public Health and Wellness; Clayton Horton, Green River District Health Department; Joseph Gilbert, Carroll County Local Board of Health; Gary Larimore, Kentucky Rural Water Association; and Jeff Hurd, Chase Azevedo, and Annette DuPont-Ewing, Kentucky Municipal Utilities Association.

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

Approval of Minutes

Upon the motion of Senator Alvarado, seconded by Senator Nemes, the minutes from the August 26 and September 1, 2021, meetings were approved.

Health Department and Health District Implementation of Legislation from the 2021 Special Session

Ms. Dana Nickles, Executive Director of the Kentucky Health Departments Association (KHDA), told the Committee that KHDA is a nonprofit association and is composed of 60 local health department directors from across Kentucky. The KHDA promotes collaboration, communication, advocacy, and policy to improve public health in Kentucky.

Ms. Sara Jo Best, KHDA President and Director of the Lincoln Trail District Health Department, discussed the role of health departments. Health

departments essentially offer two tiers of service. The first is foundational health, which includes five focus areas of statutorily defined services: population health; enforcement of regulation; emergency preparedness and response; communicable disease control; and administrative and organizational infrastructure. The second tier of services consists of core public health services which includes the Women Infant Children Program (WIC); Health Access Nurturing Development Services (HANDS); and harm reduction and substance use disorder issues.

Dr. Georgia Heise, Director of the Three Rivers District Health Department, stated that for the past 18 months, health departments had to spend all of their efforts responding to COVID-19, which included education, promotion, linkage, disease investigation and contact tracing, assistance to local businesses and organizations, receipt and distribution of personal protective equipment, testing, and vaccinations.

Mr. Scott Lockard, Director of the Kentucky River District Health Department, told the Committee that in addition to health departments, the local public health system includes police, schools, nursing homes, economic development, drug treatment, mental health, etc.

Senate Bill 1, which was passed during the 2021 Special Session, included the initiative “test to stay in school”, and eliminated statewide mask mandates transferring that authority to local leaders. Senate Bill 2 created regional COVID-19 monoclonal antibody administration centers for which the health departments are helping with coordinating; COVID tests; public service announcements and public awareness campaigns; distribution of vaccines via regional distribution hubs; and added local departments to KRS Chapters 13A and 39A. Senate Bill 3 appropriated \$69,268,300 for testing in health facilities, health departments, jails, prisons, homeless shelters, etc.; monoclonal antibody treatment; and test to stay in schools.

Ms. Best stated that KHDA requests the full implementation and funding of public health transformation legislation for a strong public health system and improved health outcomes for Kentucky which would be in addition to the pension subsidy they are receiving via HB 8 for which the group’s support was given jointly.

Senator Alvarado commented that the health departments need to put out graphic public service announcements about COVID to encourage people to get vaccines.

In response to a question from Senator Alvarado, Ms. Best said the current funding from 2020 HB 129 for COVID-19 health response estimate is between \$7.7 and \$19 million for FY 2023. Mr. Lockard added that local funding varies from county to county. It is estimated that funding next year will be \$540,000. This figure is down from \$1.2 million. Equitable funding is the biggest issue for his health department.

In response to a question from Representative Miller, Dr. Sarah Moyer, Director, Chief Health Strategist with the Louisville Metro Department of Public Health and Wellness, stated that the incidence of receiving the vaccine was the highest in March, then went down in June, with an uptick in August. There is an expectation that vaccine rates will increase if they

are made a condition of employment.

In response to a question from Representative Roberts, Mr. Lockard said health departments are seeing benefits arise from the Supplemental Nutrition Assistance Program (SNAP) and the tax credit for families with children. Participation in the Special Supplemental Nutrition Program for Women, Infants, and Children also known as the Women, Infants, and Children (WIC) program is the highest it has ever been.

Senator Thayer commented that the most important thing is for health departments to work with and stay in touch with school districts to keep students in school.

In response to a question from Senator Thayer, Ms. Best stated that because it varies from area to area, that she did not have the exact number of participants in the needle exchange program but would get that data to him. Mr. Lockard noted that in his seven county district since August of 2017, as of August of this year, they have exchanged over 1.2 million syringes with a 98 percent return ratio.

In response to another question from Senator Thayer, Mr. Lockard said that recruitment and retention of staff is an issue based on pay and benefits considerations.

In response to a question from Senator Nemes, Ms. Best said she would get data containing the percentage of adults that have had COVID and have been vaccinated, and the percentage that have had COVID and not been vaccinated to him. She noted that the definition of “fully vaccinated” can make a difference in terms of interpreting data. Dr. Heise added that because some people may not have ever known that they have had the disease or having had the disease been counted as such by official counts, the complete numbers may be difficult to get, but they can provide the data they do have.

Representative Donohue commented that the COVID vaccine works, and that the General Assembly members should promote vaccinations.

In response to a question from Senator Mills, Mr. Clayton Horton, Public Health Director for the Green River District Health Department, replied that despite previous shortages, overall, health departments are in much better shape of having plenty of COVID tests at present in regards to testing to stay for schools. At this time, there are protocols for using both rapid tests and polymerase chain reaction (PCR) tests. In the Green River area, the rapid test is going to be used for the schools’ test to stay program. PCR tests can be used when a question exists about the rapid test.

Continuing Impact of COVID-19 on Local Utilities

Mr. Gary Larimore, Executive Director of the Kentucky Rural Water Association (KRWA), discussed COVID-19’s continuing effects on water and wastewater utilities’ finances and service. KRWA is a statewide trade association organized to represent the interests of water and wastewater utilities throughout Kentucky. KRWA currently has 360 utility members. Mr. Larimore thanked the General Assembly for its work during the 2021 Session in authorizing a \$250 million drinking water and wastewater grant program and for passage of HB 272 which permitted water and wastewater utilities to continue to be able to issue late

payment penalties, as well as ensuring utility workers be considered essential.

The COVID-19 pandemic had a significant effect on the 2020 financial performance for each water system. Warren, Butler, as Simpson County water districts may be considered as a case study, as they are managed by one utility. Together, the utilities' net income decreased 35 percent. The cost of COVID-19 operations was over \$288,000 to all systems, including additional personal protective equipment, additional paid time required by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, paid time during COVID-19 protocol schedule, and office modifications.

For example, net income for Warren County's Water Division declined by \$403,000 due to lost revenue from late fees, collection fees, reduction in customer usage, loss of interest income, etc. Water systems across the county are battling declining sales per customer. Since 2000, the average residential customer's monthly water usage in Warren County and Simpson County has declined roughly 25 percent. Population loss in counties will affect utility systems also.

COVID-19 has shined a light on workforce issues. Prior to the pandemic, utilities were short-staffed already. The pandemic compounded the short-staffing issues, especially in employee absences in terms of COVID-19 exposure and child-care situations. Employees work more overtime to fill in the gaps which is more costly.

There are also supply chain issues in terms of parts, chemicals, pipes, vehicles, including construction vehicles and equipment, and meters. One water utility had to borrow supplies from other utilities in order to hook up new construction to the system. Utilities are thankful for the federal and state moneys coming in, but costs will increase. Rates will increase as well to compensate.

The pandemic has also spurred the creation of funds to assist customers in paying water and sewer bills. The community development block grant program and coronavirus response program and the Healthy at Home Eviction Relief Fund are helping customers with their bills.

KRWA would like to plant some seeds for possible legislation for the 2022 session. KRWA'S Apprenticeship Program received approval in April 2019. The first apprentice was enrolled in September 2019, and the first apprentice graduated in August of 2021. There are more apprentices in the program than employers. Currently, there are 28 states that offer direct support to expand apprenticeship through financial incentives for employers. Kentucky is not one of them. Kentucky does offer a few options for employers to hire from target groups and tuition assistance through the Work Ready Scholarship for five high-demand sectors. KRWA would like to have water and wastewater utilities added to that sector list, as they are presently not included.

Mr. Jeff Hurd, President of the Kentucky Municipal Utilities Association (KMUA), and General Manager of the Hopkinsville Electric System and EnergyNet, told the Committee that KMUA represents 44 city utilities that provide the essential services of electricity, water, wastewater, natural gas and

telecommunications. Hopkinsville Electric System (HES) can speak to the concerns that are shared with the 22 other electric distribution systems owned by small cities across the Commonwealth. HES has been providing safe, reliable and economical power to its customers since 1942. The May 2020 executive order, which issued a moratorium on cut-offs and late fees for non-payment of utility bills, had a significant impact on most city owned electric systems. HES honored the Governor's six month suspension of payments, but was left with \$660,000 in delinquent electric and internet bills after the moratorium was lifted in November 2020. HES set up all of its delinquent residential and commercial customers on six month repayment plans to allow them time to pay off the account balances. In total, 84 percent of HES' customers completed their payment plans while the remaining 16 percent have been written off which amounts to over \$105,000. In addition, HES will never recoup the late penalty fees which are estimated at \$55,000. A portion of HES customers would not apply for the Stay Healthy at Home or community action agencies' financial assistance programs until threatened with disconnection of electric and or internet services. HES' objective has always been to use every option to help its customers keep their accounts current and avoid disconnection of service. HES continues to see customers struggle with their bills and is grateful for recent legislation to prevent restrictions on city utilities from disconnecting and charging late fees when necessary. There is still a need for financial support for paying utility bills to customers who continue to struggle through the pandemic.

Due to the surge in the Delta variant, HES and many other city utility systems have closed their lobbies to in-person customer visits. HES has seen its customers who paid their utility bills in person adapt and begin to pay at the drive-up window, by mail, or via the internet. HES continues to have all employees wear masks and is staggering its shifts.

Based on polls of KMUA membership, there are three recurring themes in its electric systems. The first is a significant slowdown on supply shipments. Certain high voltage equipment that used to take weeks to arrive now takes six to nine months to arrive in some cases. There are also some supply chain issues with lengthening delivery times for vehicles, piping, electrical equipment, and other specialized parts and supplies. Some vendors refuse to hold pricing for more than a few days of some of these items. The second issue is that employees are having to use up a large portion of their sick and vacation leave for children and other family members who have been exposed or infected with COVID. Assistance for employees would be much appreciated. Finally, hiring has become more difficult not only for the systems but for the suppliers as well. It is hoped that the discontinuation of federal unemployment benefits will ease the hiring issue.

Mr. Chase Azevedo, General Manager of Georgetown Municipal Water and Sewer Service, thanked the legislature for providing relief relating to disconnects and late fees through HB 272 last session, and for its work during the special session. That effort is important as many city-owned water

and wastewater systems, and water and sewer districts throughout Kentucky, have been adversely affected by COVID-19.

Kentucky's city-owned utilities have had no choice but to manage the impacts of the health pandemic. Navigating these unprecedented circumstances continues to be a challenge. For example, before the pandemic, Georgetown Municipal averaged less than two percent past-due accounts for the entire customer base. During the pandemic, that percentage has grown to 15 percent. Georgetown Municipal has worked to inform its customers with past-due balances to apply for relief through Healthy at Home; however, few customers are participating in the program.

Supply chain issues continue to be the number one challenge. Limited availability of PVC and ductile iron pipe, fittings, chemicals, basic building materials, and computer chips for fleet vehicles, has been troublesome. When products are available, prices are inflated to an unprecedented level.

Factories, vendors, and manufacturers that utilities depend upon are still not up to full production capacity. It is not known how long it will take to restore the supply chain or if pre-pandemic prices will be restored. It is unclear if new legislation can positively impact the supply chain problem.

The utility industry faces a severe workforce availability problem. For Georgetown, this trend pre-dates the health pandemic, but COVID-19 has only exacerbated the problem. In previous years, Georgetown Municipal would receive over 20 applications for any open position. Currently, Georgetown Municipal is lucky if it receives five applications for an open position.

At a time when utilities are already short staffed, the possibility of an entire department having to quarantine for 10-14 days due to COVID exposure, could severely disrupt service to its customers.

A utility's ability to complete capital projects and to maintain its infrastructure and financial solvency directly affects its service to customers and regulatory compliance.

All city-owned water and wastewater utilities, water districts, and water and sewer districts, would like to request legislative help in addressing supply chain shortages that are significantly impacting capital projects and operation and maintenance of systems. Assistance in paying COVID-related sick leave for quarantine and COVID related illnesses would be appreciated. Legislative assistance is sought with helping to publicize the relief programs that are available to help customers pay their utility bills.

Senator Wheeler commented that it is harder to provide utility services for the rural areas because of increased materials use and lower population densities. In response to a question from Senator Wheeler, Mr. Larimore replied that the additional money for infrastructure may need to be spent on replacing existing, but aging, infrastructure.

In response to a question from Representative Donohue, Mr. Hurd stated that his earlier reference to the percentage of past-due utility bills is an overall total, but is focused on residential customers.

There being no further business, the meeting was adjourned at 11:55 a.m.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 4th Meeting
of the 2021 Interim
September 15, 2021

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Natural Resources and Energy was held jointly with the Interim Joint Committee on Agriculture on Wednesday, September 15, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Rebecca Goodman, Secretary, Energy and Environment Cabinet (EEC); Kenya Stump, Executive Director, Office of Energy Policy, EEC; Kent Chandler, Chair, Public Service Commission; Dr. Alison Davis, H.B. Price Professor, Department of Agricultural Economics, University of Kentucky; Tom FitzGerald, Executive Director, Kentucky Resources Council; Shellie Hampton, Legislative Director, Kentucky Association of Counties; Will Mayer, Executive Director, Clark Coalition; Julie Burton, Vice President, Citizens Voice of Mason County, Inc; Mark Walter, Director of Legislative and Regulatory Affairs, Savion, LLC; Emily Williams, Director of Development for Kentucky, Geenex Solar; and Betsy Engelking, VP of Policy and Strategy, National Grid Renewables.

LRC Staff: Stefan Kasacavage, Janine Coy, Kelly Ludwig, Nathan Smith, Susan Spoonamore, and Rachel Hartley.

Large Scale Solar and Land Use

Secretary Rebecca Goodman stated the cost of installing solar has declined, which has made solar competitive as an energy resource. Kentucky has many features that make solar feasible including: access to two wholesale electricity markets, PJM Interconnection and Midcontinent Independent System Operator (MISO), and land areas with favorable characteristics that are near robust and reliable transmission infrastructure. There is increased interest for solar energy production because there is corporate demand for renewable energy.

Local communities can control the development of solar projects through local planning and zoning ordinances. Agricultural land can be maintained along with solar development, and installing a solar project is a decision made between the landowning farmer and the developer.

Kenya Stump stated the Kentucky Office of Energy Policy (OEP) is Kentucky's non-regulatory state energy policy program. It was established by the General Assembly during the 2018 legislative session through a reorganization of the Department for Energy Development and Independence. The OEP is designated as the state authority on energy policy issues affecting the citizens of the Commonwealth.

Solar siting in Kentucky is a local land use planning decision. Kentucky has an established process through the Kentucky Electric Generation and Transmission Siting Board for review of any independent solar project meeting the definition of a merchant generating facility. The OEP remains resource-neutral and provides information to all stakeholders for informed decision making.

In Kentucky renewable generating technologies accounted for approximately eight percent of the total net electricity generation in 2020. The largest share comes from the hydroelectric resources.

Currently, there are 28 merchant solar projects pending with the Kentucky Electric Generation and Transmission Siting Board. The projects represent 3,267 megawatts of proposed capacity and will use 30,000 acres. In general, one megawatt of installed solar requires 10 acres. Out of 25 million total acres in Kentucky, approximately 12 million acres is used for agriculture. The proposed 30,000 acres represents 0.23 percent of the agricultural land.

The National Laboratories of the United States Department of Energy uses models to predict future solar use. The impact of agricultural land use by 2040 is projected to be one percent. The most aggressive modeling for solar use projects three percent use of agricultural land, which would represent 55 percent of Kentucky's net electricity generation.

In response to Senator Wheeler, Ms. Stump stated there are no state incentives for solar, but there are federal tax credits. There would be an expanded workforce for construction at the onset of the project, but only three to six workers are required to operate the solar arrays once constructed.

In response to Representative Bowling, Ms. Stump stated any large scale utility project that would have ratepayer impact would be evaluated by the Public Service Commission (PSC). There is increased solar development because the cost has declined to be cost competitive with coal and natural gas resources. Solar cannot replace baseload resources unless solar is paired with a storage technology.

Merchant Solar Siting and the Electric Generation and Transmission Siting Board

Kent Chandler stated the PSC is a three-person panel that regulates the rates and service of nonmunicipal utilities across the Commonwealth, except electric providers that receive power from the Tennessee Valley Authority.

Merchant generation is a generation facility that is not owned by a utility. A siting board is created each time a merchant generator proposes to build a facility and applies for a construction certificate. The county or counties where the facility will be located dictate some of the members on the siting board for that project. The siting board review focuses on such

factors as noise, visual impacts, economic impacts, and the potential impact on transmission lines. There are always five permanent members of any siting board including: the three members of the PSC, the secretary of the EEC or designee, and the secretary of the Cabinet for Economic Development or designee. There are also two local members, with one appointed by the Governor.

Mr. Chandler provided a brief overview of the siting board process and made recommendations for statutory changes including the need for an applicant to provide an explicit decommissioning plan to be approved by the siting board.

In response to Representative Gooch, Mr. Chandler stated the PSC is only involved in the siting process for merchant solar.

In response to Senator Hornback, Mr. Chandler stated individual projects are owned by Limited Liability Corporations (LLCs). It is important to know who owns the LLCs to know if they have a good environmental history and if they satisfy legal standards. Senator Hornback stated the taxpayers should not pay for decommissioning, instead it should be paid for by the LLCs.

Relationship Between Local Planning and Zoning and the State Solar Siting Process

Tom FitzGerald stated public involvement in the siting process is very important. The public needs to understand plans that are developed in their communities and the companies involved.

There was a need to find the best practices for zoning around the country and adapting them for Kentucky. The first issue for consideration is setbacks, which local communities can determine through zoning and planning ordinances. Setbacks should apply to property lines, and not just the neighborhood as a whole. The second issue is the threshold for siting board jurisdiction should be lowered from 10 megawatt projects or greater because on average, 5-10 acres is used to produce one megawatt. The third issue is a construction certificate is required only when a facility is commenced to be constructed. A property can be damaged even before construction begins. Local communities should consider defining what activities are allowed on a property where a solar array has been proposed. The fourth issue is public notice should be required before property acquisition. The last issue is there is no clarity in the siting board statute as to whether local zoning approval or a construction certificate is needed first.

Adequate funding of decommissioning plans is essential. The landowner should not have to enforce any lease agreement against an LLC at the end of the solar array's useful life. A bond should be sufficient to assure that if the LLC defaults, then a third party could perform the decommissioning.

Shellie Hampton stated there has been increased interest in some counties about leasing or purchasing property for solar energy generation. There are 57 counties that have some form of planning and zoning. The Kentucky Association of Counties provides information to members regarding solar projects and helps to educate them on current law. County level decision making is critical.

Consideration for Future Utility Scale Solar Farm Developments

Dr. Alison Davis, H.B. Price Professor, Department of Agricultural Economics, University of Kentucky, stated that she had facilitated numerous land use discussions regarding the optional placement of utility-scale solar farms in and around residential, commercial agriculture, and industrial. She said that Kentucky was not yet a significant player in utility-scale solar farming. However there are several other states that have been involved with solar farming for several years, which means that Kentucky and local communities will be able to review their policies and comprehensive plans in order to make sound decisions. Dr. Davis stated that it is important that individual farmers, communities, and local leaders prioritize lands of marginal use for utility-scale solar farming instead of using prime farm land. Other considerations should include having lease contracts reviewed by a lawyer familiar with industry practices and requiring that contracts contain stipulations that the lands be preserved. In addition, for farmers over 60, it is critical to make decisions regarding succession plans. Local communities should proactively adopt policies within its planning and zoning ordinances. The more community leaders and developers understand local values and policies, the easier it will be to develop a project that is acceptable to the community. There are positive and negative consequences with utility-scale solar farming, and these land use decisions should be given careful consideration.

In response to Senator Hornback, Dr. Davis said that there has been some conversation about using the PACE program or a PDR program to help with retaining farmland.

Industrial Solar on Farm Land

Will Mayer, is the Executive Director, of the Clark Coalition, which is a land use advocacy organization promoting smart growth, sustainable economic development, and governmental transparency in Clark County. The coalition was formed in May 2020, to address the complex industrial solar issues facing the community. He said that there are over 100 proposed industrial-scale solar developments throughout Kentucky totaling 25 to 60 million solar panels. Mr. Mayer stated that there is a significant lack of understanding solar development, federal tax policy, and the siting framework. He said that most solar ordinances and laws in Kentucky are being changed by aggressive out-of-state and foreign developers which allow the majority of benefits to accrue to the developers, while the costs are borne by Kentuckians. Some of the complex issues include the environmental, economic, fiscal, property value impacts, as well as the effect on the quality of life in the community. If handled correctly, industrial solar could present an opportunity. If not, then there would be a threat to existing industries, property owners, and local and state government entities. He said the state's role should include regulating decommissioning and reclamation, ensuring adequate bond requirements, and providing sufficient code and environmental regulation enforcement. Local communities should maintain local control of siting decisions and develop a comprehensive plan to include preserving high

value farmland. He said the agricultural fiscal impact for Clark County is approximately \$197,034,444.

Julie Burton, Vice President, Citizens Voice of Mason County, said that their group has been meeting to discuss agricultural solar issues and appreciated the information presented today.

Comments from Solar Providers

Mark Walter, Director of Legislative and Regulatory Affairs, Savion, LLC, said that Savion was a utility scale solar and energy storage development company that does not own or operate the assets. Savion works to get all the local agreements in place with communities to do the interconnection work with the utility. When the project is ready to be constructed, it is sold to someone else who will own and operate the solar utility. Mr. Walter said that Savion has over 900 megawatts in development in Kentucky, which equates to approximately \$1.2 billion in capital investments to be made within the next three to five years. He said that Savion is a member of the Mid-Atlanta Renewable Energy Coalition (MAREC) whose mission is to improve and enhance the opportunities for renewable energy. According to information collected by MAREC, the percentage of prime farmland that could realistically be used in Kentucky for solar is 0.2 percent.

Mr. Walter explained that the Martin County project is close to having a local hearing with the siting board, and then a decision will be made in November. Once approved, construction will begin by 2022. He also noted that the project is sited on a re-claimed surface coal mine. Savion will pay the Martin County community \$300,000 a year for thirty years under the agreement.

Mr. Walter stated that Savion leads the way in decommissioning standards for solar facilities. He said that SB 760 recently passed in Texas and is the top of the line standard for decommissioning. He said the bill also created standards for the salvage value that can or cannot be counted. He noted that Savion's decommissioning standards are tied to the lease – not the permit or the owner.

Emily Williams, Director of Development for Kentucky, Geenex Solar, explained that solar provides the cheapest leveled cost of electricity and that is why more utilities are mixing renewables in their portfolio. Communities benefit from the economic impact and high paying jobs that come with building solar projects. She said the reason that certain sites were more suitable for solar projects is because of their proximity to transmission assets and capacity availability. She said that Geenex hosts events in order to educate folks on solar and the use of their land. In response to an earlier question, she stated that the Commonwealth of Kentucky's Constitution prohibits a locality from offering a direct tax abatement. It has to go through the industrial revenue bond process. Industrial revenue bonds not general obligation bonds, meaning that a county would not be responsible for the bond.

Betsy Engelking, VP of Policy and Strategy, National Grid Renewables (NGR), stated that NGR is a leading North American independent developer and operator of utility-scale renewable energy and battery storage products. NGR was founded by a farmer

who thought some deals being offered to him and other farmers by developers to put wind turbines on farmland in Minnesota were not good for the farmer. She said that NGR consults with farmers, invests in the community, and creates a charitable fund for 20 years as the project operates. She stated that developers are private investors that bring investments into a state and make agreements with homeowners who want solar farms. She said that decommissioning bonds were more like an insurance policy that is paid to make sure that the money is there to take everything out of the ground at the end of a project. NGR feels that a lot of the development in the renewable industry is about helping farmers to preserve their farms.

In response to Senator Hornback, Ms. Engelking stated that every form of energy generation receives some kind of a federal subsidy.

There being no further business, the meeting was adjourned.

PARI-MUTUEL WAGERING TAXATION TASK FORCE

Minutes of the 4th Meeting
of the 2021 Interim
October 4, 2021

Call to Order and Roll Call

The 4th meeting of the Pari-Mutuel Wagering Taxation Task Force was held on Monday, October 4, 2021, at 3:00 PM, in Room 169 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Denise Harper Angel, and Christian McDaniel; Representatives Jonathan Dixon, Al Gentry, Matthew Koch, and Jason Petrie.

Guests: Senator John Schickel; Representative Daniel Fister; Dr. Tom Lambert, Professor, University of Louisville; Dr. Nancy Cox, Dean of the University of Kentucky College of Agriculture, Food and Environment, University of Kentucky; James MacLeod, Director of Equine Programs, University of Kentucky; Natalie Voss, alumna of Equine Programs, University of Kentucky College of Agriculture, University of Kentucky; Dr. Koffi Akakpo, President, Bluegrass Community and Technical College; Remi Bellocq, Equine staff, Bluegrass Community and Technical College, North American Racing Academy; Dixie Kendall, Program Coordinator, Bluegrass Community and Technical College; Sean Beirne, Director, Equine Industry Program, University of Louisville; Jack Sisterson, Trainer.

LRC Staff: Tom Hewlett, Jennifer Hays, Kevin Branscum, Grant Minix, and Mariah Derringer-Lackey.

Approval of Minutes

A motion was made by Chairman Koenig, seconded by Representative Gentry, to adopt the minutes of the September 13, 2021, meeting. The motion carried by voice vote.

Taxation Elasticity

Dr. Tom Lambert, Professor, University of

Louisville discussed the theory of taxation elasticity, which includes the idea that when taxes are raised, it does not necessarily mean revenues will increase. One example Dr. Lambert provided includes gambling. Research shows that as taxes on gambling increase, there may be a proportional decrease in revenue. The decrease in revenue follows the decrease in payout to the patron after the tax increase. With a decrease in payout, direct competition, and substitutions, generally the establishment loses patrons.

If the tax increase is placed on the gross revenue, then the effective rate of the tax is actually much higher than the tax increase. This is due to the establishment paying out approximately 90 to 95 percent of gross revenue to its patrons. Chairman Thayer agreed with the comments and mentioned that he had been telling the task force members for years about this.

Dr. Lambert mentioned a case study which showed that when taxes were raised on casinos in Illinois a few years ago, patrons from St. Louis, Missouri, who were gambling in Illinois, began to gamble back in St. Louis again. Patrons will gamble where the highest payout is, and this is seen across all forms of gambling, including sports gambling. Chairman Thayer spoke about Kentucky residents going to Indiana where sports wagering is legal, which brings more patrons into their facilities.

Dr. Lambert provided several graphs about revenue forecasts in relation to different elasticities. Dr. Lambert leaned towards there being a higher elasticity on historical horse racing (HHR) given the high direct competition of the regional gambling markets.

Dr. Lambert spoke on the possible addition of 2,000 more machines over several years at Turfway Park and Derby City Gaming. If all things remained constant, the addition of more machines could earn approximately \$286 million more per month, \$3.4 billion per year, and could increase state tax revenue by \$51 million per year. This estimate does not include what may happen if states like Ohio began to increase their payouts of gross revenues. Chairman Thayer commented that this estimate seemed to be on the conservative end and mentioned several tracks that plan to build more facilities in Kentucky, so the number of machines added could be north of 2,000. Whether or not the General Assembly does something, the General Fund will still receive more funds from the additional machines. The new facilities would also create economic growth through additional jobs.

Dr. Lambert summarized his presentation by saying that gambling has price elasticity of demand greater than one. If the tax rate is increased by a certain percentage, the falloff of the quantity demanded is greater in proportion to the increase; therefore the revenue does not increase as much as expected. There is also a tipping point where revenue could be lost in certain cases. The growth trend, in revenues, is if everything is held constant. This could change if competitors north or south of Kentucky began increasing their payouts.

Responding to a question from Representative Petrie, Dr. Lambert commented that it was hard to determine the current elasticity, as there has been no tax changes since historical horse racing (HHR) began. Dr. Lambert referred to research by Dr.

Talheimer and Dr. Ali, where they estimated the elasticity at about two percent, which was based on racetracks in Northern Kentucky versus Cincinnati.

Responding to a question from Representative Petrie, Dr. Lambert confirmed that casinos with house odds operate differently than HHR or pari-mutuel wagering.

Responding to a question from Representative Petrie, Dr. Lambert testified that with an increase in the taxation of pari-mutuel wagering, tracks would likely decrease payouts to patrons.

Responding to another question from Representative Petrie, Dr. Lambert stated that the profitability of HHR is competitive with other forms of the gambling industry. There are some dips in profitability that follow the availability of discretionary income and profits seems to follow the economy.

Chairman Thayer recommended Representative Petrie follow up with Dr. Lambert with any additional questions.

Chairman Thayer commented that legally in order to have HHR, a facility must operate a racetrack. He spoke to the very high, fixed overhead costs of running a racetrack.

Representative Gentry commented about direct competition. He thanked Churchill Downs for bringing back discretionary income to Kentucky from Indiana. Profit margins are higher in machine gaming. Anything that can be done to keep patrons here in Kentucky would be worth doing. Chairman Thayer agreed with Representative Gentry and believed competitive facilities in other states would be brainstorming to make their facilities more competitive against Kentucky's.

Postsecondary Institutions Not Receiving Funding from the Pari-Mutuel Tax

Dr. Nancy Cox, Dean of the University of Kentucky (UK) College of Agriculture, Food and Environment, discussed the mission of the equine program which includes work-ready graduates, world-renowned research, and service to the industry and state. The program is dedicated to addressing industry issues including an equine survey, responding to a new virus, researching medication, and researching track surfaces. UK's equine program also has several outreach and engagement programs for the horse community.

Mr. James MacLeod, Director of Equine Programs, University of Kentucky, discussed the Equine Science and Management Bachelor's Degree. Even though the degree was only approved 12 years ago, the program has over 500 alumni who fill a variety of jobs across the equine industry. Speaking on the idea of a "Brain Drain" where students or workers leave the state of Kentucky for more lucrative opportunities, Mr. MacLeod argued that UK's equine program is a "Brain Gain." Over the course of the entire program, approximately 70 percent of their students come from other states and a majority of the students stay in Kentucky after graduation.

Ms. Natalie Voss, alum of the Equine Program, University of Kentucky, testified to the success of UK's equine program. Ms. Voss spoke to the numerous opportunities and experiences offered to

her as a student in the equine program and how the experiences helped her in determining her career.

Dr. Cox discussed the current operating budget for the equine program which totals \$500,000 annually. The budget consists of financial management, student internship coordinator, student advising, teaching, the director, and communications functions. The equine program relies on 17 faculty from other departments teaching in the equine program part time. The equine program was built on funding allocated from the Agriculture, Food and Environment allotment. Dr. Cox thought that the \$500,000 was a slight underestimate considering the program borrows staff from other departments.

Dr. Cox commented on priorities for the new investment that would include graduate programs, youth education programs, enhancing infrastructure, and stabilizing the operating budget.

Responding to a question from Chairman Thayer, Dr. Cox stated there are approximately 75 graduates a year from the UK equine program.

Responding to a question from Representative Koenig, Mr. MacLeod stated that in-state tuition is about \$15,000 per year and out-of-state tuition is twice that. Dr. Cox made the clarification that tuition does not go directly to the college and that the budget numbers she presented were conservative.

Chairman Thayer spoke to his interest in using the dollars generated by the pari-mutuel tax to fund the equine programs at places like University of Louisville (UofL), UK, and Bluegrass Community and Technical College (BCTC). He believes there should be a way to allocate money to all three programs.

Ms. Dixie Kendall, Program Coordinator, Bluegrass Community and Technical College (BCTC), discussed the education opportunities available through the program. The benefits of the program include a hands-on approach to the training, ease of transfer of credit hours, and the ability to continue employment while going through the program.

Mr. Remi Bellocq, Bluegrass Community and Technical College, discussed what support from the pari-mutuel tax revenue would allow the Equine program to do. The support would allow BCTC to continue to provide equine education at a community college cost; care for their 12 horses including stabling; recruitment for minority and international students; increased course offerings and credentials; and the international student exchange program with other horse racing programs. Mr. Bellocq also stated that the BCTC equine program has the same level of expenses as the sister schools such as UK and UofL but BCTC does not have the same level of tuition to offset those expenses.

Responding to a question from Representative Koenig, Dr. Koffi Akakpo, President, Bluegrass Community and Technical College, stated that the equine program would not close if BCTC did not get an allocation of money from the pari-mutuel tax; but it would offset some of the expenses the equine program has. Ms. Kendall also commented on the question stating that the funding would go to expand operations to offer more courses and credentials to students that make them employment-ready and scholarships to low income students. Mr. Bellocq added that it costs approximately \$130,000 to run the barn. The out-of-

state tuition for BCTC is about \$7,500 a year and about \$2,100 for an in-state resident.

Representative Koch expressed a soft spot for technical colleges since he attended one before transferring to UK. Ms. Kendall discussed BCTC's dual credit classes with Locust Trace Technical High School, where BCTC professors teach the courses. The biggest restriction with this partnership is transportation and getting the students to the Thoroughbred Training Center on the BCTC campus. Ms. Kendall mentioned this might be another place where funding would help.

Chairman Thayer mentioned he visited the training center and thought the program was neat.

Postsecondary Institutions Receiving Funding from the Pari-Mutuel Tax

Mr. Sean Beirne, Director of the Equine Industry Program (EIP), University of Louisville (UofL), discussed the overview of the program, education degree opportunities, full time faculty, student careers, and retention rates. The Equine Industry Program is funded through pari-mutuel tax on live, simulcast, and HHR. There is a cap on the amount of funding the program can receive from HHR which is \$650,000. In fiscal year 2021, there was a 15.25 percent decrease in funding due to the decrease of on-track attendance and simulcast wagering. The HHR tax was approximately 83.79 percent of the revenue source for the program in fiscal year 2021, and has increased since fiscal year 2019. HHR is the primary source of funding for the Equine Industry Program (EIP) and is allocated to operations, faculty, student recruitment and retention, marketing, and research. The EIP has another source of funding that is the capital expenditure funding available to other equine programs in Kentucky; however, over the past 18 months, EIP has not accepted any money from this funding. The presentation included a chart showing the funding EIP has received for the past five years.

Racing Officials Accreditation Program (ROAP) is one way UofL educates the industry as well as the staff who support the industry. The program was started at UofL, and it educates the stewards, judges, and other racing officials. The education includes information about the track, backstretch, and the pari-mutuel industry.

New to the EIP is a horse racing business certificate, a graduate level certificate. It was created through focus groups, nationally and internationally. The certificate hours can count toward a UofL MBA. Also, EIP is working on a pilot program in equine business with Locust Trace. EIP hopes to recruit under represented students into the industry with a business degree. EIP wants to spread this program across the commonwealth.

Mr. Jack Sisterson, Trainer, testified to the success of UofL's EIP and the opportunities provided to him that allowed him to have the career he has now. Time management is the most important thing he took from the program, because the trainings are on such a strict schedule that needs to be done before the track opens for racing. If the schedule is not maintained, some horses may not receive their training for the day.

Representative Gentry made comments about the saving grace of HHR to the horse industry. He also spoke

about the opportunity for growth. However, there is a decrease in funding in EIP, because funding from HHR is capped and the other streams of revenue are declining. EIP has not had to cut anything or make any other funding changes; however, it is something that could occur. Representative Gentry pointed out that the organizations have non-resident students stay in Kentucky.

Chairman Thayer also spoke about the cap on the HHR that was assigned by the General Assembly.

The next meeting is November 19, 2021, at 10 a.m. With no further business before the committee, the motion to adjourn was made by Representative Koch and seconded by Representative Koenig at 4:46 p.m.

COMMISSION ON RACE & ACCESS TO OPPORTUNITY

Minutes of the 3rd Meeting

of the 2021 Interim

September 22, 2021

Call to Order and Roll Call

The 3rd meeting of the Commission on Race & Access to Opportunity was held on Wednesday, September 22, 2021, at 3:00 PM, in Room 149 of the Capitol Annex. Senator David P. Givens, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David P. Givens, Co-Chair; Representative Samara Heavrin, Co-Chair; Senators Karen Berg, and Whitney Westerfield; Representatives George Brown Jr., Nima Kulkarni, and Killian Timoney; Jamir Davis, OJ Oleka, and Erwin Roberts.

Guests: Olga McKissic, Director, Western Academy; Mackenzie Wallace Longoria, Director of Public Policy, Alzheimer's Association; and Edie Yau, Director of Diversity, Equity & Inclusion Engagement, Alzheimer's Association.

LRC Staff: Alisha Miller and Elishea Schweickart.

Western Academy

Olga McKissic, Director of the Western Academy at the Neblett Community Center, began her presentation by explaining that the Western Academy launched in October 2019, and was created to let African American and biracial boys know that they are at promise and not at risk. The Neblett Community Center was founded in 1936 by Dr. Reginald Neblett and his wife Hattie Neblett in order to reach out to the local youth.

The Western Academy encourages and motivates scholars academically to reach their full potential. Information pulled from the Owensboro school system showed that 77 percent of African American boys, starting in the 3rd grade, are not at grade level. In Daviess County public schools, 84 percent of African American students in the 3rd grade are below grade level in reading. Ms. McKissic stated investors are investing in prisons based on school test scores in hopes of getting a return on their investments. In order to address the academic gap, Western Academy is using a blueprint of the Black Male Working (BMW) Program that was established in 2005 by Roszalyn Akins in Lexington. The program reaches out to boys of color with a different learning style, with an Afrocentric lens, in order to encourage and empower

them to create a positive footprint in the world. Many African American academies have been established across the United States in order to encourage the success of black children who have been historically failed and mislabeled.

The Western Academy is held on Saturdays, and the scholars attend two sessions a month. Uniforms are required for every scholar. There is also a creed that the scholars memorize and recite every session, and a power story of African American men is shared every session. Along with using project based curriculum, the Western Academy also focuses on life skills, such as cooking. Scholars are also expected to follow the Well Principles, which include being well-behaved, well-mannered, well-dressed, well-spoken, well-read, and well-traveled. Scholars are rewarded with gift cards, trips, and etc., for their success in the program.

The Western Academy works with children in Owensboro and Daviess County. They are currently trying to reach out and work with other surrounding counties.

Responding to questions from Co-Chair David Givens, Ms. McKissic stated that at the age of 13 students are no longer under their childcare division, but they can attend the Recreation Center which is open to children up to 18 years old. Ms. McKissic stated that the Western Academy currently has 35 scholars enrolled and are still in the open enrollment period. The biggest challenge to getting children to commit to joining the academy is parent involvement and other commitments the children may have. Ms. McKissic stated that their effort would only be a failed effort if they did not continue to reach out to potential scholars, and if they did not continue working with the public school systems.

Responding to questions from Commissioner OJ Oleka, Ms. McKissic stated that the ultimate goal is for the Western Academy to be an A5 Title school. Ms. McKissic stated that there is an educational disparity in treatment when it comes to African American children. African American boys are more likely to be placed in special education or medicated, attend school without proper resources, and their punishments are harsher. The goal of Western Academy is to support and offer guidance to the scholars and their parents.

Responding to a question from Representative Killian Timoney, Ms. McKissic stated that sometimes there are challenges, but the Western Academy has very supportive parents.

Responding to a question from Commissioner Jamir Davis, Ms. McKissic stated that Western Academy receives funding from Owensboro public schools, private donors, and grants. Ms. McKissic stated that the Western Academy is currently a nonprofit and 501(c)(3).

Responding to a comment from Co-Chair Samara Heavrin, Ms. McKissic stated that they would love to have their scholars page for the House of Representatives and the Senate during the legislative session.

Healthcare Disparities

Mackenzie Longoria, Director of Public Policy and Edie Yau, Director of Diversity, Equity & Inclusion Engagement, with the Alzheimer's Association presented on healthcare disparities. The Alzheimer's

Association is a global organization, started in 1980, and works to provide care and support to people currently living with Alzheimer's and to advance research. Alzheimer's disease is the 6th leading cause of death in Kentucky, and there are an estimated 75,000 individuals currently living with Alzheimer's in Kentucky. Of these estimated 75,000, there are almost 3,000 in hospice with a primary diagnosis of dementia.

The 2021 Special Report: Race, Ethnicity and Alzheimer's in America surveyed minority Americans living with Alzheimer's to better understand their experiences when it comes to getting quality care. The report found that there are ethnic and gender disparities. Older African Americans, Hispanic Americans, and women are more likely to have Alzheimer's and are more likely to receive late diagnosis and experience barriers when it comes to quality care. Studies have shown that social class can also contribute to healthcare disparities. In 2017, Lancet Commission identified nine potentially modifiable risk factors for Alzheimer's: less education, hypertension, hearing impairment, smoking, obesity, depression, physical inactivity, diabetes, and low social contact. In 2020, three more risk factors were recognized: excessive alcohol consumption, traumatic brain injury, and air pollution.

The 2021 Special Report also studied discrimination and if it was a barrier to accessing quality care. More than 1/3 of African Americans and nearly 1/5 of Hispanic Americans and Asian Americans stated that they believed discrimination was a barrier. Furthermore, nearly half of African Americans and 1/3 of Hispanic, Native, and Asian Americans report that they have experienced healthcare discrimination. Diversity is also needed for research and trials, but less than five percent of trial participants are African American, Hispanic American, Asian American, or Native American.

Ms. Yau stated that in order to have equity in Alzheimer's and other dementia five things need to happen. These five suggestions include:

- Conduct, promote and support multi-level health disparities research;
- Increase diversity in health systems and health-related institutions;
- Enhancing cultural competence in dementia research and care;
- Accountability; and Participatory engagement to build trust and agency.

The Equity in Neuroscience and Alzheimer's Clinical Trials Act (ENACT) is a way that the Alzheimer's Association is pursuing equity. This act has three prongs, which include expanding access and increasing outreach to underrepresented populations, increasing diversity among clinical trial staff, and reducing the participation burden. Another way the Alzheimer's Association is pursuing equity is through national partnerships. Ms. Yau stated that the ultimate goal is equity, which means everyone gets what they need to survive and access opportunity.

Ms. Longoria stated that, on average, Kentucky spends about \$803,000,000 in Medicaid dollars for Alzheimer's and dementia care. Because African Americans and Hispanic Americans are more prone

to developing the disease and more likely to get diagnosed in later stages of the disease, the cost of their treatments are higher. A study conducted by Us Against Alzheimer's Center for Brain Health Equity found that Kentucky's 6th Congressional District is 13th in the nation where African Americans are most impacted by Alzheimer's and has spent nearly \$190,000,000 annually in Medicare, and the 2nd Congressional District is ranked 21st and has spent nearly \$200,000,000 annually in Medicare. Also, Franklin County ranks 2nd out of 25 counties across the United States with the highest prevalence of Alzheimer's among African Americans.

Ms. Longoria suggested a way to improve the health system is to increase public awareness, especially with early detection and early diagnoses, and that public awareness should be culturally competent and sensitive. Ms. Longoria also suggested that data collection in Kentucky needs to improve, and that as of now, no public health websites mention data on Alzheimer's or other forms of dementia. In order to get data, Ms. Longoria must present to the Department of Public Health to get their Cognitive Module included and then find the funds to run that module. The Alzheimer's Association is currently working with several groups, including the Kentucky Association of Black Nurses and Norton's Healthcare, to focus on race and health disparities.

Responding to a comment from Co-Chair Samara Heavrin, Ms. Longoria stated that she believes the new dementia services coordinator position that was recently created will help with data collection specific to Kentucky.

Responding to a question from Commissioner OJ Oleka, Ms. Yau and Ms. Longoria stated that they will find information on which states close to Kentucky are working well when it comes to Alzheimer's disease.

There being no further business, the meeting was adjourned at 4:47 PM.

UNEMPLOYMENT INSURANCE REFORM TASK FORCE

**Minutes of the 4th Meeting
of the 2021 Interim
September 28, 2021**

Call to Order and Roll Call

The 4th meeting of the Unemployment Insurance Reform Task Force was held on Tuesday, September 28, 2021, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Michael J. Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Jamie Link, Secretary, Labor Cabinet; Buddy Hoskinson, Executive Director, Office of Unemployment Insurance, Labor Cabinet; Morgan Eaves, Director of Legislative Affairs, Labor Cabinet.

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

Approval of Minutes

A motion to approve the minutes of the August 30, 2021, meeting was made by Representative Russell Webber, seconded by Senator Mike Wilson, and approved by voice vote.

Update on Unemployment Insurance and Proposed System Changes

The Labor Cabinet, Office of Unemployment Insurance (OUI), and Commonwealth Office of Technology (COT) leadership recently met for a three day strategic planning session to identify problems and create solutions in order to improve the unemployment insurance system experience and efficiency. Action items of the session included the virtual appointment process, claimant website improvements, fraud prevention and detection, and a weekly data dashboard. Virtual unemployment insurance appointments will be available to claimants with unresolved issues. OUI will reach out to these claimants starting with the oldest claims first. The online appointment schedule was rolled out September 27, 2021 with an option to have a phone appointment. The claimant website will be improved by adding benchmarks to let the claimant know where they are in the claims process, automated communication for missing information, and a real-time chat function. OUI is also reviewing language on the claimant website to replace industry specific terminology with easier to understand language.

OUI launched ID.me, a federally certified technology partner used by the Internal Revenue Service and Department of the Treasury for secure digital identity verification in an effort to increase fraud prevention and detection. A weekly dashboard has been launched to provide weekly updates on the number of new initial unemployment insurance claims, the number of continuing unemployment insurance claims, the number of issues with claims, the total number of claims awaiting claimant action, and the total number of claims paid. These issues will continue to be discussed and improved upon through quarterly strategic planning sessions with the Labor Cabinet, OUI, and COT leadership.

Additional resources available to OUI include being assigned a Tiger Team by the U.S. Department of Labor. The team will be comprised of experts across many disciplines including fraud specialists, equity and customer service specialists, unemployment insurance program specialists, business intelligence analysts, computer systems engineers, and project managers that will conduct intensive discovery assessments, provide resources for identification verification, and propose solutions to address fraud and equitable access. The Tiger Team will provide OUI with expert level advice from individuals that have assessed what was and what was not successful in other states. Federal funds and grants for modernization will also be identified for OUI by the Tiger Team. The next eight week Tiger Team session begins October 5, 2021.

Between April 15, 2021 and September 24, 2021, Kentucky Career Center (KCC) staff have helped more than 56,811 in person appointments. OUI call center staff have taken more than 94,586 calls via the unemployment insurance helpline. KCC's have

returned to a focus on employment services and have begun holding regular job fairs. A \$1.3 million Reemployment Services and Eligibility Assessment (RESEA) grant from the U.S. Department of Labor was recently awarded which is geared toward those individuals who have likely exhausted unemployment insurance benefits. RESEA requires unemployment insurance claimants to go through an orientation, create an individualized employment plan, and enrollment in a case management system.

As COVID-19 continues to surge, KCC offices have implemented safety protocols to protect staff and claimants. There is a mandatory mask mandate for staff, work stations are spaced six feet apart, and staff contact next day appointment holders to inquire about their current health status. Due to COVID-19 exposure, staffing at multiple KCC offices have been impacted. In those cases, in person appointments have been moved to phone appointments. There are currently 135 KCC staff members with 25 openings across the state.

From March 2020 to September 19, 2021, a total of 2,426,605 unemployment insurance claims were received with a total of \$6,640,473,258 paid through all unemployment insurance benefit programs. During the 2021 Regular Session, legislation was passed creating a waiver for overpayment of unemployment insurance benefits. Unemployment insurance claimants began receiving letters in June 2021 regarding overpayments of unemployment insurance benefits. There have been 5,780 overpayment claims processed and \$8,333,203.78 in benefits waived thus far.

The second round of RFP for a new unemployment system was released on August 27, 2021 and proposals will be due October 19, 2021. Language was added to address the extensive need for added system security and to require that the prime vendor has previously implemented a similar updated system in another state or jurisdiction. The project has been estimated to cost about \$47.5 million with \$30 million being allocated from restricted funds, \$10 million allocated from bond funds, and \$7.5 million from the general fund. After a vendor is selected and the contract is finalized, it will take 18 to 24 months to implement the modernized unemployment insurance system.

Responding to Representative Josh Branscum, Buddy Hoskinson, the Executive Director of the Office of Unemployment Insurance, confirmed that the new claimant website will have guided instructions for unemployment insurance claimants and there are currently online videos available that offer step by step instructions for how to file an unemployment insurance claim. Morgan Eaves, the Director of Legislative Affairs for the Labor Cabinet, added that the new claimant website will also feature a live chat options for individuals that have questions about filing a claim or how to upload documentation. Answering a follow up question, Mr. Hoskinson noted that fraud was a major issue for Kentucky as well as many other states. The personal identification numbers for unemployment insurance claimants were reset in April 2021 which has aided fraud prevention and detection efforts along with the launching of the ID.me program.

Addressing questions from Representative Phillip

Pratt, Mr. Hoskinson verified that the OUI has been providing the General Assembly with up to date information regarding unemployment insurance claims throughout the pandemic. The addition of the data dashboard makes information more readily available to legislators, the media, and the public. Responding to a follow up question, Mr. Hoskinson reiterated that the next eight week Tiger Team session begins October 5, 2021. The Tiger Team will meet virtually and be exclusively focused on Kentucky. Addressing another follow up question, Labor Cabinet Secretary Jamie Link explained that states around the country are currently rebuilding unemployment insurance systems because the systems were not designed to withstand the volume of unemployment insurance claims or the level of fraud that was encountered during the COVID-19 pandemic. The Labor Cabinet is committed to obtaining a vendor that will adequately meets the needs of the state while also concentrating on the allotted budget for the project. Responding to a follow up question, Secretary Link confirmed that the results of four separate audits that the OUI is undergoing will be made public. Addressing a follow up question, Secretary Link said there have been 1,041 individuals apply for the Back to Work Incentive Program. Responding to another follow up question, Ms. Eaves explained that whether an individual who lost their job based on an employer vaccination requirement would qualify for unemployment insurance benefits would be determined on a case by case basis.

Replying to Representative McKenzie Cantrell, Mr. Hoskinson acknowledged that more staff is needed to assistant unemployment insurance claimants properly, specifically for the call centers. OUI continues to monitored the call volume and work closely with the call center provider to assess staffing needs.

Answering questions from Senator Mike Wilson, Mr. Hoskinson said the claimant website was in the prototype phase of development, and the goal is to have the website completed by the end of 2021. Replying to a follow up question, Mr. Hoskinson explained that of the 400,000 unanswered emails sent to the OUI that were previously discussed by the Auditor of Public Accounts, only 127,000 of those emails were unique. Of those 127,000 emails, 67,000 were from individuals that are receiving unemployment insurance benefit payments. 24,000 emails still need to be addressed. All OUI email accounts have been reevaluated to ensure that unemployment insurance claimants are able to send communications through the proper channel.

Responding to Senator Ralph Alvarado, Secretary Link said the estimated cost for the new unemployment insurance system was derived from consultation with COT leadership by the Labor Cabinet. All RFP proposals will be evaluated for efficiency and cost. Answering a follow up, Secretary Link restated that it will take 18 to 24 months to implement the modernized unemployment insurance system.

Addressing Representative Scott Sharp, Secretary Link said that the Labor Cabinet and OUI are facing the same staffing shortage issues as all employers across the Commonwealth. Although the Labor Cabinet has evaluated the positions, options are limited due to state and federal personnel requirements and some federal

funding ending on September 6, 2021. Secretary Link agreed to work with the General Assembly to formulate possible legislative action that could help with staffing challenges.

Replying to questions from Representative Russell Webber, Mr. Hoskinson reiterated that there have been 5,780 unemployment insurance overpayment claims processed and \$8,333,203.78 in benefits waived as a result of legislation passed during the 2021 Regular Session. About 400 unemployment insurance overpayment claims have been denied and sent to through the appeal process to be reviewed. Addressing a follow up question, Secretary Link confirmed that the Kentucky Career Centers are under the jurisdiction of the Labor Cabinet and not the Education and Workforce Development Cabinet. Replying to another follow up question, Secretary Link said he expects for proposals for the RFP to be under consideration for 30 to 45 days because of the complexity and magnitude of building an entirely new unemployment insurance system. Addressing a follow up question, Secretary Link agreed to meet with others in Labor Cabinet leadership to prepare legislative recommendations for the General Assembly.

Answering questions from Senator Mike Nemes, Mr. Hoskinson said there is currently a back log of about 80,000 unemployment insurance claims that included traditional unemployment insurance claims and all other extended pandemic related unemployment insurance claims. Replying to a follow up question, Mr. Hoskinson stated there is no longer a contract with Ernst and Young or any other company to assist with the adjudication of unemployment insurance claims due to federal funding for those positions ending on September 6, 2021. Answering a follow up, Mr. Hoskinson explained that the Unemployment Insurance Commission is the upper level of the appeals process and is comprised of the Executive Director of the Office of Unemployment Insurance, a labor representative, and a citizen member. There is currently a weekly average of 30 to 40 unemployment insurance claims under review by the Unemployment Insurance Commission. Responding to a follow up question, Secretary Link confirmed that OUI staff is being cross trained to also offer career counseling at the KCC offices in addition to processing unemployment insurance claims. Answering another follow up question, Mr. Hoskinson clarified that unemployment insurance claimants were now given the option for a phone appointment when initially making an appointment. Replying to a follow up, Mr. Hoskinson confirmed that a first available appointment option is possible to include on the claimant website. Responding to another follow up question, Mr. Hoskinson said statistical unemployment insurance information on the first two quarters of 2021 could be made available. Answering another question, Mr. Hoskinson stated the Labor Cabinet would consult with regional liaisons about implementing indexing of unemployment insurance benefits if that is a process that the General Assembly wishes to move forward with. Addressing a follow up question, Secretary Link stated that pairing skilled employees with employers is one of the Labor Cabinet's goals while working with local, state, and federal partners.

There being no further business before the

committee, the meeting adjourned.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 5th Meeting
of the 2021 Interim
September 21, 2021

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on State Government was held on Tuesday, September 21, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: James F. “Ted” Booth, Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER); Mary Elizabeth Bailey, Personnel Cabinet.

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

Approval of Minutes

The minutes of the August 26 and September 1 meetings were approved without objection by voice vote, upon motion by Senator Wheeler.

Overview of Legislative Immunity/Legislative Privilege

The guest speaker was James F. “Ted” Booth, General Counsel, Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER), the Mississippi legislature’s audit evaluation and investigative committee. He is also staff counsel for Mississippi’s joint reapportionment committee. In conjunction with his testimony, he provided a written document entitled “Legislative Privilege-An Overview.”

Mr. Booth stated that legislative privilege is an evidentiary rule that protects legislators from being required to testify in a civil action or to render documents when sought through discovery or subpoena. Legislative immunity shields legislators from being parties to litigation. They are related doctrines and often trace their sources to the same constitutional provisions or common law. In Mississippi, as in many other states, privileges are not preferred by courts. Privileges often shield otherwise relevant and material evidence from disclosure and run contrary to current notions of openness in government. Privileges can be either

absolute or qualified.

The source of legislative privilege varies from state to state. In Kentucky the source is the state constitution Speech or Debate clause (Section 43), which is modeled on the US Constitution. Seven states, including Mississippi, California, and Florida, have no such clause. For those states, the privilege will be based on a constitutional structural argument, the common law, or a rule of evidence. In federal courts, the source of legislative privilege is what is sometimes called “federal common law.”

A confidentiality statute shields the release of a document from a public records request, while privilege makes the records or testimony of a person not subject to discovery. Generally, a confidentiality statute does not in and of itself create an evidentiary privilege. Privilege is a much stronger concept.

While privilege protects persons or information from being discovered, immunity protects legislators from being parties to litigation and being potentially liable. Immunity tends to be absolute and not qualified. It may be derived from a state’s constitution, the common law, or a statute. Immunity applies to suits brought against legislators in their personal and official capacities; it protects them from liability arising from acts occurring within the course and cope of carrying out legislative duties. Immunity is recognized in federal courts. The US Supreme Court recognizes the need for immunities and privileges for state legislators. A 1951 US Supreme Court case, *Tenney v. Brandhove*, 341 US 367 (1951), is the source for state legislative immunity in federal proceedings. Justice Frankfurter cited “federal common law” as the source. Thirteen years earlier, in a famous case, *Erie Railroad v. Tompkins*, the Supreme Court categorically stated there is no such thing as federal common law. Justice Frankfurter rediscovered federal common law.

Mr. Booth discussed general principles gained from his research of all jurisdictions regarding the scope and application of legislative privilege. The privilege must be invoked by the legislator—not by someone else on behalf of the legislator. Staff may also be able to claim privilege in litigation arising from a legislative act, but legislators should consult with their house counsel on that subject. In some states, a balancing test will be applied in determining legislative privilege. Generally, testimony and records that relate to the drafting, consideration, and passage of legislation is protected. However, the privilege may be waived through inconsistent behavior, delay, or by policy.

Most federal courts take the position that legislative privilege is qualified, but there are exceptions. Courts must determine whether the public good of allowing the privilege outweighs the value of receiving relevant evidence. A few federal courts have held that the privilege is absolute, but privileges in federal court may be subject to balancing. In a redistricting case in Virginia, judges argued that when the subject matter deals with private rights, the chances are greater that the legislative privilege would be treated as absolute. When it deals with things that address important public policy issues, such as redistricting, expect the privilege to be balanced. The privilege can be balanced because it is a product of common law rather than statute or constitutional law. The common

law must yield to the important public policy. This is often seen in redistricting cases.

The Deliberative Process Privilege is a qualified privilege that has been discussed in various treatises on the federal rules of evidence, and it can apply to the legislative process. It is available to deal with issues that grow directly from deliberation, such as conducting hearings, drafting legislation, committee action, and floor action. Also, under the federal rules of civil procedure, the Work Product Rule (FRCP Rule 26) may provide considerable protection for legal materials developed by a committee.

Concluding his presentation, Mr. Booth stated that the forum court matters. In federal court, when dealing with a significant public policy issue, it is likely that privilege will be qualified. In redistricting cases the federal courts usually find a way to pierce the privilege. In state courts the source of the privilege is the critical question. In places like Kentucky, which has a Speech or Debate clause, there would be a strong argument regarding the absolute character of the privilege. However, the way an open records law is crafted can defeat a claim of privilege. Generally speaking, privilege arguments work best when trying to protect legislators who are having to testify or surrender documents regarding the stages of drafting, conducting hearings, committee processes, and floor action on legislation.

Responding to Representative Graham, Mr. Booth said that an open records law could be drafted in terms broad enough to actually defeat a claim of privilege. For example, if an open records law says that all material associated with the preparation, drafting and consideration of legislation must be made available to the public and released upon request, it would be difficult to invoke legislative privilege. Mississippi’s open records law says nothing therein shall be construed as limiting the legislature’s power to determine access to its own records. All joint committees—like his two committees—have adopted policies that make work files confidential. With the PEER Committee, certain things have to be public. Final reports that are voted out by the committee are released and made available to anyone on demand. Other files—work papers and interview notes, for example—are protected from public requests.

In response to Representative Wheatley, Mr. Booth said that past NCSL panel discussions have counseled people to exercise “good email hygiene,” which would extend to text messaging. He advised caution when using e-mail or text messaging to transmit potentially discoverable information. Answering another question from Representative Wheatley, he said that a staff person’s claim of legislative privilege is based on the privilege extended to a legislator. If a legislator is required to release his records, there would not be a separate protection for staff.

There were no other questions, and Senator Mills thanked Mr. Booth for his testimony.

The Future of Remote Working in State Government

Senator Mills stated that he and other members of the General Assembly have concerns, from a customer service standpoint, whether remote working in state government has a positive or a negative impact on their constituents. He introduced the guest speaker, Mary

Elizabeth Bailey, Commissioner of the Department of Human Resources Administration, Personnel Cabinet. Her testimony included a PowerPoint presentation.

Ms. Bailey discussed the current staffing model for employees of executive branch KRS Chapter 18A agencies. As of July 6, 2021, employees will continue to work according to the following options: working 100 percent in an executive branch building/office; hybrid telecommuting, with the employee working both in a building/office and a remote work station; or telecommuting 100 percent, with the employee working entirely from a remote work station. State government agencies review their telecommuting policy and staffing plans quarterly. The entire staffing model will be reevaluated in October 2021.

Fifty percent of executive branch employees are currently working at their state government building/office location. This category includes employees in positions that are public facing and therefore not eligible to telecommute; employees whose job duties cannot be performed remotely; employees with flexible work schedules; and employees who request not to telecommute. Employees who scored in the lowest two categories on their previous performance evaluation, or who are currently on a performance improvement plan, are not eligible to telecommute. Under the hybrid telecommuting plan, an employee may work remotely 1-4 days each week. This plan is in use for 37 percent of executive branch employees. Telecommuting 100 percent currently includes 13 percent of the executive branch. This option requires approval of the Personnel Cabinet.

Ms. Bailey said that telecommuting is not new in Kentucky state government. It was created more than 23 years ago and is authorized in administrative regulation by 101 KAR 2:095 and 101 KAR 3:050. The pandemic prompted a closer look at telecommuting, and an executive branch telecommuting policy was implemented. The policy addresses supervisor and employee training, terms and conditions agreements, and safety. Flexible work schedules are permitted, and an agency is authorized to visit an employee's remote work site at any time.

Representative Nemes said it would be beneficial to know whether remote working can provide opportunities for cost control. He requested that the following information be furnished by the executive branch, based on the budget area affected: a list of all employees who are telecommuting; why they do not need to report to the workplace; and whether the number of telecommuting jobs can be reduced. He suggested that the information be transmitted to the LRC budget subcommittees for possible use in forthcoming budget proposals. He said he would also like to know if there can be a reduction in state office building rent when employees are not occupying the workplace.

Senator Thayer said people have complained to him that they have been unable to reach employees in customer service areas because they are working from home. Ms. Bailey said that forward-facing agencies are working in state buildings and are providing services to the Commonwealth. She is not aware of any issues but would be happy to look into any complaints that have been received.

Responding to Representative Bowling, Ms. Bailey reviewed the telecommuting policy relating to out-of-state residents who work in Kentucky.

Senator Alvarado said it is a major concern that information transmitted by employees on their personal devices is potentially discoverable. He questioned whether the executive branch has taken that into consideration, and he suggested that employees be made aware of this. Ms. Bailey agreed that it would be important to remind employees.

Responding to questions from Senator Wheeler, Ms. Bailey said she would need to defer to individual agencies regarding metrics for judging the efficiency of working remotely versus in-person in an office. If an employee utilizing the work-from-home privilege is not meeting standards, the agency can cancel the telecommuting agreement at any time. The timeline for reviewing performance standards differs by agency, and this issue will be raised during the October review. The extent to which telecommuting privileges are being utilized in urban areas compared to rural areas also differs by agency.

Responding to Representative Miller, Ms. Bailey said that occupational tax rates for employees who work remotely is based on actual work location. Employees with questions about occupational tax should consult the Human Resources office in their agency.

Representative Graham said that in order to be efficient and proficient in providing services, it would be better for state employees to work within the confines of their office building. Frankfort is the seat of state government. Franklin County is in his district, and he is also concerned about the local government's loss of occupational tax income as a result of remote working.

Senator Thayer stated that with the available COVID protocols, there is no reason why in-person work in state offices cannot be managed appropriately. He stated for the record that he and Representative Graham are in full agreement that state employees—with the exception of consultants—need to return to work in their offices, and he respects Representative Graham for taking that position.

Business concluded, and Senator Mills thanked Ms. Bailey for her testimony. Discussion concluded and the meeting was adjourned at 2:06 p.m.

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

**Minutes of the 4th Meeting
of the 2021 Interim
September 23, 2021**

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 23, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Phillip Pratt, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair;

Representatives Kim King, Co-Chair, and Phillip Pratt, Co-Chair; Senators Rick Girdler, Christian McDaniel, Robby Mills, Adrienne Southworth, Brandon J. Storm, Reginald Thomas, Phillip Wheeler, Mike Wilson, and David Yates; Representatives Shane Baker, Lynn Bechler, Josh Branscum, George Brown Jr., Josh Calloway, Jeffery Donohue, Ryan Dotson, Daniel Fister, Deanna Frazier, Chris Freeland, Chris Fugate, Jim Gooch Jr., David Hale, Richard Heath, Thomas Huff, Norma Kirk-McCormick, William Lawrence, Charles Miller, Ruth Ann Palumbo, Brandon Reed, Rachel Roberts, Steve Sheldon, Cherlynn Stevenson, Ashley Tackett Laferty, Nancy Tate, Bill Wesley, and Richard White.

Guests: Deb McGrath, Executive Director, Epilepsy Foundation of Kentuckiana; Cyndi Crunk; Lyndsey Crunk; Representative Mark Hart; Tyler Campbell, Executive Director, Kentucky Telecom Association; Mark Iverson, General Manager, Bowling Green Municipal Utilities; Tony Thompson, Chairman, MuniNet Group; and Annette Depont-Ewing, Executive Director, Kentucky Municipal Utilities Association.

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

Approval of Minutes

A motion to approve the minutes of the August 26, 2021, meeting was made by Representative Ryan Dotson, seconded by Senator Mike Wilson, and approved by voice vote.

Seizure Safe Workplaces

The Seizure Safe Schools Act, known as the Lyndsey Crunk Act, was passed during the 2018 Regular Session, requiring teachers to be trained in seizure first aid. This prompted proposed legislation regarding seizure safety in the workplace. Deb McGrath, the Executive Director of the Epilepsy Foundation of Kentuckiana, explained the need to be informed about seizure safety. The proposed bill requires signage be posted in workplaces illustrating the steps necessary to administer first aid to a seizing person until a first responder or medical professional arrives. The signage directs a person to stay with the seizing individual until he or she is awake and alert, keep the individual safe, and to turn the individual onto his or her side if not awake and aware. Cyndi and Lyndsey Crunk, epilepsy awareness advocates, testified about their experiences with epilepsy and the need for seizure education in the workplace.

Responding to Representative King, Ms. McGrath explained that the first aid instructions on the signage would apply to various types of seizures, including both petit mal and grand mal seizures.

Answering questions from Senator Southworth, Ms. McGrath stated the National Epilepsy Foundation offers training on seizure first aid and how to identify if someone is having a seizure. In response to a follow up, Ms. McGrath said that information could be added to the signage about how to identify a seizure.

Replying to comments made by Representative Kirk-McCormick, Ms. McGrath said she is not trained to treat drug overdoses and does not know how to distinguish between if a person was having a seizure or experiencing a drug overdose. Representative Hart

added that one of the most important steps to follow on the signage is to call 911 because a first responder will be able to better assess the situation.

Addressing Representative Brown, Ms. McGrath explained that some employees do disclose to their employer that they have been prescribed seizure rescue medication but the best course of action would be to follow the steps on the signage if that information is unknown.

Concerns of the Kentucky Telecom Association with OpenFiberKY

The Executive Director of the Kentucky Telecom Association (KTA), Tyler Campbell, voiced his association's concerns with KentuckyWired and OpenFiberKY, now called Acelecom. KTA is comprised of rural telecom cooperatives and small commercial telecom and broadband providers. Members of KTA collaborated with the Kentucky Communications Network Authority (KCNA) to build laterals needed to bring a point of presence into counties in the western and eastern portions of the state for the middle mile network. According to Mr. Campbell, KentuckyWired and OpenFiberKY have been using a state owned and constructed network to directly compete with KTA's companies, and Acelecom is now using the KentuckyWired network to cherry pick the easiest to serve customers. Acelecom is the wholesale arm of the original KentuckyWired contract with Macquarie Capital, and KCNA may receive revenue from sales through Acelecom. As Acelecom continues to bid on providing last mile broadband services, it remains a concern of KTA that many of these projects do not fall in areas that have been deemed unserved or underserved.

Responding to a question from Senator McDaniel, Mr. Campbell stated he could not comment on Macquarie Capital acquiring Cincinnati Bell.

Answering a question from Representative Tackett Laferty, Mr. Campbell explained that the Federal Trade Commission defines high-speed broadband as download speeds of up to 25 megabits per second and upload speeds of up to 3 megabits per second (25/3 Mbps). An unserved area in Kentucky is considered to be 10 megabits per second download speed and 1 megabits per second upload speed, and an underserved area is considered to be anything less than 25/3 Mbps.

Replying to comments made by Representative Bechler, Mr. Campbell stated KTA members are striving to upgrade their systems and equipment through state and federal grants to better serve unserved and underserved areas of the state.

Addressing a question from Representative Sheldon, Mr. Campbell said that companies received a contractual right of first refusal from the Commonwealth as part of the partnership agreement between KTA's members and KCNA.

Representative Hale commended KTA and its members for providing excellent service in his area of the state.

Representative Dotson made comments about alternative options to fiber optic internet service.

In response to Representative Pratt, Mr. Campbell stated KTA members submitted comments and questions during the Kentucky Infrastructure

Authority's open RFP process for statewide broadband services.

Senator Thomas made remarks about the initial approval of the KentuckyWired project by the General Assembly and acknowledged that several changes have been made over the course of several administrations which ultimately delayed the completion.

Answering a question from Senator Girdler, Mr. Campbell clarified that the KTA is in ongoing dialogue with Acelecom.

Impact of KentuckyWired on City Utility Broadband

Mark Iverson, General Manager of Bowling Green Municipal Utilities (BGMU), presented concerns that BGMU and the Kentucky Municipal Utilities Association (KMUA) have with the direct competition it is facing due to the KentuckyWired project.

BGMU is a municipally-owned and operated utility of the City of Bowling Green and is one of 45 member systems of the KMUA. KMUA members have met with KentuckyWired officials to specifically address at least four major concerns: (1) overbuilding municipal networks, (2) KentuckyWired competing for customers of KMUA members, (3) the excess capacity built into KentuckyWired's network, and (4) the potential marketing of that excess capacity. Contrarily, KentuckyWired, an affiliate of Macquarie Capital, now has a contractual agreement with OpenFiberKY, or Acelecom, for exclusive rights to use the excess capacity of the network. Mr. Iverson noted that the following percentages of shared revenue is generated from marketing excess capacity and reverts back to the Commonwealth: 90 percent of gross revenues from core dark fiber leases, 80 percent of net revenues from ancillary dark fiber arrangements, and 75 percent of net revenues from lit fiber services. Acelecom's target markets include agriculture, banking, private colleges, community and county offices, schools, healthcare facilities, and other small businesses, which covers a large portion of BGMU's business portfolio. In addition, KentuckyWired's network routing almost directly aligns with the network routing of BGMU and other members of KMUA.

Senator Wilson expressed concerns about KentuckyWired competing with BGMU and other utility companies after the General Assembly was told that this type of competition would not occur.

In response to a question from Representative Sheldon, Mr. Iverson confirmed that BGMU would cooperate with KentuckyWired and assist with pole attachments if KentuckyWired agreed to focus solely on the underserved and unserved service areas across the state instead of existing customers of BGMU and other utility companies.

Representative Donohue commented that he believes a compromise could be reached that would be beneficial to all parties involved.

Answering a question from Senator Mills, Mr. Iverson stated he was not aware of language in the contract between KentuckyWired and Acelecom that explicitly addresses unserved or underserved service areas.

Representative Pratt made remarks about the

initial intentions of KentuckyWired and the usage of the excess network capacity.

Replying to a question from Senator Southworth, Mr. Iverson said the contract between KentuckyWired and Acelecom is a public document.

Representative Fugate pointed out that while KentuckyWired is overbuilding in adequately served portions of the state, there are large portions of Eastern Kentucky that remain unserved.

There being no further business before the committee, the meeting adjourned at 2:32 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 4th Meeting of the 2021 Interim September 20, 2021

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Transportation was held on Monday, September 20, 2021, at 9:00 AM, in Room 149 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll. The minutes from the August 3, 2021 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Karen Berg, C.B. Embry Jr., Paul Hornback, Brandon Smith, Brandon J. Storm, Johnnie Turner, Phillip Wheeler, Mike Wilson, Max Wise, and David Yates; Representatives Josh Branscum, Kevin D. Bratcher, Randy Bridges, Jonathan Dixon, Ken Fleming, David Hale, Samara Heavrin, Regina Huff, Thomas Huff, Bobby McCool, Shawn McPherson, Sal Santoro, Tom Smith, Cherylann Stevenson, Ashley Tackett Laferty, Walker Thomas, and Buddy Wheatley.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Jason Siwula, Assistant State Highway Engineer, KYTC; Elisa Hanley, Transportation Branch Manager, Kentucky Department of Education (KDE); Representative David Hale, State Representative, 74th District; Roberto Rego, Vice President of Sales, Marketing, and Government Relations, Bus Patrol; and Jean Souliere, Chief Executive Officer, Bus Patrol.

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

Status of the Federal Infrastructure Bill

Jim Gray, Secretary, KYTC, stated the United States Senate's version of the approximately \$1 trillion Infrastructure Investment and Jobs Act is forward-looking, bipartisan legislation that would make life better for millions of Kentuckians by improving infrastructure, public works projects, and creating good-paying jobs to power Kentucky's economy. The proposed bill includes the reauthorization of dedicated federal funds that Kentucky and other states rely on every year to deliver federal projects.

A chart was presented that displayed Fixing America's Surface Transportation Act (FAST ACT) allocations, which are dedicated federal funds that Kentucky can access once Congress passes its reauthorization bill. The last five federal fiscal years, Kentucky has received a total of \$3.7 billion, or an

average of \$744 million dollars each year. While the amount of money has gradually increased each federal fiscal year, it has plateaued for the past three years.

It's important to note this reauthorization money does not include grant funding Kentucky has won through competitive grant programs like Better Utilizing Investments to Leverage Development (BUILD), or Infrastructure for Rebuilding America (INFRA). Instead, this money funds traditional federal program projects. These are projects commonly seen in the highway plan that are partially or fully paid for using federal dollars.

The base reauthorization is also used for Garvee bond debt payments, as well as allocations for specific federal programs in the highway plan like Highway Safety Improvement Projects and Congestion Mitigation projects.

If the Senate version of the bill is passed, it is estimated Kentucky would receive \$4.6 billion in federal highway funding over the course of five years. This translates to about \$1 billion dollars more in the next five years compared to the past five years, or an average of \$200 million more per fiscal year.

In addition to the increased base appropriation, Kentucky could receive more federal dollars in grant funding. The Senate bill offers billions of dollars in competitive grants for significant bridges and major projects of substantial economic benefit to communities. These are major projects that states would submit for funding consideration. Governor Beshear has stated he will try to obtain every available federal dollar to tackle some of the greatest transportation priorities in Kentucky.

The bill passed the Senate, but it awaits passage from the House, which is expected to be up for a vote later this month. Once signed by President Biden, the bill will be considered law and more details will be available for states to know definitively how much they will have to work with and the funding opportunities for transformative projects of regional significance.

Secretary Gray stated KYTC will continue to closely monitor the bill's movement and forthcoming funding details so a collaborative process with local, state, and federal partners can occur to move forward on major projects, such as the Brent Spence Corridor project, that is believed to be a strong candidate for grant funding.

In response to a question asked by Chairman Higdon, Secretary Gray stated inflation and the pricing index across the construction industry is very unpredictable. He added steel, commodity, and wood prices will rise and then return back to lower levels. He added this fluctuation in pricing has affected the bidding process on contracts.

In response to a question asked by Representative Thomas, Secretary Gray stated that KYTC is on schedule for letting of the approximately eight mile section of roadway leading up to the I-69 corridor in November 2021. He added that that project will be let on a design-build basis and that three contractors and contracting and engineering teams have already been prequalified for the job. Secretary Gray stated that Governor Holcomb of Indiana has made the commitment to begin the project processes on Indiana's side as well.

In response to a question asked by Representative Wheatley, Secretary Gray stated although specifics are not yet available, it has historically been the case that whenever a project ties two states together, they both apply for grants, and the states involved will cooperate for the project proposal and funding issues. Secretary Gray stated the contribution levels from the states involved in the specified project can be a 50/50 split, or could be a 60/40 split depending on the situation.

In response to a question asked by Representative Wheatley, Secretary Gray stated there has been a reworking of the plan to acknowledge and re-examine the footprint of the current plan and its impact on Covington. He added the work that is underway today is examining the traffic study and through traffic analysis and is flexible to suggestions.

In response to a question asked by Representative Santoro concerning grants and matching funds, Secretary Gray stated many states are increasing their matching allotment, therefore making it difficult for Kentucky to compete for certain grants.

In response to a question asked by Representative Santoro concerning major projects such as the I-69 and I-75 bridges, Secretary Gray stated the matches of those projects will also be in competition with other states which may offer to fund more of the project.

In response to a question by Representative Branscum concerning federal funding for the 127 corridor, Secretary Gray stated KYTC is applying for a RAISE grant which provides a better opportunity to leverage funds. He added that the 127 project is scheduled based upon the application for the RAISE funding and federalizing more of the funding through that. The 127 corridor project is scheduled for letting in the spring of 2022. Secretary Gray added that since that project is already in the plan, there is no anticipation for any implications to the 127 project if federal grants are not received.

In response to a question asked by Senator Wheeler, Secretary Gray reiterated that it would significantly impact local governments if the motor vehicle fuels tax were raised. He added that the revenue sharing model is very specific and would require just under 50 percent of motor fuel tax revenue be distributed to cities, counties, and rural secondary roads.

Highway Safety

Jason Siwula, Assistant State Highway Engineer, KYTC updated the committee on highway safety. As of September 3, 2021, there have been 512 fatalities on Kentucky's highways. Of those fatalities, 74 have been commercial motor vehicle involved and 49 have been motorcycle involved. Total highway fatalities were 516 in 2019 and 527 in 2020.

Mr. Siwula presented the Kentucky Office of Highway Safety's (KOHS) Strategic Highway Safety Plan (SHSP) for 2020 through 2024. It is the goal of KOHS for there to be under 500 highway deaths per year by 2024. In order for that goal to be met, prevention is a key focus.

There are six emphasis areas to focus on that are the causes of fatalities and serious injuries on the highway; 1.) aggressive driving, 2.) distracted driving, 3.) impaired driving, 4.) occupant protection

(failure to use seatbelt or child restraint while driving or riding), 5.) roadway departure, and 6.) vulnerable road users (crashes involving pedestrians, bicycles, motorcycles, electric scooters, or other vehicles besides cars and trucks.) A chart was provided that showcased the percentages of overall fatalities in which emphasis area. Roadway departure, aggressive driving, and distracted driving are the highest causation percentages.

A Vulnerable Road User Task Force has been established as KYTC is working with stakeholders to develop action plans for each of the emphasis areas. Vulnerable road users encompass other vehicles besides cars and trucks, as well as pedestrians and cyclists. From 2014 to 2018 there were 866 fatalities involving vulnerable roadway users in Kentucky, which accounted for 23 percent of all highway fatalities. The SHSP includes strategies to improve the safety of Kentucky's vulnerable roadway users including installing pedestrian refuge islands at busy intersections, and developing media campaigns to promote and educate on motorcycle safety. It is important to note that the vulnerable road user emphasis can and often times does overlap with other emphasis areas.

The Motorcycle Rider Education Program was established in 1992 to help new riders learn the needed skills on roadways to be safe, as well as veteran riders to hone and improve their skills. The program is paid for in part by a portion of all motorcycle license and registration fees to help subsidize the costs of providing the classes.

The KOHS is currently developing a campaign for safe biking, walking, and driving. The campaign focuses on what everyone can do to contribute to safer transportation for bicyclists and pedestrians.

Upcoming opportunities for KOHS involve partnering with the National Highway Traffic Safety Administration (NHTSA) to perform a pedestrian/bicyclist assessment this fall. Additionally, KOHS is working with the Kentucky Transportation Center on multiple research projects related to improving safety and access for bicyclists and pedestrians. Mr. Siwula stated citizens can partner with KOHS by becoming informed about safety, getting involved in improving safety, and being intentional about the example they set.

School Bus Safety

Elisa Hanley, Transportation Branch Manager, KDE, discussed school bus safety. Four major aspects involved in school bus safety are the Federal Motor Vehicle Safety Standards (FMVSS), school bus driver selection, the driver training program, and technology.

There are 28 Federal Safety Standards required for school buses. Kentucky goes above and beyond in several of these areas. Each year the bus manufacturers are visited to ensure buses are built to Kentucky minimum specifications. In addition, each year there is a committee of school bus drivers, trainers, technicians, inspectors, directors, and at least one superintendent that determines what the minimum specifications should include. There is an engineer available from each manufacturer to discuss concerns, anything that might work better for the

buses, and new safety features that may be added.

Ms. Hanley highlighted several of the standards including FMVSS 217, regarding window retention and release, FMVSS 220 and 221, which deal with rollover protection and body strength, FMVSS 222, occupant protection, and FMVSS 302, standards for flammability of indoor materials.

Kentucky buses are tested to 36,000 pounds, which is one and a half times the heaviest school bus Kentucky has. There have been instances where buses have rolled over, but it is not often you will see a school bus with a crushed roof, damaged, yes, but not crushed. These barriers are structured to withhold a lot of pressure. The FMVSS 220 and 221 have strict requirements to ensure the roof of the bus's integrity, which ensures the roof will not be crushed as it would be if the rollover would have occurred in a car.

Compartmentalization is the major protection of school bus occupants during crashes. During a crash, compartmentalization results in the child hitting the padded seat in front of them, which absorbs the impacts of the crash. However, compartmentalization is not as effective when a bus is struck from the side. Therefore, NHTSA has recommended lap/shoulder belts for all school buses.

Kentucky is the only state that uses Aramid (Kevlar) Fabric with Kevlar jersey knit and Kevlar thread to sew the seats). This material prevents penetration of fire into the foam cushioning and will self-extinguish when the source of fire is removed. The coating has been formulated to give this product high abrasion resistance, fire retardant and low smoke generation properties. In addition to the safety factors, Kevlar is the most vandal resistant fabric ever used in school buses. The puncture resistance is three times that of standard seating fabric and the unique construction makes it difficult to cut and almost impossible to tear. If there is a hole in any of the seats, the bus driver will know that a very sharp object was brought on the bus.

Regarding drivers, Ms. Hanley stated the process of hiring a school bus driver can take weeks if not months. Some districts have even stricter requirements than state regulation. The minimum requirements are provided, and the local boards of education can expand on them if they wish. Driver selection involves a criminal background check of the applicant including a motor vehicle records which requires no DUI or DWIs within the last five years. Some districts don't allow this in records at all. Driver selection also requires an initial physical and annual physicals, as well initial drug tests and random drug testing after an accident.

Once the driver is chosen and has gone through all the proper checks, they are trained. Bus driver training includes a minimum of 25 hours of classroom and driving instruction, yearly recertification (eight hours of update training), CPR/First Aid training, positive behavior intervention and support (PBIS), pupil behavior management, evacuation training, and special needs training. Additionally, some school districts put monitors on the buses to help with student behavior, but just like there is a shortage of drivers, there is a shortage of monitors. In addition, not all school districts can afford to put monitors on every school bus. Funding is a big factor of why many buses do not have them.

Beginning in February 2022, entry level driver training will be required. This is for anyone getting a CDL with a passenger or school bus endorsement. The school district will be required to provide specific training to ensure drivers understand their responsibilities as CDL drivers, not just school bus drivers. Therefore, additional strains will be added to the district, which may cause a larger shortage of drivers.

Not all school districts pay people while they are in training and our parents/communities cannot afford to go through four to six weeks of training with no pay. Many school districts provide training for people to get their permits, which is five to ten days, through the Kentucky curriculum/entry level driver training (ELDT) requirements. At the state education level, a manual has been created to include what is required for ELDT, to help eliminate the need to add additional weeks of training. However, certain items are necessary to include, such as log books, cargo handling, hours of service, and other areas. Tests are also being created for those needing their license and endorsements to prove to the Federal Motor Carrier Safety Administration that the candidates have received 80 percent on their knowledge testing. In addition, there is on the road training and testing.

Ms. Hanley discussed potential technology to make buses safer, including GPS tracking, stop arm cameras, cabin cameras, backup cameras, fire suppression systems, lap and shoulder belts, traction control, reverse doors, pedestrian detection sensors, and predictive stop arm systems. Kentucky is willing to test these items, but they are expensive. Kentucky often looks to other state's experiences with safety technology for insights.

Allowing the pupil transportation community in Kentucky to test products and choose what goes on the bus or has been beneficial, because taxpayer dollars are not wasted on products that don't work or are not able to be maintained. Districts give KDE their honest opinions and explain why. As it is, school districts are adding upwards of \$10-15k on top of the base cost of the bus for things like radios, cameras, and air conditioning. Typically, once districts have tested the products and the manufacturer has the bugs worked out, then they are added to the list of options. If funding were to be provided to retrofit and add to new bus safety technology specifically, this would decrease the amount of time it would take for all buses to have the same safety features. However, mandating something to be added to new buses only benefits some students on those new buses. At approximately 500 buses per year, it would take 16 years for all new buses to have a particular feature.

In response to a question asked by Representative Branscum, Ms. Hanley stated while the background check process is occurring for bus driver applicants, they can begin their training process, however, it does depend on each district and how they implement their processes on hiring drivers.

In response to a question asked by Senator Yates, Ms. Hanley stated drug testing must occur for a driver if there was a fatality or a citation was issued, however, drug testing is not required after every accident. Some school districts do drug test after every accident, but it is not required.

In response to a question asked by Senator Yates, Ms. Hanley stated danger zone sensors are being looked into as a safety options. She added Franklin County is currently using those sensors. One of the issues is that these can be put on new buses, but the technology is not being put on older buses.

In response to a question asked by Representative Fleming, Ms. Hanley stated Kentucky is currently short over 750 bus drivers.

In response to a question asked by Representative Fleming concerning seat belts on buses, Ms. Hanley stated many districts are not comfortable putting seat belts on buses due to fear of bus fires, water involved accidents, and necessary evacuations. She added they are collecting data and speaking with districts around the country that have had accidents involving those situations, to make the districts feel more comfortable. She added the expense of adding seatbelts to buses is an additional issue.

In response to a question asked by Representative Bratcher, Ms. Hanley stated a CDL license, as well as bus driver training school, and background checks are required to drive any school bus in Kentucky. She added districts are combining routes to combat driver shortages as well as running additional routes as needed.

In response to a question asked by Representative Bridges regarding the school districts that do pay for bus driver training, Ms. Hanley stated some school districts require contractual obligations for a length of time, others do not.

Discussion of School Bus Stop Arm Cameras

Representative David Hale, State Representative, 74th District; Roberto Rego, Vice President of Sales, Marketing, and Government Relations, Bus Patrol; and Jean Souliere, Chief Executive Officer, Bus Patrol discussed the use of stop arm cameras on school buses.

Representative Hale stated he filed House Bill 189 in the 2021 Regular Session of the General Assembly to add stop arm cameras to Kentucky school buses. Due to time restrictions the bill was not able to proceed through both chambers, therefore he plans to refile the bill for the 2022 Regular Session and is open to suggestions. He stated his bill would allow whatever vendor is agreed upon to come into Kentucky to install stop arm cameras on Kentucky's school buses at no cost to the district. His wish is that this is not mandatory, rather only an option that is available.

Representative Hale stated there are concerns about the expense of adding arm cameras to school buses. Programs such as BusPatrol would install these cameras at no cost to the school district. Their cost is recouped from the fines that are given to citizens who illegally pass a bus.

Mr. Souliere explained BusPatrol stop arm enforcement to the committee. He stated in 2019, 130, 963 school bus drivers were asked to manually count how many times their buses were illegally passed in one day. The result of that survey concluded that there were 95, 319 violations during that one day period, a 73 percent violation rate per bus, per day. To amplify those results, during student safety week in 2018, over a six day period, six students were killed, and eight students and two adults were injured by vehicles either violating school bus stop arms or

hitting students and adults while they were waiting at a bus stop. After the 2018 incident, the National Transportation Safety Board (NTSB) published a report which recommended states enact lifesaving laws to permit stop arm cameras on school buses and to issue citations to negligent drivers.

BusPatrol is the leading stop arm enforcement program provider. By the end of 2021, it is expected their stop arm cameras will be on approximately 25,000 buses. The BusPatrol enforcement program works by the school bus stopping and the stop arm and lights are deployed, then the internet of things (IoT) device is activated. The automated violation analysis (AVA AI) cameras capture stop arm events and identify violations. Next, the video, GPS, and other supporting data is sent to the processing center via a secure network. The AVA AI filters footage to help prepare evidence package for reviewers. BusPatrol reviews have a compiled video and evidence package. That video and supporting evidence is sent to law enforcement. Law enforcement uses the AlertBus platform to review evidence packages and issue citations or disapprove them. Citations are auto generated and mailed to the offender with a web link providing access to the video evidence. The motorist then makes a payment for their citation online or at a designated municipal office. Also, all citation data is purged from the Department of Vehicle Regulation, the cloud, and services according to law.

Mr. Souliere reiterated that with BusPatrol, the cameras and the installation of the cameras is 100 percent paid for and as mentioned earlier, their costs are recovered from the fines incurred by motorist violations. He added that there is an equitable access to this technology which ensures that every bus, every kid, and every neighborhood is safeguarded. Mr. Souliere stated once the AI technology is employed for these buses and it has been wired for enforcement, all of the internal camera features are also available, at no costs to the district.

Mr. Souliere stated these programs also bring jobs to every state such as field technicians and people to operate the BusPatrol academy. Data is also collected and utilized to enhance education, and enforcement to each specific area. In closing, he stated that 98 percent of violators who get a ticket via stop arm safety programs do not illegally pass a school bus a second time.

Consideration of Referred Administrative Regulations

Administrative Regulation 605 KAR 001:215 Emergency was discussed. No objections were raised and the regulation was not found to be neither deficient nor deferred.

Correspondence was distributed to the committee from KYTC and Kentucky State Police (KSP) regarding updates to KYTC driver licensing issuance and KSP driver testing. Also distributed was a staff memo regarding House Bill 328 and 603 KAR 10:040 Emergency, dealing with the regulation of bill boards.

With no further business to come before the committee, Chairman Higdon adjourned the meeting at 10:42 A.M.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 5th Meeting of the 2021 Interim October 5, 2021

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Transportation was held on Tuesday, October 5, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Ken Upchurch, Chair, called the meeting to order, and the secretary called the roll. The minutes from the September 20, 2021 meeting were approved.

Present were:

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

Guests: Mark Carter, Commissioner, Kentucky Department of Aviation; Brad Schwandt, Deputy Commissioner, Kentucky Department of Aviation; Seth Cutter, Director of Communications and Government Affairs, CVG - Cincinnati/Northern Kentucky International Airport; Ethan Witt, Assistant Vice President, Government and Community Relations, Eastern Kentucky University (EKU); Dennis Sinnett, Executive Director, Aviation Department, EKU; Dr. Carey Castle, President and CEO, Somerset Community College (SCC); Chris Hall, Career and Technical Department Chair, SCC; Donnie Hammons, Program Coordinator for Aviation Maintenance Technology, SCC.

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

Overview of the Department of Aviation and General Aviation in Kentucky

Mark Carter, Commissioner, Kentucky Department of Aviation (KDA) introduced Brad Schwandt, Deputy Commissioner, KDA who then spoke about the Department of Aviation and general aviation in Kentucky. The Department of Aviation is the Commonwealth's resource for all aviation issues including airport planning, airport project oversight, federal and state airport inspections, fleet services, economic development, unmanned aircraft systems development, and airport zoning.

There are 57 public use airports in Kentucky, four of which are state owned. There are 94 private airports, 114 private heliports, two military air facilities, and one unmanned aerial systems drone port. Based on the 2017 Statewide Aviation System Plan: Economic Evaluation, the state airport system provides 23,392 on-airport jobs at a payroll cost of a \$1.4 billion.

The Kentucky Aviation Economic Development Fund, also known as the Jet Fuel Tax Fund, was established by the state treasury in KRS 183.525. All

receipts collected from the sale or use of jet fuel are deposited into the fund and are to be expended. The fund can receive state or federal appropriations, grants, and shall include earnings from investments. Funds are to be used for the development, rehabilitation, and maintenance of publicly owned or operated aviation facilities, and for other aviation programs within the Commonwealth that will benefit publicly owned or operated facilities.

An Airport Pavement Maintenance Allocation totaling \$38.7 million was approved by the General Assembly in fiscal years 2016 through 2020. The fund was intended primarily for pavement maintenance, and received \$10 million per year in General Fund appropriations in FY 2016 and FY 2017. The fund also received \$18.7 million in economic development bonds revenue in the FY 2019 – FY 2020 biennial budget.

The Federal/State Airport Improvement Program (API) is a federal/state local match program where the Federal Aviation Administration (FAA) grants classified airports in Kentucky at least \$150,000 per year in entitlement funds. The airports can save these funds for three years and invest them on the fourth year (for \$600,000 total.) There are 51 airports deemed classified in Kentucky. There are six airports in Kentucky that do not typically receive entitlement funds (due to eligibility)./ The API funds require a 10 percent match. The state provides 7.5 percent of that match and local government provides 2.5 percent. The KDA provided \$4 million in matching funds in Fiscal Year (FY) 2020. The KDA provided \$2.5 million for matching funds in FY 2021.

There is a FAA Discretionary Fund where Kentucky airports may also request additional funding, based on need and FAA funds available. The Kentucky general aviation airports received \$18.5 million from this fund in FY 2021 (not including Covid -19 disbursements.) The standard criteria for airport project selection involves federal and state standards dictating the prioritization of airport projects. The top considerations for these projects include the safety, maintenance, design, and function, as the tolerance for these variances and discrepancies is extremely low. The changes in policy and functionality of airport infrastructure occur often and in many cases are unpredictable. The KDA continually monitors multiple metrics, evaluates airport conditions, and adjusts priorities as required.

Charts were provided that showed the Jet Fuel Tax Fund projects for FY 2021 and FY 2022, and the Airport Maintenance Fund Projects for FY 2021. The Jet Fuel Tax, which is capped at \$1 million per year, per user, brought in just \$9.28 million in FY 2021 and is expected to bring in \$14.5 million a year. Meanwhile forecasted repair and maintenance needs easily exceed \$20 million per year. The critical need of airport pavement maintenance was discussed. Deputy Commissioner Schwandt stated it was imperative to start the conversation of funding to assist with the backlog of pavement needs. Charts were also provided to show the branch use of the airport maintenance needs as well as the forecasted projects needed.

In order to advance aviation in Kentucky, the priorities must include maintenance and improvement of airports, increasing the number of Kentuckians

pursuing careers in aviation, and promoting aviation as a priority and a tool for economic development. The maintenance and improvement for the airports includes eliminating the backlog of runways that require remediation, implementing a consistent runway maintenance program, and broadly investing in airports. Increasing the number of Kentuckians pursuing aviation careers includes coordinating efforts across cabinets such as the Economic Development Cabinet, the Education and Workforce Development Cabinet, and the Kentucky Transportation Cabinet to establish goals for training new pilots, technicians, and other aviation positions. Promoting aviation as a priority, and a tool for economic development includes increasing the focus on the future state of aviation, raising the profile and use of state aircraft by administrative and legislative branch leaders, and prioritizing state aircraft fleet modernization.

For aviation to move forward, runway conditions need to be assessed, a collaboration with the Kentucky General Assembly must occur, and recommendations for investments in aviation/aerospace are being developed. Funding options are also being discussed.

Chairman Ken Upchurch stated he believed Kentucky has a good start in the aviation profession and would like to continue to improve on the groundwork laid to push Kentucky to number one in the aviation industry across the country.

Co-Chair Jimmy Higdon praised the Kentucky General Assembly's Aerospace/Aviation Caucus and encouraged members to participate.

In response to a question asked by Co-Chair Higdon, Deputy Commissioner Schwandt stated the Jet Fuel Tax money goes into a Jet Fuel Tax Economic Fund, which is what is used to improve airport projects. Jet Fuel Tax is a 6 percent per gallon tax. However, this tax is capped at \$1 million per year for each contributor. Once the \$1 million mark is hit, the contributor no longer pays the tax for the remainder of the year. The Jet Fuel Tax could be assessed for corporate, commercial, or cargo jets.

Some planes use aviation gasoline (Avgas), and those funds collected from the use of Avgas go to the General Fund. Every state is different in the handling of jet fuel taxes. Deputy Commissioner Schwandt added that Kentucky is behind other states in the funding of general aviation.

In response to a question asked by Representative Tina Bojanowski concerning who uses general aviation airports, Deputy Commissioner Schwandt stated general aviation is the backbone of all general aviation systems, as that is where most pilots and mechanics get their start. Different airports, throughout the state, have different missions, such as the Central Kentucky Airport which focuses on training. General aviation is a business gateway and an economic development force: providing the example of when Ford Motor Company made its economic development announcement at the Kentucky Capitol, general aviation airports were utilized by the corporation. Once facilities have been established, general aviation airports can be utilized for troubleshooting between existing businesses when people or parts are needed.

In response to a question asked by Representative Sal Santoro, Deputy Commissioner Schwandt stated

general aviation planes such as propeller planes (prop planes) do not contribute to the Jet Fuel Tax Fund, rather they use Avgas which goes to the General Fund. He added that planes that use Avgas are also contributing to the development and upkeep of airports by buying gasoline and renting hangers at those airports.

In response to a question asked by Representative Santoro, Deputy Commissioner Schwandt stated the way states fund their general aviation airports varies.

Presentation from Kentucky's Major Commercial Airports

Seth Cutter, Director of Communications and Government Affairs, CVG- Cincinnati/Northern Kentucky International Airport, shared an update on the collective economic impact, general airport updates, project highlights, and financial updates of Kentucky's three largest commercial airports, Cincinnati/Northern Kentucky International Airport (CVG), Lexington Blue Grass Airport (LEX), and Louisville Muhammad Ali International (SDF). Airports across the Commonwealth are job generators and a front door to Kentucky for businesses and visitors. The airports also support more than 134,000 jobs and have an economic impact of more than \$18 billion per year. For the most recent years available, CVG and SDF alone have generated \$480 million in tax revenues per year. An economic breakdown per airport was provided.

Mr. Cutter gave an update on passenger enplanements at Kentucky's three major commercial airports, which all followed the same pattern. As the Covid – 19 pandemic hit in mid-March 2020, it severely impacted passenger enplanements and that impact bottomed out in April 2020, which has proceeded into a trepid recovery each month since then. Numbers still trail historical averages, with most of this recovered travel demand since the spring of 2020 has been leisure travel, as reflected by the airlines' decisions on routes added or those that remain suspended.

For SDF, 2021 has been an incredible year for air service. As of the spring of 2021, Spirit Airlines began new service to Fort Lauderdale, Orlando, Las Vegas, and Los Angeles. Pensacola was then added to that lineup, and Fort Myers and Tampa begin service with the airline in November. Startup airline Breeze also added service this year to Charleston, New Orleans, and Tampa.

The UPS hub is a major part of the operations at SDF. Mr. Cutter stated that SDF is the fifth busiest cargo airport in the world as of 2020; and air cargo at SDF has been critical to e-commerce, supply chain movements, and vaccine distribution over the last 18 months. Capital projects at SDF included the replacement of several passenger loading bridges at an approximate cost of \$10 million, as well as a terminal upgrade project and ramp expansion that will bring a geothermal system to the facility for nearly \$22 million. Other projects on the horizon include taxiway reconstruction in both 2022 and 2023, and additional mechanical upgrades in the terminal in 2023 for approximately \$65 million.

As for LEX, the facility closed for a weekend in August 2021 for a \$15 million runway resurfacing project. Other

future capital projects in 2022 and 2023 include more than \$19 million in safety upgrades to the airfield, which are critical projects.

Mr. Cutter stated CVG passenger travel has been particularly affected by weakened corporate demand. The major ongoing capital project at CVG is the recently opened Amazon air hub, photos of the project were shared, as well as photos of the entire campus to showcase these projects. Similar to SDF, he shared a sample of CVG's appropriated capital projects list. He stated the infrastructure needed to support Amazon, or UPS in SDF's case, is expensive, and is critical to jobs development and being able to have critical economic impact.

Many Kentucky airports have received significant federal funding through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), and the American Rescue Plan Act of 2021 (ARPA.) The figures of those funds were provided to the committee. Mr. Cutter focused on the 2020, 2021 and 2022 budget years. All airport budgets were reduced in the early days of the pandemic and then saw significant revenue loss (before applying any federal funds.) This continues into 2021 for SDF and LEX, and will be true for CVG in FY 2022.

While the numbers seem daunting, especially when compared to other airports in the state, the pandemic has been very impactful to the airports. Without federal support, required debt service payments, or day-to-day operations, which were required by the FAA throughout the pandemic, the airports would have seen even more serious impacts. Luckily due to the different sources of support, the airports were able to keep the lights on, continue to enable UPS, DHL, and Amazon to carry critical cargo to and from Kentucky, and continue to enable passengers to move around the country and world for business or leisure. Kentucky airports must continue maintaining the world-class facilities which requires significant funding.

Kentucky's commercial airports operate without annual or ongoing state appropriations. The airports use their own revenues and federal funding to operate and will continue to be prudent fiscal agents to manage these airports. Mr. Cutter stated he looks forward for all the ways to accelerate Kentucky's airports and support the growth of the aviation industry throughout Kentucky.

In response to a question asked by Representative Ken Fleming, Mr. Cutter stated the Gatton College of Business and Economics is studying other state models concerning their Jet Fuel Tax Fund. He added he believed the Gatton study will help answer what the best way to support all of the components that make Kentucky a leader in the aviation industry will be.

In response to a question asked by Representative Buddy Wheatley concerning public versus private funding for airport projects, Mr. Cutter stated commercial airport funding is unique and it depends on the specific project as to how it is funded. He added that out of all of the listed projects, a small amount of what the capital plans show are funded from various sources. Several projects are supported by federal funding based on enplanements. Air cargo factors also

play into significant federal funding. He added that CVG, SDF, and LEX have not historically received state funding for capital projects, and that very few projects are funded by private sources.

Aviation Career Training- Eastern Kentucky University (EKU)

Ethan Witt, Assistant Vice President, Government and Community Relations, EKU and Dennis Sinnett, Executive Director, Aviation Department, EKU, updated the committee on aviation career training at Eastern Kentucky University. In 1983 the first aviation related course was offered at EKU, and by 1991 the first Bachelor of Science (BS) degree in aviation was awarded. In 2010 the aviation program was brought under direct control of EKU. Prior to that, the academic side of flight training was being completed by the university and a third party was completing the flight training. The first aircraft was leased by EKU in April of 2010, and in 2013 EKU earned the FAA 1,000-hour Restricted Airline Transport Pilot (R-ATP) authorization. In 2018, the university purchased their first aircraft, a C172.

The Aviation Career Training Program at EKU offers a BS degree in aviation with concentrations in Professional Flight, Aerospace Management, Aerospace Technology, and Unmanned Aircraft systems (starting fall of 2022). Also offered are dual credit courses for secondary aviation pathways, in which 49 Kentucky high schools participate. The courses offered are Introduction to Aviation, Introduction to Unmanned Aircraft, Private Pilot Ground, Private Pilot Flight I, and Private Pilot Flight II. This program offers up to 12 hours of aviation credits and provides advanced standing in the EKU aviation program.

The Aviation Program is one of the fastest growing degree programs at EKU. The university offers the only four-year aviation BS degree program in Kentucky. For the fall 2021 semester, there are 329 students enrolled in the Bachelor of Science in Aviation program, 270 of those students in the Professional Flight concentration, 57 students in the Aerospace Management concentration, and two students in the Aerospace Technology concentration. Of the students, 284 are male, 45 are female, and 18 percent of the students are minorities, while 17 percent of the students are veterans. The program contains students from 23 different states and that number is increasing. The enrollment for the program has doubled in less than four years. A chart showcasing flight hours per year was provided showing in FY 2020 the flight hours were just under 14,000 hours. It is estimated the flight hours will reach 16,000 hours in FY 2021.

The current fleet of aircraft at EKU include 24 single engine aircrafts and three multi-engine aircrafts. The program currently owns an AISim AI200 MCC, precision flight control PFC-DCX ProMotion, and a virtual reality (VR) flight simulator lab that holds 12 VR sleds available for use. The FY 2021 budget investment from the General Assembly has allowed for the transition from leased aircraft to EKU-owned aircraft, 17 aircraft acquisitions since July 2020, a secured secondary temporary facility to accommodate enrollment growth, and funded construction of a

future training center at Central Kentucky Regional Airport.

The EKU and Central Kentucky Regional Airport partnership consists of two board members from EKU that are chosen by the university President. The university serves as the fixed base operator (FBO), essentially running all airport activities. All the employees of the airport are employees of EKU. The EKU airspace and airfield that is used is less than 20 minutes from campus and includes dedicated training areas. The Central Kentucky Regional Airport is the third busiest general aviation airport in Kentucky. The proximity to the LEX control tower is also an advantage.

A drawing of the planned Airport and Flight Training Center was presented. It is the hope that construction on this flight center will begin in early 2022. Eastern Kentucky University forecasts enrollment into the Aviation Program at 400 students by fall of 2022. To support over 400 students, EKU must consider having more than 30 aircraft, the use of the new flight training center with simulators, briefing space, and classrooms, obtain additional staffing, and having satellite fields. Also, the onset of bringing an unmanned aircraft systems concentration into the program will be beneficial.

In response to a question asked by Chairman Upchurch, Director Sinnett stated he anticipates 400 students to be enrolled in the program by fall of 2022. At that point, some other options and space will be needed.

In response to a question asked by Chairman Upchurch, Director Sinnett stated he believes the EKU aviation program with regard to quality of instruction and the end product of professional flight students and flight management students, is on par with any of the major universities or top flight schools in the nation. He added that they receive feedback from regional airline carriers that are very impressed by the quality of the students that EKU is producing. As for the recruiting of students, there has been a challenge due to the dated infrastructure, which makes it difficult to compete with other top-notch programs. He added the new Flight Training Center will help with that issue.

In response to a question asked by Senator Karen Berg, Director Sinnett stated approximately 99 percent of graduates find employment in their perspective fields upon graduation.

In response to a second question asked by Senator Berg, Director Sinnett stated the return on investment for this program is reasonable. He stated the cost of the program is approximately \$58,000 for flight fees, which does not include tuition or books. The average starting salary for pilots out of the first year is \$55,000 to \$60,000 annually. He added that most are also getting between a \$5,000 to \$10,000 signing bonus with regional airlines.

In response to an additional question asked by Senator Berg, Director Sinnett stated attracting females and minorities to the aviation industry is an area of focus for the university. He added there is a student organization called Women in Aviation, of which EKU has a chapter. Scholarships are also provided for women and minorities in order for the university to stay competitive.

Aviation Career Training- Somerset Community College (SCC)

Dr. Carey Castle, President and CEO, Somerset Community College (SCC); Chris Hall, Career and Technical Department Chair, SCC; and Donnie Hammons, Program Coordinator for Aviation Maintenance Technology, SCC, updated the committee on aviation career training at SCC.

There are currently 4,160 citizens employed in aviation maintenance technology in Kentucky. The average annual salary of these employees is \$64,925. There are currently 86 job postings in this field in Kentucky. Employment trends for this field have included a 1.9 percent growth from 2018 to 2021 and currently has a projected growth of 3.8 percent from 2021 to 2025. The top occupations by income include aircraft structure, surfaces, rigging, and systems assemblers at an average income of \$74,194 annually, and aircraft mechanics and service technicians at an average income of \$55,656 annually.

The degree, diploma, or certificate options offered by the SCC program include an Airframe Maintenance Technician certificate, a Power Plant Maintenance Technician certificate, an Airframe and Power Plant Maintenance diploma, an Associates of Applied Science degree in Aviation Maintenance Technology. The Aviation Program is available under the Work Ready Scholarship.

Somerset Community College is playing a strategic role in addressing the growing demand for skilled workers through their career and technical programs, specifically in Aviation Maintenance Technology. Enrollment in SCC's Aviation Maintenance Technology is steadily rising. The need for additional offerings and classroom space to accommodate the needs of the students and community was recognized by SCC, and they are now offering additional evening classes to fulfill the workforce needs.

Also offered at SCC is the Veterans Accelerated Learning for Licensed Occupations Initiative, (VALLO), which assists veterans during the transition into civilian life by helping them get FAA certified. It was also noted that the number of females involved in the aviation industry has steadily increased and woman can be found in nearly every aviation occupation today.

There are several employers that are hiring SCC's Aviation Maintenance Technology graduates, such as PSA Airlines; FEAM Maintenance, Repair, and Overhaul; Lockheed Martin; Thoroughbred Aviation; medical helicopter bases across Kentucky; Wheels Up; and private airline companies. The instructors at SCC are credited with the success of the program as they have over 60 years of real-world experience.

In response to a question asked by Representative Derek Lewis, Mr. Hall stated they are finding it difficult to find qualified instructors.

In response to a question asked by Representative Fleming concerning the ability to pull together all the community college programs available regardless of the discipline within the aviation maintenance program arena, Mr. Hall stated all 16 of the Kentucky Community and Technical College System (KCTCS) college courses count the same. He added the only other community college that teaches aviation maintenance program coursework is Jefferson

Community College.

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

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

Minutes of the 4th Meeting of the 2021 Interim

September 22, 2021

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 22, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Colonel Lance O'Bryan, Garrison Commander, U.S. Army Fort Knox; Brigadier General (Ret.) Jim Iacocca, President and CEO, Knox Regional Development Alliance; Brandon Brummett, Louisville District Outreach Coordinator, U.S. Army Corps of Engineers; Colonel Andrew Jordan, Garrison Commander, U.S. Army Fort Campbell; Kelli Pendleton, President and CEO, Campbell Strong Defense Alliance; Joseph G. Harbour, Command Sergeant Major, U.S. Army Fort Campbell; Colonel Stephen "Steve" Dorris, Commanding Officer, Bluegrass Army Depot; Craig Williams, Program Director, Kentucky Environmental Foundation; Captain Amy Beach, Commanding Officer, U.S. Coast Guard Ohio Valley Sector; and Brigadier General (Ret.) Steve Bullard, Executive Director, Kentucky Commission on Military Affairs.

LRC Staff: Jessica Zeh, Maurya Allen, and Logan Schaaf.

Senator Wilson moved to approve the August 24, 2021, meeting minutes. Representative Gooch seconded the motion. The minutes were approved.

U.S. Army Fort Knox

Colonel Lance O'Bryan, Garrison Commander, and Brigadier General (Ret.) Jim Iacocca, President and CEO of the Knox Regional Development Alliance, delivered presentations on Fort Knox. Colonel O'Bryan said Fort Knox was his military installation of choice when he returned to the United States from Germany. In 2020, Fort Knox was named the best garrison in the U.S. within the training directorate. Colonel O'Bryan said that his job is to keep everything updated, from infrastructure to training, and to ensure

readiness. Quality of life is also of utmost importance for soldiers and civilians at the installation.

Fort Knox is home to nine General Officer commands, the most per capita of any installation. They have missions worldwide. Colonel O'Bryan explained Fort Knox's motto, "Strength Starts Here." As the home of the U.S. Army Recruiting Command, they train and validate all recruiters. U.S. Army Cadet Command, the largest organization producing newly commissioned Second Lieutenants every year, is also based in Fort Knox. Human Resources Command manages a soldier's career from start to end, and the Command Assessment Program helps determine an officer's strategic leadership potential. Fort Knox is also home to unique ranges, including the 360-degree live fire range on the Salt River and the Digital Air Ground Integration Range (DAGIR), which should be ready for use by late 2023.

Colonel O'Bryan emphasized the multifunctional nature of Fort Knox. It is the Army's first energy secure and energy independent installation. When their water treatment plant is operational, likely by November 2021, they will be able to produce their own water. They also have three Intergovernmental Support Agreements, all with Hardin County. Next spring, they expect to begin construction of 50 new four bedroom houses, helping to alleviate some of the housing deficit. Colonel O'Bryan said he recently approved an agreement with LG&E to assist with the Kentucky Wired Project. He concluded by highlighting the continuing efforts to improve childcare services for military families.

General Iacocca said the Knox Regional Development Alliance (KRDA) was born out of the CORE Committee, which was created by community leaders to recognize the importance of Fort Knox. In 2017, the KRDA was established. They are managed by a 28 person board, consisting of both ex officio members and members selected through a nomination process. Their first objective is to protect the existing missions and advocate for new ones at Fort Knox. KRDA also helps defense contractors establish connections with the Army, but they do not advocate for them.

KRDA creates opportunities and connections for soldiers and families. They created the first military spouse employment initiative. Working with Elizabethtown Community and Technical College, they started a coding academy to teach computer skills at the installation. They also market Fort Knox's potential at the political level.

General Iacocca highlighted Fort Knox's regional impact, including the \$2.6 billion it injects into the economy, its \$750 million annual payroll, the 22,000 jobs on the installation, and the 13,000 jobs supported off the installation.

General Iacocca listed some of Fort Knox's other positive qualities and provided policy recommendations. The Department of Defense released studies on the potential impact of climate change on military installations and determined that Fort Knox is not impacted. There are no environmental restrictions on training. General Iacocca concluded by recommending the repeal of the vehicle sales tax for soldiers who purchased a car in another state and were relocated to Kentucky, and the repeal of

the retirement pay income tax as a way to convince potential community leaders to stay near Fort Knox after retirement.

Representative Scott thanked General Iacocca for his service and said he was sympathetic to the repeal of the vehicle sales tax, and would work with Representative Tate on the issue.

U.S. Army Corps of Engineers

Brandon Brummett, Louisville District Outreach Coordinator for the Army Corps of Engineers, presented on the activities of the Corps in Kentucky. At each level, the Corps is supervised by military officers. Mr. Brummett recommended that citizens with questions for the Corps start at the district level. With relatively frequent turnover of leadership due to the political nature of the appointments to those positions, Mr. Brummett said the employees in non-political jobs are critical for keeping projects going during political transitions.

Some of the most important missions of the Louisville District include civil works projects, support to military customers and other federal agencies, environmental missions, and emergency management. In August 2021, the Department of Veterans Affairs and the Army Corps of Engineers awarded an \$840 million contract to build a new VA medical center in Louisville. The Louisville District has a civil works program focusing on responsible development, protection and restoration of water and land resources, flood risk reduction, and management of navigation locks and dams on the Ohio River and the Green River. Its military works program supports construction on installations in Kentucky, Illinois, Indiana, Ohio, and Michigan. They also have Army Reserve and Air Force Reserve programs, providing project management, planning, design, and construction support.

Representative Blanton asked about the possibility of opening more land around lakes in Kentucky for the construction of new homes. Mr. Brummett said that it is a conversation the Corps would be happy to have, although sometimes more land around lakes is needed than one might initially think for the management of surging water levels and potential flooding. Mr. Brummett said that the Corp develops plans for lakes that typically go 20 to 25 years in the future, and they are updating many of those plans now, which could provide an opportunity to address some of Representative Blanton's concerns.

U.S. Army Fort Campbell

Colonel Andrew Jordan, Garrison Commander, and Kelli Pendleton, President and CEO of the Campbell Strong Defense Alliance, delivered presentations on Fort Campbell. Colonel Jordan began by praising the relationship between Fort Campbell and Fort Knox. He also reported that in 2021, Fort Campbell received the Commander in Chief's Annual Award for Installation Excellence. Colonel Jordan highlighted Fort Campbell's importance for national security. It is home to some of the most deployed units of the U.S. Army. Within days of the September 11, 2001, attacks, units from Fort Campbell were deployed to Afghanistan, and the 101st Airborne Division has participated in every

operation since its formation in 1942.

Colonel Jordan said that for the first time in 20 years, all of Fort Campbell's soldiers are home. Some soldiers are in training exercises and others are deployed elsewhere in the United States, supporting the evacuation of allies from Afghanistan, but all are in the U.S.

Fort Campbell has one of the country's largest airfields, and they also use roads, rail, and barge facilities. The active duty population is approximately 27,000, with 20,000 belonging to the 101st Airborne Division, and there are approximately 50,000 family members and 6,000 civilians. The total supported population of Fort Campbell is almost 250,000 people, and the total economic impact is \$10.1 billion.

Colonel Jordan said that about 31 percent of the soldiers who leave the service from Fort Campbell decide to keep living in the region, seven points higher than the Army average. Another 20 percent are flexible on where they decide to stay, and favorable policies from Kentucky could help persuade them to stay in the Commonwealth. Colonel Jordan invited the members of the committee to visit, observe their spouse employment program, and provide guidance for how Fort Campbell might partner with organizations like the Kentucky Department of Labor.

Kelli Pendleton emphasized Fort Campbell's role as the largest employer in Kentucky. She also listed Campbell Strong Defense Alliance's objectives, including support for existing units and missions, advocating for modernization, development, and improvement of the installation, attracting defense related companies to the region, improving post-private partnerships, and supporting employment and transition services and workforce partnerships.

Ms. Pendleton praised Chair Thomas's work on the resolution passed in the 2021 Regular Session supporting Fort Campbell's Future Vertical Lift helicopter program. She also listed potential opportunities for Kentucky coming from the installation, including additions to the workforce and population growth. To increase the attractiveness of Kentucky for soldiers leaving Fort Campbell, Ms. Pendleton recommended repeal of the state income tax for military retirees, improvement in education, increased housing availability, and expanded workforce opportunities.

Blue Grass Army Depot

Colonel Stephen "Steve" Dorris, Commanding Officer, Blue Grass Army Depot (BGAD), spoke to the committee. BGAD is Kentucky's only defense industrial base, and one of 26 in the United States. Material is produced, maintained, or demilitarized at BGAD. They generate approximately \$120 million annually. Colonel Dorris emphasized BGAD's close relationships with Fort Knox and Fort Campbell. An augmented security force from Fort Knox is available to help provide additional security in case of a national security event. They also provide chaplain support, soldier service support, and VA services. Additionally, BGAD shares an energy contract and cyber support with Fort Campbell. The only remnants of chemical weapons stored at BGAD are quickly being disassembled, eventually meeting OPCW treaty requirements.

Colonel Dorris highlighted the benefits of BGAD's location, including its proximity to major interstate highways, access to rail, and safety from most extreme weather events. They also have a storage of nonstandard ammunition, especially useful in training for foreign operations where soldiers assist with internal defense. Much of the nonlethal riot gear shipped to Washington D.C. after the recent unrest emanated from BGAD.

About 2,400 people staff BGAD now. After the chemical agent destruction program ends, estimated in late 2024, there will be 550 personnel remaining. The total estimated annual economic impact for the region is \$151 million.

Colonel Dorris spoke about the transition away from older equipment and BGAD's role in developing new capabilities. Working with the Joint Munitions Command and the U.S. Army Materiel Command, Colonel Dorris said much of his focus is directed towards these future initiatives.

Senator Meredith asked about the projections for staffing after the closure of the chemical weapons disposal operations. Colonel Dorris replied that the current projection estimates that BGAD will support 550 people after these programs end, but that this can change any time if they take on new projects.

Kentucky Environmental Foundation

Craig Williams, Program Director of the Kentucky Environmental Foundation, presented on chemical weapons destruction. Approximately 158 tons of chemical warfare agent has been destroyed so far, including all mustard projectiles and all VX projectiles. They are working now on destruction of VX rockets.

Mr. Williams spoke about a recent \$500,000 grant from the Office of Local Defense Community Cooperation to explore the impact of the closure of the chemical weapons destruction operation. They examined regional supply chain mapping, economic diversification, and workforce retention, which Mr. Williams said was their primary focus. Other projects that could potentially attract new missions to BGAD include its access road, water suppression systems, and two static detonation chambers (each valued at \$50 million) that could assist with the destruction of unusable conventional weapons.

U.S. Coast Guard Sector Ohio Valley

Captain Amy Beach, Commanding Officer of the U.S. Coast Guard Sector Ohio Valley, spoke about the Coast Guard in Kentucky. Captain Beach highlighted Sector Ohio Valley's role in enforcing waterway safety across the Ohio, Cumberland, and Tennessee Rivers. They contribute to national security by thwarting possible threats, including terrorist activity and transportation of illegal drugs. They also operate a Vessel Traffic Service in Louisville during periods of high water.

So far in 2021, the Coast Guard's search and rescue operations have saved 50 lives in Kentucky, assisted over 200 mariners, saved over \$1 million in property, and assisted with the saving or salvaging of another \$19 million in property. The Coast Guard is the only part of the Department of Homeland Security with a presence in Kentucky's geostrategic maritime assets.

Captain Beach discussed the Coast Guard's work with state and local partners to plan and secure waterside events, and she emphasized their role in providing interagency Department of Defense intelligence relating to maritime threats. As the designated federal maritime security coordinator for Kentucky, Captain Beach is responsible for overseeing eight maritime security committees.

Sector Ohio Valley personnel participate in exercises and boat drills with state and local partners, providing training to state and local law enforcement, as well as search and rescue focused agencies. They also provide safe oversight and regulation of the maritime transportation system and 44 waterside facilities. Captain Beach said the legislature could provide additional incentives for infrastructure along the river system, including cell phone towers, placement of additional cameras along bridges (which are especially helpful in search and rescue cases), improvement of communications equipment, continued investment in marine assets and training, and the reestablishment of a Region IV representative in the Louisville EPA office.

Kentucky Commission on Military Affairs

Brigadier General (Ret.) Steve Bullard, Executive Director of the Kentucky Commission on Military Affairs (KCMA), emphasized the importance of the partnerships within the Kentucky defense community. Kentucky is overwhelmingly an Army state. Ninety four percent of the Commonwealth's direct military spending is Army related. Kentucky ranks highly nationwide in terms of military spending relative to state GDP.

General Bullard said Kentucky is home to nearly 300,000 veterans. One of the largest Department of Defense providers, Humana, is located in Louisville.

KCMA has five strategic goals. They are to protect and grow DoD installations and activities; expand the economic impact of Kentucky's defense related industry; develop and implement the model for transitioning service members, veterans, and spouses; establish Kentucky as the most military friendly state in the nation and grow veteran and retiree populations; and communicate strategically and gain interagency, intergovernmental, and public-private support for strong military advocacy. General Bullard emphasized the importance of the military retirement tax exemption. Thirty five states, including Kentucky's neighbors, have the tax exemption.

With no further business before the committee, the meeting adjourned at 12:00PM. The next meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection is October 20, 2021, at 10:00AM.

CAPITAL PLANNING ADVISORY BOARD

**Minutes of the 6th Meeting
of the 2021 Calendar
October 13, 2021**

Call to Order and Roll Call

The 6th meeting of the Capital Planning Advisory Board was held on Wednesday, October 13, 2021,

at 1:00 PM, in Room 169 of the Capitol Annex. Representative Bobby McCool, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Adrienne Southworth, Co-Chair; Representative Bobby McCool, Co-Chair; Senator Phillip Wheeler, Representative Derek Lewis, Pat Abell, Charles Byers, Jacqueline Coleman, Carole Henderson, Patsy Jackson, Holly Johnson, and Katie Shepherd.

LRC Staff: Shawn Bowen, Ashton Thompson, and Jennifer Luttrell.

Approval of Minutes

A motion to approve the minutes of the September 15, 2021, meeting was made by Senator Wheeler, seconded by Senator Southworth, and approved by voice vote.

2022-2028 Statewide Capital Improvements Plan

Ms. Bowen briefly reviewed the member project recommendations, which were due September 22. Based on the general fund projects submitted by agencies for 2022-2024, members were requested to select up to 15 projects in three categories to be considered for funding in the 2022-2024 Executive Budget. Fifteen IT projects, 17 new construction project, and 17 maintenance and renovation projects were recommended by members. Seventeen projects were recommended in two categories due to tie votes in the categories of new construction and maintenance and renovation.

Representative McCool said a motion was needed to approve the draft 2022-2028 Statewide Capital Improvements Plan, which included three updated policy recommendations, and project recommendations made by board members in the categories of construction to protect the state's investment in plant, new construction, and IT.

There was a motion made by Representative Lewis, seconded by Senator Southworth, and adopted by roll call vote to approve the draft 2022-2028 Statewide Capital Improvements Plan, including the policy recommendations and the project recommendations submitted by board members. The motion also included the authorization for staff to make the necessary editing changes in finalizing the plan for publication.

Adjournment

There being no further business, the meeting adjourned at 1:08 PM.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

September 23, 2021

Call to Order and Roll Call

The 9th meeting of the Capital Projects and Bond Oversight Committee was held on Thursday, September 23, 2021, at 3:30 PM, in Room 169 of the Capitol Annex. Representative Chris Freeland, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Chris Freeland, Co-Chair; Senator Robin L. Webb; and Representatives Jason Petrie and Walker Thomas.

Guests: Jeff Spoelker, Associate Athletic Director, University of Louisville; Kevin Cardwell, Deputy State Budget Director, Office of State Budget Director; Sandy Williams, Deputy Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Shawn Bowen, Corey Sallee, and Ashton Thompson.

Approval of Minutes

A motion was made by Representative Thomas to approve the August 25, 2021, minutes, seconded by Senator Girdler, and approved by voice vote.

Information Items

Mr. Sallee referenced one information item: three local school district bond issues for Estill, Jefferson, and Kenton Counties.

Project Report from the University of Louisville

Mr. Spoelker submitted a request for an authorization increase of \$4 million for the Athletics Enhancements in New Dormitory project. This project will update graphics, branding, and other athletic enhancements in the new dormitory, scheduled to open in August 2022. The project was authorized as a line item in House Bill 192 of the 2021 Regular Session, \$2 million other funds (cash). Additional funding is needed due to an increase in materials and labor costs, as well as a change of project scope. The revised project scope is \$6 million (cash).

A motion was made by Representative Thomas to approve the appropriation increase, seconded by Senator Girdler, and approved by unanimous roll call vote.

Project Report from the Finance and Administration Cabinet

Mr. Cardwell reported a new federally-funded Information Technology System project for the Education and Workforce Development Cabinet, Kentucky Education Television, in the amount of \$11.5 million. The Next Gen Conversion project will update and replace end of life and failing equipment to bring broadcast and production equipment up to the new industry standard.

A motion was made by Representative Petrie to approve the project, seconded by Representative Thomas, and approved by unanimous roll call vote.

Mr. Cardwell reported two pool projects in excess of \$1 million dollars: the Justice and Public Safety Cabinet, Department of Criminal Justice Training, Schwendeman-Thompson HVAC and Building Systems project, \$1,535,500, funded from the Department of Criminal Justice Training 2020-2022 restricted fund maintenance pool; and the Finance and Administration Cabinet, Department for Facilities and Support Services, HVAC and Piping Phase Two project, \$2,200,000, funded from the Department for Facilities and Support Services 2020-2022 bond-

funded maintenance pool.

Mr. Cardwell reported three information items that did not require committee action: two Fees-in-Lieu-of Stream Mitigation pool projects for the Tourism, Arts and Heritage Cabinet, Department of Fish and Wildlife Resources: Crow Creek project \$19,200,000; and East Fork Indian Repair project, \$1,500,000; and an amended Emergency Repair, Maintenance, or Replacement project in the amount of \$1,800,000 for the Tourism, Arts and Heritage Cabinet, Department of Parks, Fort Boonesborough Parkwide Flood Reconstruction project. The additional funding was requested by the Division of Engineering and Contract Administration as a result of increased equipment and material costs and the expanded scope of work due to damaged infrastructure.

Report from the Office of Financial Management Kentucky Infrastructure Authority Loans

Representative Thomas made a motion to roll the eight KIA loans into one roll call vote, seconded by Representative Petrie, and approved by unanimous voice vote.

Ms. Williams submitted eight KIA loans for the committee's approval: Fund A Loans-City of Elkton, Todd County (increase), 200,000; City of Hopkinsville, Christian County (increase), \$16,000,000; City of Sebree, Webster County (increase), \$1,153,164; Fund F Loans-City of Somerset, Pulaski County (increase), \$2,482,122; Cave Run Water Commission, Menifee County (increase), \$868,750; Morgan County Water District, \$3,262,000; and Letcher County Water and Sewer District, \$2,487,495 and \$4,000,000.

Representative Thomas made a motion to approve the eight KIA loans, seconded by Representative Petrie, and approved by unanimous roll call vote.

New Debt Issues

Representative Thomas made a motion to roll the two new debt issues into one roll call vote, seconded by Representative Freeland, and approved by unanimous voice vote.

Mr. Barrow reported two new debt issues: Kentucky Housing Corporation Single Revenue Refunding Bonds, Series 2021 A and B, \$59,600,000; and Northern Kentucky University General Receipts Refunding Bonds Series 2021 B, \$5,485,000.

Representative Thomas made a motion to approve the two new debt issues, seconded by Representative Petrie, and approved by unanimous roll call vote.

Previous Debt Issues

Mr. Barrow reported one previous debt issue: Kentucky Housing Corporation Conduit Multifamily Housing Revenue Bonds (330 Newtown Apartments), Series 2021, \$25,000,000.

School District Debt Issues with School Facilities Construction Debt Service

Representative Freeland moved to roll the five School Facilities Construction Commission (SFCC) school district debt issues into one roll call vote, and the motion was approved without objection.

Mr. Barrow reported five SFCC school district bond issues: New Project-Scott County, \$77,205,000; Refundings-Bowling Green Independent (Warren

County), \$10,245,000; Lyon County, \$3,045,000; Scott County, \$17,725,000; and Webster County, \$4,635,000.

Representative Thomas made a motion to approve the SFCC school district debt issues, seconded by Representative Petrie, and approved by unanimous roll call vote.

Representative Petrie made a motion to change the October 21 meeting time to 2:00 PM, seconded by Representative Thomas, and approved without objection.

Representative Freeland announced the upcoming meeting at 2:00 PM on October 21. With there being no further business the meeting adjourned at 4:00 PM.

HOME & COMMUNITY BASED SERVICES WAIVER REDESIGN TASK FORCE

**Minutes of the 4th Meeting
of the 2021 Interim**
September 20, 2021

Call to Order and Roll Call

The 4th meeting of the 1915c Home & Community Based Services Waiver Redesign Task Force was held on Monday, September 20, 2021, at 1:00 PM, in Room 129 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; Senators Danny Carroll and Stephen Meredith; Representatives Daniel Elliott, Norma Kirk-McCormick, and Pamela Stevenson.

Guests: Jason Vincent, Executive Director, Pennyriple Area Development District; Jarrett Haley, Executive Director, Jessica Elkin, Director of Social Services, Kentuckiana Regional Planning and Development Agency; Kelly Upchurch, Legislative Chairman, Kentucky Association of Adult Day Centers; Amy Staed, Executive Director, Kentucky Association of Private Providers; Brenda Wylie, State Director, and Julie Josphitis, State Director, Dungarvin.

LRC Staff: Chris Joffrion, Hillary Abbott, and Samir Nasir.

Approval of Minutes

A motion to approve the August 2021, minutes was made by Senator Meredith, seconded by Representative Riley and approved by a voice vote.

An Overview of Area Development Districts Waiver Activities and Programmatic Challenged to Service Providers

Jason Vincent, Executive Director, Pennyriple Area Development District, Jarrett Haley, Executive Director, and Jessica Elkin, Director of Social Services, Kentuckiana Regional Planning and Development Agency presented an overview of Area Development District's (ADD) role in waiver services, and detailed the barriers to service delivery ADDs are facing.

In response to questions and comments from Senator

Meredith, Ms. Elkin stated that internal ADD staff run waiver case management and financial services in addition to work with various community partners. Mr. Vincent added that in the rural ADDs while they have similar internal staffing responsibilities as other ADDs, community resources are more limited which leads rural ADDs to perpetually evaluate their performance and capacity.

Senator Meredith commented that there needs to be a top-to-bottom review of regulations relating to ADDs and waiver service providers to see if there is any flexibility to be found to help ADDs better serve all who need services.

In response to questions and comments from Senator Carroll, Ms. Elkin stated that turnover in case management is a problem due to caseload and burnout. Mr. Vincent added that this is not unique to ADDs but is pervasive in case management of this population. Ms. Elkin stated that the Electronic Visit Verification (EVV) implementation has fallen on case managers, which creates an incredible workload and has little to do with the actual waiver program. Mr. Vincent added that all ADD case managers are already stretched thin with the services they provide; adding the EVV responsibility to their plate is contributing to overwork and burnout.

Adult Day Health Services, Solutions, and the Workforce Crisis

Kelly Upchurch, Legislative Chairman, Kentucky Association of Adult Day Centers, presented an overview of the services provided by adult day healthcare centers across the Commonwealth and the barriers they are facing due to workforce shortages and COVID-19.

In response to questions and comments from Senator Adams, Mr. Upchurch stated that beginning in March 2020, adult day healthcare centers closed their day centers and most shifted to community outreach to ensure their participants were receiving services despite not being able to come into the centers. Mr. Upchurch added that most centers have since reopened but some centers did not survive the COVID-19 closure and have closed permanently.

In response to questions and comments from Senator Meredith, Mr. Upchurch stated that ideally all waiver providers would collaborate with each other and resist the urge to compete. Senator Meredith added that provider collaboration is more cost-effective.

Recommendations for Strengthening and Improving the Home and Community Based Waiver Services Workforce

Amy Staed, Executive Director, Kentucky Association of Private Providers; Brenda Wylie, State Director, Dungarvin; and Julie Josphitis, State Director, Dungarvin, provided an update of the waiver service providers worker shortages and the impact on provider agencies, like Dungarvin, who are facing dire situations, including closure, due to lack of staffing. Ms. Staed discussed how rate increases for providers as well as higher pay-per-hour for service providers is vital to many providers in the state to continue to care for waiver participants.

In response to questions and comments from Senator Carroll, Ms. Staed stated that diversification of services does allow providers to use profits from some services to offset losses from other services, but this does not solve staffing shortages. Ms. Staed added that Dungarvin is a prime example of an agency that has the framework to provide a wide array of services but does not have the staffing to provide those services.

Adjournment

There being no further business, the meeting was adjourned at 3:15pm.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the September Meeting
September 14, 2021

Call to Order and Roll Call

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 14, 2021, at 1:00 PM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Cassie Trueblood, Education Professional Standards Board; Bill Pauley and Sandy Williams, Kentucky Infrastructure Authority; Eden Davis and Larry Hadley, Board of Pharmacy; LeeAnn Diakov and Michael Rodman, Board of Medical Licensure; Christi Moffett, Board of Embalmers and Funeral Directors; Dave Dreves, Steven Fields, Chris Garland, and Rich Storm, Department of Fish and Wildlife Resources; Carlos Cassady and Trevor Earl, Motor Vehicle Commission; Todd Allen, Tracy Goff-Herman, Greta Hylton, Robin Kinney, Matt Ross, and David Wickersham, Department of Education; Morgan Eaves, Sam Flynn, John Ghaelian, Douglas Gott, Dale Hamblin, and Robert Walker, Department of Workers' Claims; Ed O'Daniel, APCIA; Sharon Clark, Abigail Gall, and Chad Thompson, Department of Insurance; Lee Guice, Veronica Judy-Cecil, Lisa Lee, Amy Richardson, and Johnathan Scott, Department for Medicaid Services; Nancy Hagerman and Melissa Saladonis, Cincinnati Children's Hospital; Dr. John Blackburn, Kentucky Society of Anesthesiologists; Brian Rothman, VUMC; Donald Combs III and Dr. Curtis Koons, Pikeville Medical Center; Donna Little, Kentucky Hospital Association; and Laura Begin, Lily Patteson, Misty Sammons, and Steven Veno, Department for Community Based Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, September 14, 2021, and submits this report:

The following administrative regulation was considered for discussion only:

LABOR CABINET: Department of Workers' Claims

803 KAR 25:190. Utilization review – Medical Bill Audit – Medical Director – Appeal of Utilization Review Decisions. Sam Flynn, general counsel; John Ghaelian, general counsel; Dale Hamblin, assistant general counsel; and Robert Walker, interim commissioner, represented the department. Ed O'Daniel, American Property Casualty Insurance Association, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Walker stated that the most important change proposed in this administrative regulation, was establishing a medical director position. The medical director would be a substitute for the appeals and reconsideration processes, which was intended to streamline and expedite treatment for injured workers.

In response to questions by Co-Chair West, Mr. Walker stated that the current process for appeals and reconsideration often delayed treatment by three to six months. A medical director should be able to address the issues so that an injured worker could get treatment within weeks, rather than months. A medical director could proactively contact injured workers who did not have representation to assist these workers with further petition of cases. Mr. Flynn stated that the medical director would not add a layer of bureaucracy and would remove and streamline a complex process.

In response to questions by Senator Alvarado, Mr. Walker stated that injured workers could continue to appeal decisions after the medical director through the Workers' Compensation Board and, afterward, through the court of appeals. This was different from a medical review board with one decision maker, which had been deemed unconstitutional by the Kentucky Supreme Court, because injured workers would have access to the court system much more quickly. Mr. Hamblin stated that this situation might also be different because injured workers were automatically entitled to treatment. The question before the medical director was limited to the appropriateness of the proposed treatment. Mr. Flynn stated that workers' compensation provisions were established statutorily, not by the Kentucky Constitution directly. Senator Yates stated that workers' compensation treatment for injuries was different from medical malpractice cases related to direct compensation.

In response to a question by Co-Chair Hale, Mr. O'Daniel stated that he was concerned that this administrative regulation might conflict with statutory guidelines for treatment. The threshold for a requirement for utilization review has been \$3,000. This administrative regulation proposed to change that threshold to \$1,000, which could result in a dramatic increase in cases for review. Medical directors in

other states did not have to address each case directly. This requirement could create a backlog of cases and increase employer costs. Mr. O'Daniel requested that this administrative regulation be paused.

In response to a question by Co-Chair West, Mr. Flynn and Mr. Walker stated that this administrative regulation had not been discussed in any other legislative committee.

Co-Chair West stated concerns regarding this administrative regulation. A medical director actively seeking appeals would result in more claim cases. Decision making seemed consolidated into one person, which could cause swings in decisions. The medical director might be swayed by political matters. This administrative regulation represented a major programmatic change and had not been reviewed or approved by the General Assembly.

Administrative Regulations Reviewed by this Subcommittee:

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

16 KAR 2:220E. Emeritus Certificate. Cassie Trueblood, counsel and policy advisor, represented the board.

16 KAR 2:230E. Exception Certificate.

FINANCE AND ADMINISTRATION CABINET:
Kentucky Infrastructure Authority

200 KAR 17:110E. Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program. Bill Pauley, staff attorney, and Sandy Williams, deputy executive director, represented the authority.

In response to questions by Representative Bridges, Ms. Williams stated that the administrative fee established in this emergency administrative regulation was intended to finance administration of the program for six years as federally authorized. The administrative regulation pertaining to broadband had not been filed or presented to the Kentucky Infrastructure Authority board. Representative Bridges stated that the board should, in order to maximize funds, consider using a single computer and accounting system for both the Drinking Water and Wastewater Grant Program and the program related to the new broadband fund. Ms. Williams stated that the recommendation would be taken into consideration by the board. Mr. Pauley stated that the concerns about redundancy and streamlining were good ideas and it was important to note that the American Rescue Plan Act authorized the administrative fee established in this emergency administrative regulation. Representative Bridges stated that Senate Bill 36, from the 2021 Regular Session of the General Assembly, limited administrative funding to the allocated \$75,000.

In response to questions by Co-Chair West, Ms. Williams stated that Senate Bill 36, from the 2021 Regular Session of the General Assembly, authorized \$25 million from the American Rescue Plan Act for broadband development. Those funds were separate from the funds for the Drinking Water and Wastewater Grant Program, although both were authorized through the American Rescue Plan Act. The authority had already received over 400 applications for over \$7 million in funds for this program. This emergency administrative regulation did not directly cite the American Rescue Plan Act. Regarding the administrative fee, Mr. Pauley stated that this emergency administrative regulation referenced "as allowed by law." Co-Chair West stated that a direct citation would be best in this circumstance because it was possible that the statute was limiting what was authorized, but not mandated, by the act.

In response to a question by Co-Chair Hale, Ms. Williams stated that the authority would defer if necessary but would prefer to allow this emergency administrative regulation to move forward and to add the necessary citation to the ordinary administrative regulation. Representative Marzian stated that this emergency administrative regulation would also be reviewed by the subject matter committee of appropriate jurisdiction.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to align eligibility criteria with Senate Bill 36, from the 2021 Regular Session of the General Assembly. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:270. Expungement. Eden Davis, general counsel, and Larry Hadley, executive director, represented the board.

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

201 KAR 2:360. Naloxone dispensing.

In response to questions by Senator Alvarado, Ms. Davis stated that because pharmacies always gave patients the option for more information at dispensing, the board was proposing to delete safety information requirements. Senator Alvarado stated that, because naloxone could cause pulmonary edema and because the person acquiring the naloxone was not the same person to whom it would be administered, the safety information requirements should be retained. Mr. Hadley stated that the board would consider revising these provisions.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 4 to comply with the drafting and formatting

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

201 KAR 2:420. Administration of vaccines.

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

Board of Medical Licensure

201 KAR 9:270. Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. LeeAnn Diakov, general counsel, and Michael Rodman, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and the NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 4 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Embalmers and Funeral Directors

201 KAR 15:040E. Examination. Christi Moffett, executive director, represented the board.

201 KAR 15:050E. Apprenticeship and supervision requirements.

201 KAR 15:110E. Funeral establishment criteria.

201 KAR 15:125E. Surface transportation permit.

TOURISM, ARTS AND HERITAGE CABINET:
Department of Fish and Wildlife Resources: Fish

301 KAR 1:012. Boating, swimming and water skiing and other activities on department-owned or controlled lakes. Dave Dreves, fisheries director; Steven Fields, staff attorney; Chris Garland, division director; and Rich Storm, commissioner, represented the department.

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

301 KAR 1:016. Use of lands and waters on lakes owned or controlled by the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were

approved.

301 KAR 1:018. Use of boating access areas.

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

301 KAR 1:019. Cedar Creek Lake.

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

301 KAR 1:031. Land between the Lakes provisions.

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

301 KAR 1:050. Small state-owned lakes, special administrative requirements of.

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

301 KAR 1:082. Frog season; limits.

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

301 KAR 1:120. Live fish scales and handling; licensure.

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

301 KAR 1:125. Transportation of fish.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 4 and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 1:140. Special commercial fishing permit for Kentucky and Barkley lakes.

In response to questions by Co-Chair Hale, Mr. Dreves stated that special fish permits for Kentucky and Barkley lakes included, for example, permits for roe-bearing species such as paddlefish. He did not believe that the department received the maximum number of special permit applications for these lakes, which was 25.

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

301 KAR 1:152. Harvest and sale of Asian carp.

In response to questions by Co-Chair Hale, Mr. Dreves stated that Kentucky had a large contingent of commercial fishing of Asian carp. Approximately 9 million pounds had been harvested this year. Most of the harvested Asian carp was used to make fish meal; therefore, little storage was necessary. There were processors available to store fish harvested for human consumption or bait.

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

301 KAR 1:210. Free fishing days.

Game

301 KAR 2:015. Feeding of wildlife.

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.

301 KAR 2:041. Shooting areas, dog training areas, commercial foxhound training enclosures, and bobwhite shoot-to-train season.

301 KAR 2:050. Land between the Lakes hunting requirements.

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

301 KAR 2:084. Importation of game birds.

301 KAR 2:111. Deer and turkey hunting on special areas.

301 KAR 2:230. Shoot-to-retrieve field permits and procedures.

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, 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.

301 KAR 2:260. Crow hunting season.

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

TRANSPORTATION CABINET: Department of Vehicle Regulation: Motor Vehicle Commission

605 KAR 1:030. Applications. Carlos Cassady, executive director, and Trevor Earl, counsel, represented the commission.

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 add Section 7 to incorporate by reference the Application for Motor Vehicle Dealer License. Without objection, and with agreement of the agency, the amendments were approved.

605 KAR 1:035. Facilities requirements.

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

605 KAR 1:215. Licensing fees.

In response to a question by Co-Chair West, Mr. Earl stated that the fees established in this administrative regulation had been previously established by KRS

190.030. These fees were the same amount as those previously established by statute; therefore, this was not a fee increase.

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

EDUCATION AND WORKFORCE
DEVELOPMENT CABINET: Board of Education:
Exceptional and Handicapped Programs

707 KAR 1:340. Procedural safeguards and state complaint procedures. Todd Allen, general counsel, and Greta Hylton, associate commissioner, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; NECESSITY, FUNCTION, AND CONFORMITY; and STATUTORY AUTHORITY paragraphs; and Sections 2, 3, 5, 6, 8, and 14 through 17 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:165. Electronic data interchange vendor approval. Sam Flynn, general counsel; John Ghaelian, general counsel; Dale Hamblin, assistant general counsel; and Robert Walker, interim commissioner, represented the department.

A motion was made to approve the following amendments: to amend the TITLE; the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 25:170. Filing of claims information with the Office of Workers' Claims.

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.

803 KAR 25:175. Filing of insurance coverage and notice of policy change or termination.

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

803 KAR 25:185. Procedure for E-mail notification

of cancellation or removal of location of specific workers' compensation coverage.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Fees and taxes

806 KAR 4:010. Fees of the Department of Insurance. Shannon Clark, commissioner; Abigail Gall, regulation coordinator; and Chad Thompson, general counsel, represented the department.

In response to a question by Co-Chair West, Commissioner Clark stated that the department would provide follow-up information to this subcommittee regarding how many pharmacy benefit managers were active in Kentucky.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to comply with KRS 304.4-010. Without objection, and with agreement of the agency, the amendments were approved.

Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:025. Licensing process.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 6 and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Trade Practices and Frauds

806 KAR 12:120. Suitability in annuity transactions.

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

Rates and Rating Organizations

806 KAR 13:150. Property and casualty rate and rule filings.

A motion was made and seconded to approve the following amendments: (1) to amend Section 9 to

comply with KRS 304.4-010; and (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 2, and 4 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Health Insurance Contracts

806 KAR 17:070. Filing procedures for health insurance rates.

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

806 KAR 17:085. Minimum standards for short-term nursing home insurance policies.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5, 8, 9, and 11 through 15 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to comply with KRS 304.14-660. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:100. Certificate of filing for provider-sponsored networks.

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

806 KAR 17:150. Health benefit plan rate filing 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 1 through 7 and 9 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:230. Requirements regarding medical director's signature on health care benefit denials.

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

806 KAR 17:260. Conversion policy minimum benefits.

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

806 KAR 17:290. Independent External Review Program.

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

806 KAR 17:370. Standardized health claim attachments.

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

806 KAR 17:450. Insurance purchasing outlet 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 1 through 4, 7, 8, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:511. Repeal of 806 KAR 017:095, 806 KAR 017:170, and 806 KAR 017:510.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to delete 806 KAR 17:005 and 806 KAR 17:180 from repeal; and (2) to amend the RELATES TO; STATUTORY AUTHORITY; 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.

Liability Self-insurance Groups

806 KAR 46:050. Liability self-insurance group rate, underwriting and evidence of coverage filings.

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

paragraph and Sections 2 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.

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

907 KAR 3:005. Coverage of physicians' services. Jonathan Scott, regulatory and legislative advisor, represented the department.

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

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

907 KAR 3:060. Ambulance provider assessment program.

Department for Community Based Services: Family Support

921 KAR 1:020. Child Support Enforcement Program; confidentiality, program administration contracts, and agreements. Laura Begin, regulation coordinator; Lily Patteson, division director; and Steve Veno, commissioner, represented the department.

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

921 KAR 1:390. Child Support Enforcement Program paternity establishment.

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

921 KAR 1:400E. Establishment, review, and modification of child support and medical support orders.

K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015E. Supplemental programs for persons who are aged, blind, or have a disability.

Supplemental Nutrition Assistance Program

921 KAR 3:027. Technical requirements.

Energy Assistance Program/Weatherization

921 KAR 4:116E. Low Income Home Energy Assistance Program or “LIHEAP”.

The following administrative regulations were deferred or removed from the September 14, 2021, subcommittee agenda:

STATE BOARD OF ELECTIONS: Statewide Voter Registration

31 KAR 3:010. Current address of Kentucky registered voters and distribution of voter registration lists.

Forms and Procedures

31 KAR 4:195E. Consolidation of precincts and precinct election officers.

31 KAR 4:200E. Chain of custody for records during an election contest.

Voting

31 KAR 5:025E. Ballot standards and election security.

DEPARTMENT OF LAW: Attorney General

40 KAR 1:040E. Standardized Open Records Request Form.

FINANCE AND ADMINISTRATION CABINET: State-owned Buildings and Grounds
* 200 KAR 3:020E. Use of state-owned facilities and grounds. (**Impacted by 2021 Legislation*)

Kentucky Infrastructure Authority

200 KAR 17:110. Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program.

BOARDS AND COMMISSIONS: Board of Dentistry

201 KAR 8:520. Fees and fines.

Board of Embalmers and Funeral Directors

201 KAR 15:030E. Fees.

Board of Nursing

201 KAR 20:471. Repeal of 201 KAR 020:470.

201 KAR 20:472. Initial approval for dialysis technician training programs.

201 KAR 20:474. Continuing approval and periodic evaluation of dialysis technician training programs.

201 KAR 20:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and

reinstatement.

201 KAR 20:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements.

Board of Chiropractic Examiners

201 KAR 21:035. Seal.

201 KAR 21:054. Emergency orders.

201 KAR 21:070. Licensing examination requirements.

201 KAR 21:090. Pre-chiropractic education requirements.

201 KAR 21:100. Minimum standards for recordkeeping or itemized statements.

Board of Licensure for Professional Art Therapists

201 KAR 34:070. Inactive status.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: School Terms, Attendance, and Operation

702 KAR 7:150. Home or hospital instruction.

Office of Learning Support Services

704 KAR 7:121. Repeal of 704 KAR 007:120. Todd Allen, general counsel, and Greta Hylton, associate commissioner, represented the board.

In response to a question by Co-Chair Hale, Mr. Allen requested that this emergency administrative regulation be deferred to the October meeting of this subcommittee. A motion was made and seconded for deferral. Without objection, and with agreement of this subcommittee, the emergency administrative regulation was deferred.

LABOR CABINET: Department of Workplace Standards: Labor Standards; Wages and Hours

803 KAR 1:005. Employer-employee relationship.

803 KAR 1:025. Equal pay provisions, meaning and application.

803 KAR 1:060. Overtime pay requirements.

803 KAR 1:063. Trading time.

803 KAR 1:065. Hours worked.

803 KAR 1:066. Recordkeeping requirements.

803 KAR 1:070. Executive, administrative, supervisory or professional employees; salesmen.

803 KAR 1:075. Exclusions from minimum wage and overtime.

803 KAR 1:080. Board, lodging, gratuities and other allowances.

803 KAR 1:090. Workers with disabilities and work activity centers' employee's wages.

Occupational Safety and Health

803 KAR 2:325. General industry standards.

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 17:240. Data reporting requirements.

806 KAR 17:270. Telehealth claim forms and records.

806 KAR 17:280. Registration, utilization review, and internal appeal.

806 KAR 17:470. Data reporting to an employer-organized association health benefit plan.

ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities

807 KAR 5:015. Access and attachments to utility poles and facilities.

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

* 902 KAR 2:212E. Covering the face in response to declared national or state public health emergency. (**Impacted by 2021 Legislation*)

Department of Medicaid Services: Division of Policy and Operations

907 KAR 23:020E. Reimbursement for outpatient drugs.

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:060. Administrative disqualification hearings and penalties.

Child Welfare

922 KAR 1:300. Standards for child-caring facilities.

922 KAR 1:380. Standards for emergency shelter child-caring facilities.

922 KAR 1:390. Standards for residential child-caring facilities.

Child Care

922 KAR 2:160E. Child Care Assistance Program.

The subcommittee adjourned at 2:55 p.m. The next

meeting of this subcommittee is tentatively scheduled for October 12, 2021, at 1 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes
September 14, 2021

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, September 14, 2021, at 9:00 AM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Robyn Bender, Jason Hamilton, Jennifer Washabaugh, John Sunnigard, Rita Samaras, Amy Cardwell, Bart Hardin, Barry Swanson, Mike Rodman, Karen Sellers, Taylor Brown, Rachel Poynter, Matt Stephens, Aaron Jones, Laura Redmon, Michael Bowman, Amanda Ellis, Jennifer Fraker, Karen Wirth, Micki Ray, David Cook, Karen Dodd, Donald Wilson, Amber Brewer, Kim Minter, Brandi Genoe, Amy Burke, and Robyn Diez d'Aux.

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

A motion was made by Senator Hornback to approve Minutes of the August 2021, meeting of the committee. Representative Koch seconded the motion, which passed without objection.

JULY DEFERRED ITEM:

JUSTICE - OFFICE OF THE SECRETARY

National Medical Services, Inc. (NMS Labs), 2100002935. Jennifer Washabaugh, Robyn Bender, and Jason Hamilton discussed the contract with the committee. A motion was made by Senator Southworth to defer the contract to the October meeting of the committee. Representative Koch seconded the motion, which passed.

AUGUST DEFERRED ITEM:

MOREHEAD STATE UNIVERSITY

Ai-Media, 22-010. A motion was made by Representative Koch to approve the contract as reviewed. Representative Hart seconded the motion, which passed.

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

A motion was made by Representative Koch to consider as reviewed the Personal Service Contract Amendment List, with exception of those items

selected for further review by members of the committee. Representative Minter seconded the motion, which passed without objection.

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Res-Care, Inc., 2100003505.

DEPARTMENT FOR WORKFORCE INVESTMENT

Bardstown Senior Partners, LLC, 2200000090; Danville Senior Partners, LLC, 2200000091; Winchester Senior Partners, LLC, 2200000092; English Station Copco, LLC, 2200000094; Trilogy Healthcare of Bullitt, LLC, 2200000095; Trilogy Healthcare of Cynthiana, LLC, 2200000096; Trilogy Healthcare of Fayette, LLC, 2200000097; Trilogy Healthcare of Fayette, LLC, 2200000098; Trilogy Healthcare of Fayette, LLC, 2200000099; Trilogy Healthcare of Glen Ridge, LLC, 2200000100; Trilogy Healthcare of Jefferson, LLC, 2200000101; Trilogy Healthcare of Jefferson, LLC, 2200000102; Trilogy Healthcare of Louisville East, LLC, 2200000103; Trilogy Healthcare of Louisville Northeast, LLC, 2200000104; Trilogy Healthcare of Louisville Southwest, LLC, 2200000105; Trilogy Healthcare of Mercer, LLC, 2200000106; PAC Corrections, LLC, 2200000107; Baptist Homes, Inc., 2200000108.

DEPARTMENT OF EDUCATION

Johnna Rodgers Consulting, 2200000347; Hands on Therapy PSC, 2200000436.

DEPARTMENT OF HIGHWAYS

KOPF, Inc., 2100003446; Palmer Engineering Company, 2100003447; QK4, Inc., 2100003448; H W Lecher, Inc., 2100003449; HMB Engineers, Inc., 2100003451; Stantec Consulting Services, Inc., 2200000309; Vaughn and Melton, 2200000358; Palmer Engineering Company, 2200000359; QK4, Inc., 2200000360; QK4, Inc., 2200000408; Gresham Smith, 2200000427; Michael Baker International, Inc., 2200000432; GREW Engineers, Inc., 2200000620; Palmer Engineering Company, 2200000668.

EASTERN KENTUCKY UNIVERSITY

Mind power, Inc., 927-2022; Charles River Laboratories, Inc., 948-2022.

FACILITIES & SUPPORT SERVICES

Omni Architects, 2200000254; Stantec Consulting Services, Inc., 2200000317; Riverine Systems, LLC, 2200000324; Respect Consulting and Services, LLC, 2200000462; Sustainable Streams, LLC, 2200000471; Stantec Consulting Services, Inc., 2200000670.

KENTUCKY STATE POLICE

Ezra Scott Stout, 2200000296.

KY HOUSING CORPORATION

KPMG, LLP, 2021-50.

KY PUBLIC SERVICE COMMISSION

Linda Ann Gosnell, 2200000245.

MOREHEAD STATE UNIVERSITY

CAP Financial Partners, LLC, and 22-014.

NORTHERN KENTUCKY UNIVERSITY

MP Consulting, Inc., 2022-148.

TRANSPORTATION - OFFICE OF THE SECRETARY

Kentucky American Road, LLC, 2200000235.

UNIVERSITY OF KENTUCKY

JIMS Kentucky, LLC, K22-178.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS

Grayson Head & Ritchey, LLP, 2100001716.

AUDITOR OF PUBLIC ACCOUNTS

Michener and Associates, 2000003784.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Stantec Consulting Services, Inc., 1600001285.

DEPARTMENT OF HIGHWAYS

E A Partners, PLC, 0600001849; H W Lecher Consulting, Inc., 0700006607; URS Corporation, 1200000826; CHM Smith, Inc., 1400000571; Palmer Engineering, 1600000637; Integrated Engineering, Inc., 1800000420; Burgess and Nipple, Inc., 1800000607; Vaughn & Melton Consulting Engineers, Inc., 1800002226; GREW Aerial Surveys, Inc., 1900001742; Palmer Engineering County, 1900003312; Burgess and Nipple, Inc., 1900003425; HER Engineering, Inc., 1900003491; WASP USA, Inc., 1900004146; American Engineers, Inc., 1900004968; Strand Associates, Inc., 2000000381; Palmer Engineering Company, 2000000383; Integrated Engineering, 2000000388; Secom Technical Services, Inc., 2000000571; RAH, LLC, 2000000583; Michael Baker International, Inc., 2000000723; Corroding Group, 2000000724.

EASTERN KENTUCKY UNIVERSITY

Dinsmore & Shohl, LLP, 22-085.

FACILITIES & SUPPORT SERVICES

Omni Architects, 1400000794; Tetra Tech, Inc., 1500002550; COTA, Inc., 1900002342; Riverine Systems, LLC, 2000000378.

TRANSPORTATION - OFFICE OF THE SECRETARY

McCurry and Livingston, 2000003565.

UNIVERSITY OF LOUISVILLE

Multi, 21-012; Dean Dorton Allen Ford, PLLC, 21-061; Hush Blackwell, LLP, 21-076.

WORKERS' COMPENSATION FUNDING COMMISSION

Taylor-Walker Consulting, LLC, 2000004107.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS

Community Resources for Justice Crime and Justice Institute, 2200000739.

COUNCIL ON POSTSECONDARY EDUCATION

Northern Kentucky University Research Foundation, 2200000266.

DEPARTMENT FOR LIBRARIES & ARCHIVES

Council on Postsecondary Education, 2100003471.

DEPARTMENT FOR LOCAL GOVERNMENT

Knott County Fiscal Court, 2100001719; Bluegrass Area Development District, 2100003351; Metcalfe County Fiscal Court, 2100003418; City of Highland Heights Kentucky, 2100003443; Magoffin County, 2200000127; Magoffin County, 2200000128; City of Hurst Bourne, 2200000162; Carter County Fiscal Court, 2200000172; City of Crestwood, 2200000280; Green County, 2200000290; Lyon County Industrial Development Authority, 2200000298; McLean County Fiscal Court, 2200000302; Pike County Fiscal Court, 2200000319; City of Richmond, 2200000346; Pike County Fiscal Court, 2200000362; Martin County Fiscal Court, 2200000400; City of Bowling Green, 2200000463; City of Lawrenceburg, 2200000480; City of Berea, 2200000489; City of Franklin, 2200000497; City of Jeffersontown, 2200000504; City of Shelbyville, 2200000526; City of Frankfort, 2200000540; City of Edgewood, 2200000573; City of Elsmere, 2200000574; City of Florence Kentucky, 2200000580; City of Maysville, 2200000595; City of Radcliff, 2200000599; City of Henderson, 2200000623; City of Morehead, 2200000626; City of Versailles, 2200000633.

DEPARTMENT FOR MEDICAID SERVICES

Advancing States, Inc., 2100003025.

DEPARTMENT OF AGRICULTURE

University of Kentucky Research Foundation, 2200000215; Department for Public Health, 2200000218.

DEPARTMENT OF CORRECTIONS

Adair County Jail, 2200000001.

DEPARTMENT OF EDUCATION

Breathitt County Board of Education, 2100002270; Boyd County Board of Education, 2100003049; Edmonson County Board of Education, 2100003061; Franklin County Board of Education, 2100003066; Kenton County Board of Education, 2100003073; Lawrence County Board of Education, 2100003074; Shelby County Board of Education, 2100003442; Hardin County Board of Education, 2100003452; Hopkins County Board of Education, 2100003456; University of Louisville Research Foundation, 2100003474; Jefferson County Board of Education, 2200000039; Harrison County Board of Education, 2200000340; Northern Kentucky Cooperative for Educational Services, Inc., 2200000344; Pikeville Independent School District, 2200000389.

JUSTICE - OFFICE OF THE SECRETARY

Kentucky Casa Network, 2200000227.

KENTUCKY DEPARTMENT OF PARKS

Breaks Interstate Parks Commission, 2200000240.

OFFICE OF ENERGY POLICY

Bluegrass Green source, Inc., 2100002396; University of Kentucky Research Foundation, 2100003094.

TRANSPORTATION - OFFICE OF THE SECRETARY

University of Kentucky Research Foundation, 2100003328; University of Kentucky Research Foundation, 2100003330.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ATTORNEY GENERAL

Kentucky State Police, 2000003469.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 2000004400.

COUNCIL ON POSTSECONDARY EDUCATION

Northern Kentucky University Foundation, Inc., 2200000241.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Louisville Jefferson County Metro Government, 2100001628.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Multi, 2000002403; Multi, 2000003115.

DEPARTMENT FOR INCOME SUPPORT

Treasurer State of Mississippi, 2000001659.

DEPARTMENT FOR LOCAL GOVERNMENT

Henderson County Fiscal Court, 2100003514.

DEPARTMENT FOR PUBLIC HEALTH

Multi, 2100001829.

DEPARTMENT OF AGRICULTURE

Multi, 2100001484; Multi, 2100001484; Multi, 2100001485; Multi, 2100001485.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Attorney General, 2000003457.

DEPARTMENT OF EDUCATION

Kentucky Valley Education, 2100002053; Jefferson County Board of Education, 2100002076; Christian County Board of Education, 2100002084; Jefferson County Board of Education, 2100002091; University of Louisville Research Foundation, 2100002256; Northern Kentucky Cooperative for Educational Services, Inc., 2100002364; Danville Independent School District, 2100002926; Jefferson County Board of Education, 2100002987.

DEPARTMENT OF MILITARY AFFAIRS

Fort Knox Community Schools Food Service, 2000003367.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

UNIVERSITY OF KENTUCKY

Born, LLC, K22-179. Bart Hardin and Barry Swanson discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

UNIVERSITY OF KENTUCKY

Dixon Hughes Goodman, LLP, K22-180. Bart Hardin and Barry Swanson discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY

Multi, 2122-16. John Sunnycard, Rita Samaras, and Amy Cardwell discussed the contract with the committee. A motion was made by Representative Minter to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

BOARD OF MEDICAL LICENSURE

Multi, 2000001945; Multi, 2000001945; Multi, 2000001945. Mike Rodman discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF

AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

BOARD OF ELECTIONS

Lewis County, 2200000299. Karen Sellers, Taylor Brown, and Rachel Poynter discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Koch seconded the motion, which passed with Senator Southworth and Senator Meredith voting no.

DEPARTMENT FOR LOCAL GOVERNMENT

Floyd County Fiscal Court, 2200000366. Matt Stephens, Aaron Jones, and Laura Redmon discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

DEPARTMENT FOR WORKFORCE INVESTMENT

Council On Postsecondary Education, 2200000433. Michael Bowman, Amanda Ellis, and Jennifer Fraker discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Koch seconded the motion, which passed.

DEPARTMENT OF EDUCATION

University of Kentucky, 2100002655. Karen Wirth and Micki Ray discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

DEPARTMENT OF EDUCATION

American Institutes for Research In the Behavioral Sciences, 2200000232. Karen Wirth and Micki Ray discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Representative Minter seconded the motion, which passed.

DEPARTMENT OF EDUCATION

The Tides Center, Inc., 2200000297. Karen Wirth, David Cook, and Karen Dodd discussed the contract with the committee. A motion was made by Senator Southworth to defer the contract to the October meeting of the committee. Representative Bowling seconded the motion, which passed.

KENTUCKY STATE POLICE

Bluegrass Community and Technical College, 2200000303. Donald Wilson and Amber Brewer discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

OFFICE OF HEALTH DATA AND ANALYTICS

University of Kentucky Research Foundation, 2100003144. Kim Minter and Brandi Genoe discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as

reviewed. Representative Koch seconded the motion, which passed with Senator Southworth voting no and Representative Bowling voting to abstain.

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

ATTORNEY GENERAL

Kentucky State Police, 2000003580. Amy Burke and Robyn Diez d'Aux discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Senator Yates seconded the motion, which passed with Senator Southworth voting no.

EXEMPTION REQUESTS:

DEPARTMENT OF AGRICULTURE:

The Department of Agriculture requested an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the current biennium for agreements with seven (7) grant recipients for the purpose of researching and promoting specialty crop farming techniques in Kentucky. A motion was made by Representative Koch to grant the request to September 30, 2024. Senator Southworth seconded the motion, which passed without objection by voice vote.

DEPARTMENT OF AGRICULTURE:

The Department of Agriculture requested an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the current biennium for agreements with four (4) grant recipients for the purpose of promoting farm and ranch stress assistance for farmer mental health and suicide prevention. A motion was made by Representative Koch to grant the request to September 30, 2022. Senator Southworth seconded the motion, which passed without objection by voice vote.

There being no further business, the meeting adjourned at 11:42 AM.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes
October 12, 2021

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, October 12, 2021, at 9:00 AM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Senator Adrienne Southworth; Representatives Adam Bowling, Mark Hart, and Patti Minter.

Guests: Kerry Harvey, David Cook, Karen Wirth, Jennifer Linton, Sandy Williams, Bart Hardin, Barry Swanson, Mark Watkins, Angela Curry, Thomas Hoy,

Jennifer Tougas, Ethan Logan, Jennifer Smith, Les Forsythe, Gretta Hylton, Thomas Williams, Nora Briggs, Jeremy Ratliff, Jamie Rice, and Christina Weeter.

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

A motion was made by Representative Hart to approve Minutes of the September 2021, meeting of the committee. Representative Bowling seconded the motion, which passed without objection.

JULY DEFERRED ITEM:

JUSTICE - OFFICE OF THE SECRETARY

National Medical Services, Inc. (NMS Labs), 2100002935. Kerry Harvey discussed the contract with the committee. A motion was made by Representative Hart to defer the contract to the November meeting of the committee. Representative Bowling seconded the motion, which passed.

SEPTEMBER DEFERRED ITEM:

DEPARTMENT OF EDUCATION

The Tides Center, Inc., 2200000297. Karen Wirth and David Cook discussed the contract with the committee. A motion was made by Representative Hart to disapprove the contract. A motion was made by Representative Minter to approve the contract.

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

A motion was made by Representative Hart to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Bowling seconded the motion, which passed without objection.	<u>DEPARTMENT FOR COMMUNITY BASED SERVICES</u> Sivic Solutions Group, LLC, 2200000887. <u>DEPARTMENT FOR PUBLIC ADVOCACY</u> Bode Cellmark Forensics, Inc., 2200000294.	<u>FACILITIES & SUPPORT SERVICES</u> KZF Design, Inc., 2200000755; DLZ Kentucky, Inc., 2200000993. <u>HORSE RACING COMMISSION</u> McBrayer, PLLC, 2200000858.
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A motion was made by Representative Hart to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Bowling seconded the motion, which passed without objection.	<u>DEPARTMENT OF CRIMINAL JUSTICE TRAINING</u> Hannah Marie Coyt, 2200000049; Critical Stress & Wellness Center, LLC, 2200000051. <u>DEPARTMENT OF HIGHWAYS</u> Aecom Technical Services, Inc., 2200000782;	<u>MURRAY STATE UNIVERSITY</u> Ruffalo Noel Levitz, LLC, 019-22; Peck Flaneery, Gream & Warren, 020-22; Peck, Flannery, Gream & Warren, 021-22. <u>NORTHERN KENTUCKY UNIVERSITY</u> Ruffalo Noel Levitz, LLC, 2022-149.
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A motion was made by Representative Hart to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Bowling seconded the motion, which passed without objection.	WSP USA, Inc., 2200000789; Strand Associates, Inc., 2200000846; HDR Engineering, Inc., 2200000883; Burgess and Niple, Inc., 2200000884; American Engineers, Inc., 2200000968; RHA, LLC, 2200000983; HDR Engineering, Inc., 2200000987; Stantec Consulting Services, Inc., 2200000988; WSP USA, Inc., 2200000990; Aecom Technical Services, Inc., 2200000991.	<u>UNIVERSITY OF KENTUCKY</u> Staggs & Fisher Engineers, A221070; Smiley Joe, LLC, K22-181; Morgan, Lewis & Brockius, LLP, K22-182; Lerch Bates, Inc., K22-183. <u>WESTERN KENTUCKY UNIVERSITY</u> Multi, 2122-19; The Scorer’s Table, 2122-21; Sublime Media Group, 2122-23.
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Hart to consider as reviewed the Correction List. Representative Bowling seconded the motion, which passed without objection.	<u>DEPARTMENT OF MILITARY AFFAIRS</u> Philip Kenneth Miller, 2200000768.	
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<u>THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:</u>	<u>DEPARTMENT OF WORKERS’ CLAIMS</u> FAIR Health, Inc., 2200000357. <u>EASTERN KENTUCKY UNIVERSITY</u> Dinsmore & Shohl, LLP, 985-2022.	<u>THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:</u>
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<u>ADMINISTRATIVE OFFICE OF THE</u>		County Fiscal Court, 2200000409; Harlan County,
<u>COURTS</u>	<u>UNIVERSITY OF LOUISVILLE</u>	2200000426; City of Murray, 2200000431;
Tad Thomas, 1600003867.	Ms. Deborah Skaggs, 22-002.	Caldwell County, 2200000439; City of Alexandria,
		2200000457; City of Bardstown, 2200000459; City
<u>DEPARTMENT OF HIGHWAYS</u>	<u>WESTERN KENTUCKY UNIVERSITY</u>	of Covington, 2200000467; City of Elizabethtown,
GRW Engineers, Inc., 0700004081; Strand	Multi, 202003.	2200000473; City of Corbin, 2200000492; City
Associates, Inc., 1300001505; EA Partners, PLC,		of London, 2200000507; City of Middlesboro,
1300002066; Michael Baker International, Inc.,	<u>THE FOLLOWING MEMORANDA OF</u>	2200000508; City of Mount Sterling, 2200000510;
1700001321; Stantec Consulting Services, Inc.,	<u>AGREEMENTS WERE REVIEWED WITHOUT</u>	City of Newport, 2200000511; City of Richmond,
1800002069; Stantec Consulting Services, Inc.,	<u>OBJECTION:</u>	2200000521; City of Somerset, 2200000529; City of
1900003011; Leslie M. Haney & Albert W. Gross		Erlanger, 2200000539; City of Danville, 2200000543;
Partner, 1900003654; QK4, Inc., 2000000458; H. W.	<u>BEHAVIORAL HEALTH, DEVELOPMENTAL</u>	Livingston County Fiscal Court, 2200000565; City
Lochner, Inc., 2000000469; Strand Associates, Inc.,	<u>& INTELLECTUAL DISABILITIES</u>	of Flatwoods, 2200000575; City of Fort Mitchell,
2000000850.	Lexington Fayette Urban County Government,	2200000576; City of Fort Thomas, 2200000577;
	2200000256.	City of Highland Heights, 2200000581; City of
<u>FACILITIES & SUPPORT SERVICES</u>		Georgetown, 2200000582; City of Hopkinsville,
Sustainable Streams, LLC, 1800001506;	<u>DEPARTMENT FOR ENVIRONMENTAL</u>	2200000584; City of Independence, 2200000586;
EOP Architects, PSC, 1900002963; Tetra Tech,	<u>PROTECTION</u>	City of Mount Washington, 2200000591; City
Inc., 2000001341; Omni Architects, 2000002637;	Bullitt County Board of Education, 2100002925;	of Madisonville, 2200000592; City of Paducah,
EOP Architects PSC, 2100000950; Paladin, Inc.,	Wayne County Board of Education, 2100002993.	2200000597; City of Russellville, 2200000601; City
2100001812.		of Villa Hills, 2200000603; City of Saint Matthews,
	<u>DEPARTMENT FOR LOCAL GOVERNMENT</u>	2200000609; City of Central City, 2200000616; City
<u>MOREHEAD STATE UNIVERSITY</u>	Ohio County Fiscal Court, 2100003141; Webster	of Madisonville, 2200000618; City of Harrodsburg,
Mutli, 22-007; Multi, 22-008.	County Fiscal Court, 2100003143; Magoffin County,	2200000622; City of Shively, 2200000629; City
	2200000125; Magoffin County, 2200000126; Mason	of Winchester, 2200000635; City of Hillview,
<u>MURRAY STATE UNIVERSITY</u>	County Fiscal Court, 2200000209; City of Maysville,	2200000637; City of LaGrange, 2200000641; City
Multi, 003-22.	2200000216; City of Flemingsburg, 2200000219;	of Leitchfield, 2200000643; City of Mayfield,
	Lewis County Fiscal Court, 2200000222; Bracken	2200000646; City of Middletown, 2200000647; City
<u>TRANSPORTATION - OFFICE OF THE</u>	County Fiscal Court, 2200000223; Fleming County,	of Oak Grove, 2200000653; City of Shepherdsville,
<u>SECRETARY</u>	2200000224; Ohio County Fiscal Court, 2200000367;	2200000655; City of Nicholasville, 2200000657;
Wildcat Motorsports, LLC, 2100001337.	Union County Fiscal Court, 2200000405; Menifee	City of Taylor Mill, 2200000660; City of Paris,

Research Foundation, 2200000475; University of Louisville Research Foundation, 2200000593; Norton Hospital, Inc., 2200000613; Norton Hospital, Inc., 2200000614; University of Louisville Research Foundation, 2200000682; Kentucky Association of Chief’s of Police, 2200000722; Kentucky Association of Chief’s of Police, 2200000723; Kentucky Association of Chief’s of Police, 2200000724; Kentucky Association of Chief’s of Police, 2200000725; Kentucky Association of Chief’s of Police, 2200000726; Kentucky Association of Chief’s of Police, 2200000727; Kentucky Association of Chiefs of Police, 2200000728; Students Against Destructive Decisions, 2200000767; Mothers Against Drunk Driving, 2200000769; Unite Corporation, 2200000825.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Northern Kentucky Regional Mental Health Mental Retardation Board, 2000001550; New Vista of the Bluegrass, Inc., 2000001667; University of Kentucky Research Foundation, 2000001835; Gods Pantry Food Bank, Inc., 2100000703; Center for Employment Opportunities, Inc., 2100000781; Northern Kentucky Community Action, 2100001076; Eastern Kentucky University, 2100002157.

County Board of Education, 2000003618; Berea Independent Board of Education, 2000003620; Bourbon County Board of Education, 2000003622; Boyd County Board of Education, 2000003625; Boys & Girls Club of Greater Cincinnati, 2000003626; Bracken County Board of Education, 2000003627; Bullitt County Board of Education, 2000003628; Campbell County Board of Education, 2000003629; Casey County Board of Education, 2000003630; Christian County Board of Education, 2000003638; Clinton County Board of Education, 2000003640; Cloverport Independent School District, 2000003642; Corbin Independent School District, 2000003643; Covington Independent School District, 2000003645; Crittenden County Board of Education, 2000003646; Family and Children’s Place, Inc., 2000003656; Fayette County Board of Education, 2000003678; Fulton Independent Board of Education, 2000003679; Glasgow Independent School District, 2000003681; Grayson County Board of Education, 2000003682; Greenup County Board of Education, 2000003684; Hardin County Board of Education, 2000003685; Harlan County Boys and Girls Club, 2000003688; Harlan Independent School District, 2000003689; Harrison County Board of Education, 2000003690; Henderson County Board of Education, 2000003691; Jefferson County Board of Education, 2000003692; Leslie County Board of Education, 2000003694; Lincoln County Board of Education, 2000003697; Ludlow Independent School District, 2000003699; Martin County Board of Education, 2000003700;

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Alcoholic Beverage Control Department, 2000001558; New Beginnings Bluegrass, Inc., 2000001590; Volunteers of America Mid-States, Inc., 2000002227; University of Kentucky Research Foundation, 2000002766; University of Kentucky Research Foundation, 2000003431; University of Kentucky Research Foundation, 2100001213.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Jefferson County Board of Education, 2000001674; Multi, 2000002172.

DEPARTMENT FOR MEDICAID SERVICES

University of Kentucky Research Foundation, 2000002586.

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 2000002521; University of Kentucky, 2100000282.

DEPARTMENT OF AGRICULTURE

Multi, 2100001484; Multi, 2100001485.

DEPARTMENT OF EDUCATION

Adair County Board of Education, 2000003065; Ashland Board of Education, 2000003617; Ballard

Mayfield Independent School District, 2000003701; Independent School District, 2100000221; Pike		motion was made by Representative Hart to consider
McCracken County Board of Education, 2000003702; County Board of Education, 2100000222; Webster		the contract as reviewed. Representative Minter
Menifee County Board of Education, 2000003703; County Board of Education, 2100000223; Whitley		seconded the motion, which passed.
Middlesboro Independent School District, County Board of Education, 2100000224; Kentucky		
2000003705; Monroe County Board of Education, Valley Education, 2100000683; Bath County Board of	<u>JUSTICE - OFFICE OF THE SECRETARY</u>	
2000003706; Nelson County Board of Education, Education, 2100002007; Campbellsville Independent	Axis Forensic Toxicology, Inc., 2200000772.	
2000003707; Newport Independent School District, School District, 2100002072; Berea Independent	Kerry Harvey discussed the contract with the	
2000003708; Owensboro Independent School Board of Education, 2100002958; Jefferson County	committee. A motion was made by Representative	
District, 2000003709; Paris Independent School Board of Education, 2100002991.	Bowling to consider the contract as reviewed.	
District, 2000003711; Pendleton County Board	Representative Hart seconded the motion, which	
of Education, 2000003712; Save the Children	<u>DEPARTMENT OF WORKPLACE</u>	passed.
Federation, Inc., 2000003714; Spencer County Board	<u>STANDARDS</u>	
of Education, 2000003715; Taylor County Board	University of Kentucky, 2000003197.	<u>KY INFRASTRUCTURE AUTHORITY</u>
of Education, 2000003716; Washington County		Roger Bernard Recktenwald, 2200000738.
Board of Education, 2000003717; Wayne County	<u>OFFICE OF THE CONTROLLER</u>	Sandy Williams discussed the contract with the
Board of Education, 2000003718; Webster County	Department of Housing Building and	committee. A motion was made by Representative
Board of Education, 2000003719; Williamstown	Construction, 2100000450.	Bowling to consider the contract as reviewed.
Board of Education, 2000003720; Whitley County		Representative Hart seconded the motion, which
Board of Education, 2000003721; Wolfe County	<u>TRANSPORTATION - OFFICE OF THE</u>	passed.
Board of Education, 2000003722; YMCA of Greater	<u>SECRETARY</u>	
Cincinnati, 2000003723; Boys and Girls Club, Inc.,	University of Louisville Research Foundation,	<u>UNIVERSITY OF KENTUCKY</u>
2000003763; Global Game Changers Children's	2100000627.	CorVel Enterprise Comp, Inc., K22-184.
Education Initiative, Inc., 2000003775; Bullitt		Bart Hardin and Barry Swanson discussed the
County Board of Education, 2100000201; Campbell	<u>THE FOLLOWING PERSONAL SERVICE</u>	contract with the committee. A motion was made
County Board of Education, 2100000211; Covington	<u>CONTRACTS WERE SELECTED FOR</u>	by Representative Hart to consider the contract
Independent School District, 2100000212; Dayton	<u>FURTHER REVIEW:</u>	as reviewed. Representative Minter seconded the
Independent School District, 2100000213; Jefferson		motion, which passed.
County Board of Education, 2100000218; Jessamine	<u>FACILITIES & SUPPORT SERVICES</u>	
County Board of Education, 2100000219; Letcher	EOP Architects PSC, 2200000939. Jennifer	<u>UNIVERSITY OF LOUISVILLE</u>
County Board of Education, 2100000220; Newport	Linton discussed the contract with the committee. A	Hunton Andrews Kurth, LLP, 22-016. Mark

Watkins, Angela Curry, and Thomas Hoy discussed the contract with the committee. A motion was made by Senator Southworth to disapprove the contract. A motion was made by Representative Minter to consider the contract as reviewed.

WESTERN KENTUCKY

Multi, 2122-20. Jennifer Tougas, Ethan Logan, and Jennifer Smith discussed the contract with the committee. A motion was made by Representative Minter to approve the contract as reviewed. Representative Bowling seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY

Contemporary Services Corporation, 2122-22. Les Forsythe and Jennifer Smith discussed the contract with the committee. A motion was made by Representative Hart to disapprove the contract. A motion was made by Representative Bowling to consider the contract as reviewed. Representative Minter seconded the motion, which passed with Representative Hart and Senator Meredith voting no.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT OF EDUCATION

Buck Institute for Education, 2200000208.

Karen Wirth and David Cook discussed the contract with the committee. A motion was made by Senator Southworth to disapprove the contract. Representative Hart seconded the motion, which failed. A motion was made by Representative Bowling to defer the contract to the November 2021 meeting of the committee. Senator Southworth seconded the motion, which failed.

DEPARTMENT OF EDUCATION

The Dollywood Foundation, 2200000260. Karen Wirth, Gretta Hylton, Thomas Williams, and Nora Briggs discussed the contract with the committee.

DEPARTMENT OF EDUCATION

West40 Intermediate Service Center 2, 2200000505. Karen Wirth and Christina Weeter discussed the contract with the committee.

KY HOUSING CORPORATION

Public Protection Cabinet, 4. Jeremy Ratliff and Jamie Rice discussed the contract with the committee.

There being no further business, the meeting adjourned at 11:23 PM.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE
Minutes of the 5th Meeting of the 2021 Interim
September 30, 2021

Call to Order and Roll Call

The 5th meeting of the Medicaid Oversight and Advisory Committee was held on Thursday, September 30, 2021, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Stephen Meredith, Chair,

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

Present were:
Members: Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Dr. Sandra Guerra, MD, MPH, Chief Medical Officer, WellCare; Jeb Duke, Regional Vice President for Medicaid, Humana; Liz Stearman, Director of Behavioral Health, Humana; Leon Lamoreaux, Anthem Medicaid Market President and Vice-Chair of the Kentucky Association of Health Plans; Tom Stephens, Executive Director, Kentucky Association of Health Plans; Dr. Sheila Schuster, PhD. Executive Director, Kentucky Mental Health Coalition; Emily Beauregard, MPH, Executive Director, Kentucky Voices for Health; Steve Shannon, Executive Director, Kentucky Association of Regional Providers; Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; and Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services

LRC Staff: Chris Joffrion, Ben Payne, and Hillary Abbott.

Approval of Minutes

A motion to approve the August 17, 2021, minutes was made by Senator Alvarado, seconded by Representative Gooch, and was approved by a voice vote.

An Update on Prior Authorization Requirements, Provider Network Adequacy, and the Sufficiency of Substance Use Disorder Services Covered by MCOs

Dr. Sandra Guerra, MD, MPH, Chief Medical Officer, WellCare, discussed the major functions of Managed Care Organizations, including quality of care oversight, ensuring an adequate and credentialed network of providers, and provided statistics on the Medicaid managed care program and the quality of care and health outcomes.

Jeb Duke, Regional Vice President for Medicaid, Humana, and Liz Stearman, Director of Behavioral Health, Humana, provided an overview of behavioral health and substance use disorder treatment services covered by MCOs in accordance with the Kentucky Department for Medicaid Services State Plan.

Ms. Stearman discussed why prior authorizations (PA) requirements are used for certain behavioral health services and explained the differences between services that require a PA and those that do not.

Ms. Stearman provided testimony on the impact of the suspension of PA requirements for behavioral health services in response to the COVID-19 public health emergency, including limiting MCOs' ability to ensure that services delivered are appropriate and support discharge planning, limiting the MCOs ability to ensure quality of services delivered, limiting the ability to monitor for fraud, waste, and abuse, and the decrease of access to services for enrollees. Mr. Duke discussed the financial impact of the suspension of PA including increased utilization and cost.

Ms. Stearman recommended reinstating PA requirements for behavioral health and suggested that possible strategies for reinstatement might include reinstating PA requirements for inpatient before outpatient services which is a similar approach taken with physical health, seeking PA for inpatient and residential services concurrently with the start of services instead of prior to starting services, selecting services including residential substance use disorder to resume PA based on demonstrated misuse or abuse, and establishing an advisory committee to determine where lack of authorizations and coordination are having the most negative impact on member outcomes and program integrity.

Leon Lamoreaux, Anthem Medicaid Market President and Vice-Chair of the Kentucky Association of Health Plans, discussed provider network adequacy and provided information on contractual requirements, oversight reporting requirements, and access and availability standards.

Senator Meredith made comments relating to the testimony.

In response to questions and comments from Representative Sheldon, Mr. Duke stated that they would be happy to follow up on the types of audits they have requested since the suspension of prior authorizations.

In response to questions and comments from Senator Alvarado, Mr. Duke stated that there is an increased focus on social determinants of health and that Humana is committed to raising Kentucky's health rankings.

In response to questions and comments from Representative Prunty, Ms. Stearman stated that MCOs are actively working with community providers and corrections to help participants transition from substance-use treatment while incarcerated to community based substance-use treatment.

In response to questions and comments from Representative Willner, Mr. Duke stated that he will follow-up on denials of service and that all providers must comply with MCOs equity standards. Ms. Stearman stated that MCOs are gathering information in regards to increased fraud arising from the suspension of prior authorizations.

Medicaid Managed Care Provider Network Adequacy

Dr. Sheila Schuster, Ph.D., and Executive Director of the Kentucky Mental Health Coalition, emphasized the positive impact of the removal of PA for the behavioral health community and discussed the statutory obligations of MCOs to have a robust and accessible provider network.

Emily Beauregard, MPH, and Executive Director of the Kentucky Voices for Health, discussed the experiences of Medicaid participants in navigating the inaccessible provider network and the barriers to care participants are facing such as long wait times for appointments, insufficient information provided, and lack of up-to-date provider lists. Dr. Schuster provided the committee with recommendations to improve the MCO provider network system.

The Effectiveness and Sufficiency of Substance Use Disorder Treatment and Services Provided or Covered by MCOs

Steve Shannon, Executive Director of Kentucky Association of Regional Providers, provided background information on behavioral health service organizations (BHSO) and the facilitation of treatment for substance use disorders (SUD). Mr. Shannon discussed the positive impact of treatment, the need for accessible treatment that is covered by MCOs, the dire state of staffing for BHSOs and staffing substance-use treatment facilities, as well as the need for an increase in the reimbursement rate for providers. Mr. Shannon noted that much of the red tape that burdens BHSOs and providers could be resolved if MCOs would view SUD and behavioral health like they do physical health and pay accordingly.

In response to questions and comments from Representative Sheldon, Mr. Shannon stated that he believes the process for PAs in SUD and behavioral health services should be to start services immediately and due the PA later. Mr. Shannon added that those first encounters with someone seeking treatment are crucial to continued engagement and should not be delayed for the PA process.

In response to comments from Senator Alvarado, Mr. Shannon concurred that for the providers he represents, their experience is different from the provider experiences the MCOs described in their presentation.

In response to questions and comments from Representative Elliott, Mr. Shannon stated that other states have a behavioral health and SUD carve-out in the their Medicaid plan and that he fully supports the idea of both in Kentucky.

Department for Medicaid Services Budget Update
Lisa Lee, Commissioner, and Steve Bechtel, Chief Financial Officer, Department for Medicaid Service, Cabinet for Health and Family Services, discussed the state Medicaid budget for state fiscal year 2021 and the continued impact of the COVID-19 public health emergency on spending and projections for future budget considerations.

In response to questions and comments from Senator Meredith, Mr. Bechtel stated that they will follow-up with the cost incurred by DMS in responding to COVID-19. In response to an additional question from Senator Meredith, Commissioner Lee stated that 75 percent of fee-for-service Medicaid population is vaccinated and 35 percent of the managed care population is vaccinated.

In response to questions and comments from Senator Alvarado, Commissioner Lee stated that under the federal maintenance of effort directive, an individual must ask to be disenrolled from Medicaid and that the state could not disenroll members currently. In response to follow-up questions regarding the MCO contracts and the presentation earlier in the meeting, Commissioner Lee stated that they are pleased with the MCOs but believe that in the current contract re-bidding process, she would like to see MCO contracts that have stronger enforcement mechanisms for accountability.

Adjournment

There being no further business, the meeting was adjourned at 4:00pm.

LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE

**Minutes of the 4th Meeting
of the 2021 Interim
September 16, 2021**

Call to Order and Roll Call

The 4th meeting of the Legislative Oversight and Investigations Committee was held on Thursday, September 16, 2021, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Jason Nemes, Co-Chair; Senators Jason Howell, Morgan McGarvey, Michael J. Nemes, Wil Schroder, Brandon J. Storm, Reginald Thomas, and Max Wise; Representatives Lynn Bechler, Ken Fleming, Angie Hatton, Joni L. Jenkins, Steve Riley, and Scott Sharp.

Guests: Dr. Paul Czarapata, President, Kentucky Community and Technical College System; Dr. Kris Williams, Chancellor, Kentucky Community and Technical College System.

LRC Staff: Gerald W. Hoppmann, Committee Staff Administrator; Committee Analysts William Spears, Joel Thomas, Chris Hall, Jeremy Skinner, Shane Stevens, Van Knowles, Jacob Blevins; and Ashley Taylor, Committee Assistant.

Minutes for August 12th, 2021

Upon motion by Senator Nemes and second by Representative Riley, the minutes for the August 12th, 2021, meeting were approved without objection.

Staff Update: *Nonacademic Barriers Facing Kentucky Community and Technical College Students*

Legislative Oversight staff members Chris Hall and Shane Stevens provided a summary of Nonacademic Barriers Facing Kentucky Community and Technical College Students, Research Report No. 462, October 4, 2019. Staff also summarized a May 7, 2021, update to the report's recommendations, provided by the Kentucky Community and Technical College System (KCTCS).

The presentation slides are available on the Legislative Oversight and Investigations Committee webpage.

Dr. Paul Czarapata and Dr. Kris Williams presented a PowerPoint on how KCTCS is addressing nonacademic barriers related to student success. Dr. Czarapata said that KCTCS has 16 independently accredited colleges with over 70 locations across the state, providing access for students who wish to stay close to home. KCTCS is an open access system that serves over 100,000 students annually.

Dr. Czarapata stated that KCTCS has experienced a decrease in enrollment during the pandemic, which might be due to some of the differences between its students and four-year college students. Nearly half of its students are over the age of 25 and a third have dependents. These students are more adversely affected by pandemic-related issues such as daycare

closures than their four-year university counterparts.

Dr. Czarapata identified disengagement as a nonacademic barrier. He explained that it can be difficult for community college students to build connections when there are no residence halls, food services, or sports like at universities. It is particularly difficult for online students. He said that it is difficult for faculty to get students to interact and feel engaged.

In response to the first recommendation from the committee's 2019 report, Dr. Czarapata said that KCTCS plans to leverage existing technology to collect nonacademic barriers from students as part of the advising and intake process, as opposed to collecting the information during registration. Collecting this type of information from students during the registration process can be viewed as intrusive.

In response to the second recommendation from the committee's 2018 report, Dr. Czarapata stated that KCTCS is using Starfish to develop and collect accurate measures of nonacademic program success. Starfish is a software program already used across all 16 colleges, which also allows students and staff to communicate in real time.

In response to the third recommendation from the committee's 2018 report, Dr. Czarapata explained that Starfish allows faculty to provide positive feedback or offer additional support to students in order to address nonacademic barriers. Starfish can also help students navigate the college environment by providing checklists and scheduling appointments for students, such as advising, counseling, or mental health issues. Such interaction has resulted in significant benefits in all levels of student success, according to Dr. Czarapata.

Dr. Czarapata discussed various partnerships with the community to provide services to students to provide food, mental health counseling, transportation assistance, child care, and financial aid and literacy. He also discussed programs designed for an older student base, such as a 24-hour welding program at the Ashland campus. Other examples include Sky Flex, which is an interactive hybrid online/in-person program teaching students advanced manufacturing skills.

Dr. Czarapata also discussed other student support related to flexible class schedules, as well as offering students laptops and mobile Wi-Fi hotspots during the pandemic, which also benefitted students who could not leave their homes.

Dr. Czarapata concluded his presentation by stating that he believes KCTCS is the solution to Kentucky's workforce shortage by awarding 98 percent of short-term certificates in Kentucky and training a high percentage of Kentucky's skilled workers, including nurses and others in the health care field. Nearly 80 percent of the system's credentials are in Kentucky's top five industry sectors. He also stated that that funding is needed to continue providing these types of services and support, including capital projects. He thanked the committee for the opportunity to present information about KCTCS.

The presentation slides are available on the Legislative Oversight and Investigations Committee webpage.

In response to a question from Senator Carroll, Dr.

Czarapata stated that the enrollment at KCTCS is down. He said that enrollment numbers tend to match the workforce participation rate, which is currently fairly low.

Dr. Williams explained that current enrollment is down around 2 percent compared to last fall. The decrease could be due to child care uncertainty, unemployment, or other reasons. She stated that the head count is a little odd due to the different types of enrollment. For example, dual enrollment is doing well while workforce classes—where the college partners with employers—are down. Enrollment for credential-seeking students is down at most colleges, although Gateway and a few of the other colleges have flat or have slightly increased numbers. Many are seeing severe drops in the enrollment of credential-seeking students.

In response to a question from Senator Carroll, Dr. Williams explained that Scholar Houses are Section 8 housing that are available onsite to single parents who are enrolled full time with young children. Scholar Houses are available at a few KCTCS campuses, including West Kentucky Community and Technical College. She noted that the Scholar House model is difficult to replicate due to the Kentucky Housing Authority not always having available Section 8 vouchers that can be attached to a facility. She stated that it is a wonderful and successful model that KCTCS is working to increase.

Dr. Williams said that KCTCS also has some Head Start partnerships. For example, the Henderson campus has two Head Start classrooms on campus where toddlers and infants can attend for full or half days. Some colleges have child care facilities, however, given liability issues relating to operating a child care facility, KCTCS tries to partner with organizations such as the Kentucky Housing Authority and Head Start. Dr. Williams added that KCTCS has a very strong early childhood program that provides student internships.

Senator Carroll suggested that the community colleges contact private providers to provide help with child care. Dr. Williams stated that community colleges are able to make partnerships with community organizations such as the United Way and other housing authorities.

In response to a question from Representative Fleming, Dr. Czarapata explained that KCTCS had some child care partnerships with the private sector before the pandemic. However, the pandemic reduced the maximum number of children allowed per daycare worker, so these partnerships are not as prevalent as they once were. Dr. Czarapata said that Representative Fleming's suggestion about partnering with private sector businesses with onsite child care facilities was a great point and that he would bring it up during his ongoing college tour, which includes meeting with business and industry partners.

Representative Fleming stated that child care seems to be a common theme not only for individuals going back to school, but also for individuals going back to work. He said it seems like the state could make an effort to support individuals going back to work by supporting child care facilities. He requested a summary of how KCTCS utilizes the private sector in this area.

Dr. Williams explained that if an employer partnering with KCTCS in its apprenticeships or work-and-learn experiences provides child care to its employees, then the KCTCS student in the program will have access to the child care provided by the employer. KCTCS is working with the Kentucky Chamber of Commerce on child care provider initiatives or recommendations. Child care is a profession that does not pay well, so it can be hard to bring child care workers into the field. She feels that there are opportunities to think about how to subsidize child care.

Dr. Williams discussed a program offered at Hazard Community and Technical College called "Tuesday Night Live" where a meal is offered every Tuesday night to students and their children. The parents then go to class while the early childhood development students take care of the kids and work with them and their homework. While this program was halted during the pandemic, it was a very successful family-oriented learning experience that she hopes will be duplicated across more campuses.

In response to a question from Representative Fleming about mental health as a barrier, Dr. Czarapata explained that the Counsel on Postsecondary Education (CPE) has several initiatives for addressing student mental health, including Mental Health First Aid, Mental Health 101, and access to online therapy. Students who are on campus can speak with advisors who can direct them to assistance for mental health. Students can receive support through online chats, phone calls, or, if necessary, by referral to local mental health facilities. Dr. Czarapata noted that the COVID-19 pandemic compounded the pressures in the lives of students, faculty, and staff. He said that KCTCS will continue these mental health programs even after the funding from CPE runs out because of their level of importance.

Representative Fleming thanked Dr. Czarapata and encouraged KCTCS to partner with facilities that offer mental health services throughout the state, and he also encouraged KCTCS to look into the telehealth services option.

Senator Carroll stated that, in an effort to increase the number of child care workers, federal funds are available so that anyone wanting to get a certification or a degree can essentially do so for free. He stated that owning and operating a child care facility is not a profitable business. He said that the entire structure of child care in the Commonwealth needs to change and that the legislature is going to have to be heavily involved. He said that child care facilities need to be tied into education and dollars need to be allocated to help these centers grow and improve.

Senator Nemes stated that Dr. Aaron Thompson from CPE is doing a fantastic job making students aware of what the degree they are attaining is actually worth. He asked KCTCS to provide a list of short-term certificates and the expected salary for each type of certificate. He also requested KCTCS provide a list of companies with registered apprenticeships that it is working with so that he can possibly assist in getting more companies on that list.

Senator Carroll explained that daycare facilities are receiving quarterly payments that will last until 2024. These payments are based on capacity as well as how much staff is paid. The higher staff salaries are,

the more funding employers receive. He expressed concern for daycare facilities when this money goes away in 2024 because each child care center will be stuck paying at that level and it will be difficult for them to survive at that point.

Representative Jenkins stated that she understands the issues discussed because she worked with at-risk students at Jefferson Community and Technical College for 10 years. Noting the trend of community colleges hiring adjunct instructors as a result of budget issues, she asked for specific areas that would benefit from funding in the next state budget. Dr. Czarapata said that KCTCS is working on a document that will include specifics about funding needs and the anticipated uses of funding received. KCTCS will send this document to the committee when it is completed.

Regarding the prevalence of adjunct instructors, Dr. Czarapata stated that KCTCS has difficulty retaining full-time faculty as KCTCS is frequently outbid by universities and the private industry. In terms of budgetary needs, he said that, in light of flat enrollment and the need for wraparound services, there are many areas that could use investments. He specifically noted the importance of investing in faculty.

Dr. Williams agreed about investing in faculty, specifically citing staffing shortages in KCTCS nursing programs. For example, she noted a need for investments in new equipment, such as simulators in the Allied Health program and the commercial driver license training centers. There is also a need to fund training and professional development for faculty. She also cited a need for funding wraparound services and overhead related to the apprenticeship program, in which 65 companies and 500 apprentices participate. Dr. Williams stated that KCTCS will send a list of participants in the apprenticeship program to the committee.

In reference to Senator Nemes' earlier question about the value of certificates, Dr. Williams said that she will send a recently released CPE report that lists the value of some of the certificates offered by KCTCS.

Representative Jenkins stated the community colleges play an important role in providing the state with trained employees as it rebounds from the pandemic.

Senator Carroll asked about the nursing programs available at KCTCS and the number of seats available in the nursing programs. Dr. Williams stated that all 16 KCTCS colleges have nursing programs and, since each campus program is managed separately, there are 23 nursing programs.

The Kentucky Board of Nursing caps the number of nursing seats that can be filled at any given time based on national accreditation standards such as classroom ratios and clinical seats. The current cap is 1,250 students. Last year, KCTCS graduated 905 students who were then ready to take the National Council Examination for Registered Nurses (NCLEX), which nursing students have to pass to practice professionally. Dr. Williams said that while the KCTCS nursing program is a 2-year associate's degree program, its graduates take the same NCLEX test as bachelor's degree program nurses. If a hospital needs a bachelor's degree nurse, KCTCS has partnerships

with the state's regional and research universities so that a nurse with an associate's degree from KCTCS can obtain a bachelor's degree.

Dr. Williams credited the Education and Workforce Development Cabinet for its work in addressing the nursing crisis. One potential barrier is the cap in nursing seats, which could be addressed by the addition of more faculty and clinical sites.

With regard to the availability of nursing program seats at KCTCS colleges, Dr. Williams said that the availability of nursing program seats at KCTCS varies depending on the school. Some colleges have more applicants than there are seats, while others, such as Madisonville, have more seats than candidates. Dr. Williams stated that retention is an issue in the nursing program. She said the nursing program is difficult and time-consuming, while the academic barriers discussed during the meeting, such as child care, can lead to retention issues. Wraparound services such as success coaches and tutors could be useful. The Kentucky Chamber's talent pipeline management process is working with hospitals and providers to aid in the recruitment and retention of nursing students.

Senator Carroll requested that KCTCS provide the committee with information related to the 23 nursing programs at KCTCS including trends in enrollment, graduation rates, retention, cap numbers, and student waiting lists. He also requested KCTCS to identify the resources needed to increase student numbers in the areas of staffing, expanding facilities, and meeting accreditation standards. Senator Carroll stated that nursing is an issue for further discussion.

In response to a question from Representative Bechler, Dr. Williams said that the Kentucky Board of Nursing sets the caps on the number of available nursing seats. Colleges and universities have the authority to increase their specific cap by a certain number without going before the board. Any increase above that requires the college or university to submit a proposal to the board showing that there are sufficient faculty, clinical sites, and resources available to increase the cap and meet the needs to those students.

In response to a follow-up from Representative Bechler, Dr. Williams stated that any college wanting to increase their cap must go before the education committee of the Kentucky Board of Nursing. The committee reviews the cap numbers along with retention and graduation data from the program site. The committee then takes the request to the full board.

Dr. Williams said that the leaders of the nursing programs at KCTCS work with the education committee and Kentucky Board of Nursing to ensure that they understand the differences between 2-year and 4-year nursing programs. The barriers faced by KCTCS students are different from those faced by 4-year program students, so KCTCS may not always have retention numbers that are deemed appropriate by the board.

Representative Bechler stated that he hopes the board is receptive to requests from the 2-year colleges in light of the reported nursing shortages. In response to Representative Bechler's question about the 900 nursing student graduates last year, Dr. Williams said that those students are called associate degree nurses who are eligible to sit for the NCLEX and

become registered nurses. KCTCS also has a program for licensed practical nurses (LPNs), who are state-registered nursing aides who work in long-term care facilities. The LPN registry is often the first step on a nursing pathway. Although the registry includes a lot of students, some of those students are not going to work in a long-term care facility as they are preparing for nursing school.

In response to a question from Representative Bechler, Dr. Williams confirmed that the 905 graduates discussed earlier are associate degree nurses who are eligible to become registered when they pass the NCLEX. Dr. Williams added that KCTCS nursing programs have high pass rates for the NCLEX. In response to Representative Bechler's request for details about the NCLEX pass rates, Dr. Williams stated that she did not know the success rate by college or the overall average, but that she will provide that information to the committee.

In response to a question from Representative Bechler about the number of KCTCS students with 2-year degrees who go on to get a 4-year degree, Dr. Czarapata said that she will get that information to the committee. Representative Bechler also requested total nursing program graduate numbers.

Senator Carroll and Dr. Williams briefly discussed whether nursing program students are required to obtain certified nursing assistant certifications.

Senator Thomas asked how KCTCS plans to comply with Section 6 of Senate Bill 2 from the 2021 Special Session, which mandated that colleges and universities produce public service announcements and develop a public awareness campaign related to the effects of COVID-19 and the benefits of receiving a COVID-19 vaccination. Dr. Czarapata stated that while there have been initial discussions about it, an effective systemwide marketing campaign may be limited by a lack of funds. He noted that KCTCS and the state universities will participate in a CPE-coordinated program about the value of an education. He anticipates that this program will touch on the pandemic. He said that while some areas in the state, such as Lexington, have good vaccination rates, there are other pockets of the state where even KCTCS faculty and staff are hesitant to get vaccinated.

Regarding the nursing issue, Senator Thomas recommended that the KCTCS system office emulate the nursing program at Bluegrass Community and Technical College in Lexington.

Senator Carroll pointed out that the Kentucky Board of Nursing will need to be involved going forward in any discussion about the nursing crisis, specifically as it relates to caps. Accreditation requirements and investments in nursing faculty and facilities will also have to be considered. In response to Senator Carroll's questions about nursing program schedules, Dr. Williams said that schedules vary across KCTCS's 23 nursing programs. However, most of the nursing programs are day programs with a few evening classes offered. KCTCS is trying to move some of the didactic and lecture classes online while keeping clinical classes in-person. Dr. Williams noted that the nursing programs are 10-month programs, which allows the nursing faculty time to work in hospitals. This enables faculty an opportunity to maintain their licenses and make additional money. Although more

and more men are entering the nursing field, the nursing program primarily consists of females who often benefit from having the summer off from a full course load as it coincides with children being out of school.

In response to a question from Senator Carroll, Dr. Williams said that the medical programs offered by KCTCS colleges are not uniform throughout the state. The programs offered at individual colleges are based on the number of job openings in the community each college serves. Dr. Williams said that that they will send a list of the medical programs offered at each KCTCS college.

Representative Fleming requested an inventory of any aviation-related programs offered by KCTCS, in particular programs that have ties with local high schools.

In response to a question from Senator Carroll, Dr. Czarapata said that KCTCS does have a standardized process for when a student wishes to withdraw from school. While the school does intervene in an attempt to keep a student from withdrawing, there are instances where the student has no other option but to withdraw.

Senator Carroll closed by agreeing with Representative Jenkins' earlier comment that KCTCS is crucial to the success of the Commonwealth, and its role will increase as more industry comes to the state. He complemented KCTCS's ability to adapt to the needs of the local areas served by the individual colleges.

The meeting was adjourned at 2:20 p.m.

PUBLIC PENSION OVERSIGHT BOARD

**Minutes of the 7th Meeting
of the 2021 Interim
September 21, 2021**

Call to Order and Roll Call

The 7th meeting of the Public Pension Oversight Board was held on Tuesday, September 21, 2021, at 3:00 PM, in Room 154 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Robby Mills, Dennis Parrett, and Mike Wilson; Representatives Derrick Graham, Jerry T. Miller, Jason Petrie, Russell Webber, and Buddy Wheatley; Joseph Fawns, Mike Harmon, John Hicks, and Sharon Mattingly.

Guests: Jim Carroll, President, Kentucky Government Retirees; David Eager, Executive Director, Kentucky Public Pensions Authority, Danny White and Janie Shaw GRS Consulting; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement System; and Bo Cracraft, Executive Director, Stephen LeLaurin, Chair, and Ben Allison, Board Member, Judicial Retirement Investment Committee, Judicial Form Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, and

Angela Rhodes.

Approval of Minutes

Representative Webber moved that the minutes of the August 30, 2021, meeting be approved. Senator Mills seconded the motion, and the minutes were approved without objection.

Discussion on Retiree Cost of Living Adjustments (COLA)

Jim Carroll, President, Kentucky Government Retirees (KGR), began his presentation stating that KGR is an organization founded 10 years ago and now represents 15,000 retired and active members. While being more concerned for the efforts to strengthen the fiscal status of the Kentucky Public Pensions Authority (KPPA) funds, KGR has never advocated for COLAs even though there has not been any COLAs granted for about 10 years.

Mr. Carroll emphasized that over the past decade the inflation rate has been relatively low, while the cost of living has risen about 14 percent. He added that most other public pension plans around the country provide a COLA for their members as a hedge against inflation. He added that the pension reform bill, Senate Bill 2 (RS 2013), provides for a pre-funded COLA adjustment underwritten by a General Fund allocation.

Mr. Carroll reminded the board that KPPA experienced the highest investment returns in its history, realizing a gain for its combined funds of \$3.15 billion over last fiscal year with a rate of return exceeding 20 percent across the board. KGR is proposing, as an alternative to a General Fund allocation, a time-limited COLA financed from a small portion of that gain. A 1.5 percent COLA would cost roughly \$33 million annually to be paid for about five years. The cost would represent a fraction of a percent of the asset increase experienced by KPPA last year.

In closing, Mr. Carroll stated that KGR believes a COLA would be an investment in Kentucky's economy. According to the National Institute on Retirement Security, every dollar spent to support public pensions in Kentucky produces \$1.35 in spending in state.

Senator Higdon commented that a COLA would be a huge benefit for those who have not received one for some time and the matter deserved consideration of the information presented.

In response to a question from Representative Graham, Mr. Carroll stated that he had met with Mr. Eager and has made a public comment to the KPPA board of trustees and deferred to Mr. Eager on comments from KPPA. In response to a follow-up question, Mr. Carroll stated that a 1.5 percent COLA would cost about \$33 million. In response to a second follow-up, Mr. Carroll stated that the last COLA was July 1, 2011. Representative Graham commented that with a cost analysis he would support the proposal.

Representative DuPlessis commented that he agrees that the pension systems need to be solid and believes a COLA is important. He stated that the cost of \$33 million a year with compounding interest needs to be understood in more detail. Further, he expressed concerns about retirees having to give up the COLA after five years.

Representative Miller commented that he believes something needs to be put in statute saying, if inflation reaches a certain benchmark, that a COLA be granted. Mr. Carroll responded that some states base a COLA contingent on the performance of their investments.

Representative Graham commented that he hopes that the General Assembly will take the step to show appreciation to the service provided by the retirees.

Representative DuPlessis commented that he agrees with Representative Graham and is open to ideas.

Biennial Budget Request – Kentucky Public Pensions Authority

David Eager, Executive Director, KPPA, began his presentation commenting on the COLA. He stated it has been a record year regarding investments and that COLAs are being discussed in several states. He agreed with Mr. Carroll that a 1.5 percent COLA would cost \$33 million per year. However, the gains for this year are likely a one-time event and will be smoothed over multiple years. KPPA is prepared to give further information on this matter at a future meeting of the PPOB. Janie Shaw, GRS Consulting (GRS), added that this year's investment returns are not considered excess asset returns to be used to pay for benefits. Investment returns are inherently volatile, and one may expect some years to be higher/lower than the assumed return. As such, GRS's position, especially given the funded status, would be that any benefit enhancements be fully paid. Mr. Eager added that Mr. Carroll's proposal would be pre-funded.

In response to a question from Representative DuPlessis regarding how Wisconsin adjusts COLAs to share investment gains with their retirees as the market fluctuates up and down, Mr. Eager responded that he will gather the information for the next PPOB meeting.

In response to a question from Auditor Harmon regarding what the fully funded cost would be at the 1.5 percent, Ms. Shaw responded that it would roughly be in the \$350 million range.

Mr. Eager proceeded with the budget request portion of his presentation. He noted that looking back from 2007 to 2021, for 14 out of 15 of those years, the pension cost to the state was either flat or increased. However, in fiscal year 2023, it will be going down.

Mr. Eager discussed the two cost components: normal cost and the unfunded liability amortization. Normal cost is the estimated cost for benefits earned by active members during the fiscal year calculated as a percent of payroll. The unfunded liability amortization is the cost to pay this year's portion of the unfunded liability (principal and interest). For most of the plans, the unfunded liability amortization is also calculated as a percent of payroll. For the Kentucky Employees Retirement System (KERS) nonhazardous plan, HB 8 provides that the payment be projected in dollars based on each employer's share of the unfunded liability as of the 2019 valuation.

Mr. Eager discussed the funded status for the pension assets and insurance assets as of June 30, 2020, if all Kentucky Retirement Systems and County Employees Retirement System (CERS) funds were combined. There were \$12.7 billion in pension assets at a funded ratio of 33.6 percent for all combined pension funds and \$5.7 billion in insurance assets at

a funded ratio of 69.8 percent for all combined retiree health funds.

Mr. Eager discussed the normal cost rates for pension and insurance for fiscal year 2022. He provided the employer's normal cost rate for insurance for all three tiers for each plan. Mr. Eager also discussed the average normal costs, unfunded liability costs, and total normal and unfunded liability costs. For fiscal years 2023 and 2024, the total employer required contributions for the KERS hazardous plan is estimated at 31.62 percent of pay, down from 33.43 percent in FY 2022; for the State Police Retirement System is 141.77 percent of pay, down from 146.06 percent in FY 2022; for the CERS nonhazardous plan is 26.93 percent of pay, down slightly from 26.95 in FY 2022 with phase-in complete; and for the CERS hazardous plan the employer rate is 49.65 percent of pay, up from 44.33 percent in FY 2022 with one more year of the statutory phase-in. For the KERS nonhazardous plan, the executive branch estimated employer calculation for fiscal year 2023 is normal cost of 10.10 percent of pay plus a unfunded liability amortization payment of \$766,971,308 from all fund sources, down from \$784,690,828 in FY 2022. For FY 2023 for all employers, the total estimated unfunded liability amortization is \$1,002,658,642 from all fund sources, down from \$1,022,724,699 in FY 2022.

In response to a question from Representative Wheatley, Danny White, GRS, stated that it is reasonable to assume that the estimated amortization payment for the executive branch's share of the unfunded liability is expected to be the same or level dollar. The value is consistent with the \$784 million for fiscal year 2022, and the reduction to \$767 million is a result of market performance/investment. In response to a follow-up, Mr. White stated that as a result of statutory changes requiring a biennial budget, the FY 2023 will also apply to FY 2024.

Senator McDaniel commented that he wanted to caution that the systems are a ways off from being at a healthy funding level, and the General Assembly must maintain the commitment to fully fund and to possibly consider putting more money into the base funding.

Biennial Budget Request – Teachers' Retirement System

Beau Barnes, Teachers' Retirement System (TRS), began his presentation with estimates for the system's 2022-2024 biennial budget request, which is preliminary as of September 20, 2021. He noted that the fiscal year 2024 estimate is calculated as a result of the actuarial valuation for fiscal year 2021, which is not yet final.

In response to a question from Representative DuPlessis, Mr. Barnes confirmed that his presentation would include data that takes into consideration the recent TRS board decision to phase-in a new investment return assumption.

Mr. Barnes continued discussing the preliminary budget request for the fiscal year 2023 and 2024. He went over total annual expenditures in budget, additional actuarially determined employer contributions (ADEC), TRS budget actual/requested, fixed statutory contribution through SEEK funding in the Kentucky Department of Education (KDE)

budget, and state expenditure for debt service. In particular, he noted increases to the ADEC as a result of changed assumptions from the experience study, including changes to the mortality tables, lowering payroll growth to 2.75 percent, and reducing the investment return assumption to 7.1 percent. He noted that TRS's actuary recommended smoothing in the employer contributions as a result of the investment return assumption over a five-year period. The total estimated TRS budget request for FY 2023 is \$1.2503 billion and for FY 2024 is \$1.3383.

In response to a question from Representative DuPlessis, Mr. Barnes stated the additional employer contributions required for FY 2024 are blended over a five year period as suggested by the actuary as it relates to the investment return assumption. Representative DuPlessis commented that 10 percent of the entire state general fund budget will be funding the \$1.3 billion for educator pensions for FY 2024.

Mr. Barnes discussed the amortized payments for past expenditures for sick leave, supplemental COLAs, and non-single subsidies for health insurance, often referred to as "green box" dollars. He provided the annual payments for FY 2022 and the estimated balances as of June 30, 2022, for each category.

In response to a question from Senator Mills, Mr. Barnes stated that there would have been an additional increase for the additional employer contributions required for FY 2024 of approximately \$150 to \$200 million, if the numbers were not smoothed. In response to a follow-up, Mr. Barnes stated that when teachers retire, by KDE statute, they may be compensated with a lump sum payment by the school district for their unused sick leave at 30 percent of their daily rate. The district is not required to make the payment or pay the 30 percent, but all districts do pay. At that time, the lump sum payment is added to the retiring teacher's last year annual salary for retirement calculation purposes.

In response to a question from Representative DuPlessis, Mr. Barnes stated that the amortized payment schedule is changing as a result of the non-single subsidy and some of the supplemental COLA debt rolling off, which shows a reduction.

In response to a question from Senator Higdon, Mr. Barnes stated that the additional cost for sick leave is about \$38 million a year for the actuarial cost to the state if paid in lump sum. However, it is not being paid in lump sum, so there is an interest of 7.5 percent being applied. In response to a follow-up regarding the annual increase in ADEC funding, Mr. Barnes stated that the increase from FY 2022 to FY 2023 is up about \$50 million, and then from FY 2023 to FY 2024, with starting to implement assumption changes, there is an increase of about \$77 million.

In response to a question from Representative DuPlessis, Mr. Barnes stated that the annual sick leave cost remains more stable with modest fluctuations from year to year. TRS staff has a history of the sick leave payments that it could provide to the PPOB.

In response to a question from Senator Mills, Mr. Barnes stated that the assumed rate of return, which is 7.5 percent but will now change to 7.1 percent, is also the interest that TRS may earn on the "green box" dollars.

Senator Higdon added that, at last month's meeting,

the PPOB was trying to find a cheaper interest rate for paying off the sick leave balance, and believes TRS can find a rate better than 7.1 percent.

Biennial Budget Request – Judicial Form Retirement System

Bo Cracraft, Judicial Form Retirement System (JFRS), began his presentation with a few organizational updates, including announcing two new board of trustee members, Scott Brinkman and Ben Allison. Mr. Allison introduced himself, describing his 27 years of investment experience and status as a Chartered Financial Analyst.

Mr. Cracraft continued by announcing that, at its April 2021 meeting, the board of trustees adopted the results of the October 2020 Pension Plan Experience. Changes from the study included minor adjustments to the timing to expect retirements and turnover and an update to mortality tables. The board also revised the current discount rates for the cash balance tier plans by adopting the same 6.5 percent rate as currently utilized for the legacy tier plans.

Mr. Cracraft discussed investment performance and stated that the returns have been good. Mr. LeLaurin added that JFRS's investment manager, Hilliard Lyons, has merged with the company Baird Financial. Mr. LeLaurin discussed the investment performance as of June 30, 2021, for the Judicial Retirement Plan (JRP) and the Legislative Retirement Plan (LRP).

Lastly, Mr. Cracraft provided a cash flow slide for informational purposes, and then discussed the preliminary budget requests. For the LRP, the preliminary budget request is \$0 as a result the change in the return assumption from 4 percent to 6.5 percent and the combination of the legacy and cash balance tiers for investment purposes. The preliminary budget request for the 2022-2024 biennium for JRP is \$4.5 million or 14.7 percent of pay, reduced from approximately \$7.15 million or 23.5 percent of pay for the 2020-2022 biennium.

Representative Miller commented that he is working on a bill request for assumption changes to bifurcate between demographic and financial. Mr. Cracraft stated that JFRS has no pro or con comment regarding such a legislative change. However, JFRS actuarial advisors has recommended reviewing its funding policy, which is statutory and different than other systems. In a follow-up question, Mr. LeLaurin stated JFRS does not fortify with international stocks, it invests in purely domestic stocks, but many of the companies it does invest in are global companies.

With no further business, the meeting was adjourned.

SEVERE MENTAL ILLNESS TASK FORCE

**Minutes of the 4th Meeting
of the 2021 Interim
September 21, 2021**

Call to Order and Roll Call

The 4th meeting of the Severe Mental Illness Task Force was held on Tuesday, September 21, 2021, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order,

and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Ralph Alvarado, and Stephen Meredith; Representatives Ken Fleming, Melinda Gibbons Prunty, and Lisa Willner.

Guests: Wendy Morris, Commissioner, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Stephanie Craycraft, Deputy Commissioner, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Dr. Allen Brenzel, Clinical Director, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Tanya Dickinson, AOT Program Grant Director, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Leslie Hoffmann, Chief Behavioral Health Officer, Kentucky Department for Medicaid Services; Veronica Judy-Cecil, Deputy Commissioner, Kentucky Department for Medicaid Services; Terry Nunley, Jailer, Muhlenberg County Detention Center; Andrea Blake; Wade Shoemaker, Chief Deputy, Muhlenberg County Sheriff's Department; Representative Kim Moser

LRC Staff: DeeAnn Wenk, Samir Nasir, Elizabeth Hardy, and Amanda DuFour

Approval of August 4, 2021 Minutes

Senator Alvarado moved to approve the minutes from August 4, 2021. The motion was seconded by Representative Gibbons-Prunty. The minutes were approved.

Tim's Law

Wendy Morris, Commissioner of the Kentucky Department of Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) discussed Tim's Law that passed in 2017. It provides a mechanism for involuntary outpatient treatment known as assisted outpatient treatment (AOT). Tim's Law could only be utilized in December 2020 after the DBHDID received a grant of \$4 million from the Substance Abuse and Mental Health Services Administration (SAMHSA) to rollout the pilot program over the next four years.

Next, she discussed the grant service partners. The first being SAMHSA who provided the grant to the department, the four CMHCs located in Kentucky, and the Department for Public Advocacy who developed the client rights statement. Another partner is the UK College of Social Work who will provide evaluation and analysis of the effectiveness of the program in conjunction with SAMHSA.

Commissioner Morris gave an overview of the treatment services, provided client specific data for the first six to seven months of the pilot rollout, and discussed future implementations of the AOT program. She recommended that this program should be utilized in all Kentucky state hospitals and CMHCs but should be done at a pace so they can ensure AOT is done correctly and clients receive the necessary supports. The pilot project is intended to reveal what resources are needed and expand it over the Commonwealth. CMHCs would need adequate

resources for components that are not covered by Medicaid or other payers.

In response to Senator Meredith, Commissioner Morris explained as they expand the program over the next four years, they should see an increase in clients served. She anticipates the data report for February 2022 will provide a clearer picture of the amount of funding they would need to continue to provide these services once the grant ends. Senator Meredith commented that their first priority to getting individuals the services they need, but he is also interested in programs that generate a return on investment.

In response to Senator Alvarado, Commissioner Morris explained that since Tim's Law was passed in 2017, only one or two individuals have fully utilized Tim's Law. This is partially due to not receiving funding until July of 2020 and the official pilot program rollout December 2020.

In response to Representative Willner, Commissioner Morris explained that the SAMHSA grant should provide enough funding through the following year, but by the third year the department will have to seek additional funding.

Chairwoman Kerr commented that she went to a NAMI meeting in 1998 and met with Faye Morton and Tim Morton, the parents of Tim Morton, whose Tim's Law is named after, before his passing.

Severe Mental Illness Populations and Hospitalizations

Dr. Allen Brenzel, Clinical Director of Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities discussed the SMI population and hospitalizations. Dr. Brenzel discussed the state hospitals expenditures and stated that it does cost a lot of money to run a hospital. Appalachian Regional Healthcare (ARH) is funded differently, because it is a distinct part of a regular hospital and is ineligible for Medicaid reimbursement. The Medicaid Institutions for Mental Disease (IMD) exclusion prohibits the use of federal Medicaid funds to provide care to most patients in mental health and substance use disorder residential treatment facilities larger than 16 beds. Historically, the state hospitals have been funded through state general funds and also receive a small amount of federal funding through the chair of provisions of Medicaid, a small amount of funding from managed care organizations, and other payers.

Dr. Brenzel explained that the hospitals primarily serve individuals who are on involuntary civil commitments under statute KRS Chapter 202A which requires the individual to have a mental illness, is a danger to themselves or others, cannot be cared for in a less restrictive environment. They have to be able to benefit from hospitalization. State hospitals do treat substance use disorder and intellectual disabilities when it is co-occurring with a SMI. Kentucky also does not operate any mental hospital for children or adolescents.

Dr. Brenzel presented statistics relating to patients and hospitals to the committee and he discussed barriers for people with SMI. To try to increase the number of follow-up appointments, hospitals and CMHCs utilized telehealth so the patient could meet the provider or prior to COVID, the provider would

come to the hospital and meet with the individual in-person. Transportation is also a barrier so often times the patient is driven from the hospital to their first appointment the day of discharge. Another barrier is unstable housing. Assertive community treatments (ACT) is another tool utilized to engage with individuals in the community rather than waiting for individuals to come to them. ACT teams are a great resource but maintain staffing is challenging and deploying teams to rural areas is expensive.

Lastly, Dr. Brenzel discussed his recommendations for the committee. First, investing in identifying ultra-high risk individuals and early prevention, enforcing mental health parity, funding to create a recovery focused system of care, and new payment models to make CMHCs viable. Other recommendations include diverting people from the justice system, making sure individuals are maintaining jobs and schooling, and ensuring people have stable housing.

In response to Representative Moser, Dr. Brenzel stated that ACT teams can be made up of as many as 10 individuals, but are usually made up of four or five professionals. They typically have a targeted case manager, peer support specialist, a community support associate, therapist, and physician as part of an ACT team. ACT teams accept referrals of individuals who may benefit from ACT. ACT teams are not utilized in all of Kentucky's CMHCs.

In response to Representative Fleming, Dr. Brenzel stated that total about 20 percent of individuals are re-admitted and that he believes there is not sufficient support in the community for those that have a high level of severity with their mental illness. Individuals often do not remain stabilized once they leave hospitalization because of adherence to medication and treatment. In response to Representative Fleming's next question, he explained that they pay for transportation with their facility budget. In response to Representative Fleming's last question, Dr. Brenzel explained that he believes that although Kentucky was progressive and early in adopting parity requirement, the issue has been enforcing them.

In response to Senator Alvarado's questions, Dr. Brenzel explained that there is a workforce issue and a lack of psychiatrists and that could be why psychiatrists are not visiting long term care facilities. That is why there are not long term care beds in state mental hospitals because of the workforce shortage.

In response to Representative Gibbons Prunty, Dr. Brenzel stated that he was not implying a change in statute regarding involuntary commitment of patients. He explained that it is a societal question if you can force people take medications. There is court in all of their facilities and ultimately it will be up to the judge whether a person is released or not from a state hospital.

In response to Representative Willner, Dr. Brenzel defaulted to Commissioner Morris' who stated that Tim's Law will only be implemented in parts of Kentucky due to lack of funding to implement Tim's Law statewide.

Severe Mental Illness Wavier Development

Leslie Hoffmann, Chief Behavioral Health Officer of the Kentucky Department of Medicaid Services (KDMS) discussed SMI and serious emotional

disturbance (SED) waiver options for the future. In 2020, KDMS started research on SMI and SED waivers. This year, the department hired a dedicated staff, completed training, and have participated in collaborations. The Center for Medicare and Medicaid Services (CMS) is recommending that an SMI/SED waiver be added under the same authority as the approved SUD 1115 waiver. KDMS also applied for and was granted technical assistance with the State Health and Values Strategies that will begin October 20, 2021.

Miss Hoffmann discussed the upcoming initiatives KDMS has for SMI/SED waiver. One initiative rolling out in January 2022 is the Certified Community Behavioral Health Clinics (CCBHC).

Another initiative is their collaboration with CMS housing as well as participating in a housing collaborative on a federal level over the last nine months. The federal housing collaborative was initially only relating to SUD, but they soon realized that it was necessary to include SMI and SED too. She also discussed the Home and Community Based Services Enhanced Federal Medical Assistance Percentages Request recently submitted to CMS.

In response to Senator Alvarado, Ms. Hoffmann explained that the CCBHCs was applied for in 2016 for four of the CMHCs and it is different than receiving a grant. She stated that they would receive an estimated \$800,000 for the Mobile Crisis Planning Grant.

In response to Representative Willner, Ms. Hoffmann explained that the difference between SMI and SED is an individual has to be over the age of 18 to be considered having a SMI, while individuals under the age of 18 are considered SED.

Severe Mental Illness Issues with Prison and Jail Inmates

Andrea Blake testified about her personal experience having her sister-in-law that struggles with SMI and the justice system due to her mental illness, coexisting SUD, and the possibility of her having an intellectual disability as well.

Terry Nunley, Jailer of the Muhlenberg County Detention Center testified about the issues he has witnessed people with SMI face in the criminal justice system. He stated that from his perspective, many individuals are locked up due to a mental illness and the justice system is making criminals out of people who struggle with SMI. Officials that work in the detention center are not trained to deal with the SMI population that are in their jails despite having a 24 hour nursing staff on the premises who also are not specialized in SMI.

Chief Deputy Wade Shoemaker of Muhlenberg County Sheriff's Department agreed with Jailer Nunley's comments. He stated that he is not sure if law enforcement should be dealing with individuals who struggle with SMI because sometimes it may escalate the situation. He hopes that the system can be fixed and that people who are mentally ill can get the proper care necessary.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

**Minutes of the 7th Meeting
of the 2021 Interim
September 16, 2021**

Call to Order and Roll Call

The 7th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, September 16, 2021, at 10:30 AM, in Room 129 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives George Brown Jr., Kim King, Phillip Pratt, Brandon Reed, and Rachel Roberts.

Guests: Brian Lacefield, Executive Director, Kentucky Office of Agricultural Policy (KOAP); Bill McCloskey, Deputy Executive Director, KOAP; Dale Dobson, Farm and Home Safety Program Administrator, Kentucky Department of Agriculture (KDA); Dave Morris, Deputy Executive Director, Office of Agricultural Marketing, KDA; Dr. Cheryl Witt, PhD, RN, Assistant Professor, University of Louisville School of Nursing; and Madyson Planck, Kentucky Future Farmers of America, Prepared Public Speaking Contest Winner.

LRC Staff: Stefan Kasacavage, Nathan Smith, Kelly Ludwig, and Rachel Hartley.

Kentucky Office of Agricultural Policy Report

Brian Lacefield stated Kentucky will be hosting the National Association of State Departments of Agriculture in September 2021, and provided a brief personnel update.

Bill McCloskey described the Agricultural Development Board's projects for August under the program. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Deceased Farm Animal Removal, Next Generation Farmer, Shared-Use Equipment Program, and Youth Agriculture Incentives Program (YAIP).

The requested program amendments discussed included:

Trigg County Soil Conservation District requested an additional \$79,000 in Trigg County funds for CAIP. The board recommended approval, which would bring the program total to \$146,142.

Bullitt County Conservation District requested an additional \$52,000 in Bullitt County funds for CAIP. The board recommended approval, which would bring the program total to \$142,577.

Henry County Cattlemen's Association, Inc. requested an additional \$13,000 in Henry County funds for the NextGen Program. The board recommended approval, which would bring the program total to \$58,000.

Henry County Cattlemen's Association, Inc. requested an additional \$5,000 in Henry County funds

for YAIP. The board recommended approval, which would bring the program total to \$20,000.

Henry County Cattlemen's Association, Inc. requested an additional \$70,000 in Henry County funds for CAIP. The board recommended approval, which would bring the program total to \$287,000.

Carroll County Conservation District requested an additional \$4,000 in Carroll County funds for CAIP. The board recommended approval, which would bring the program total to \$162,084.

Marion County Conservation District requested an additional \$30,000 in Marion County funds for CAIP. The board recommended approval, which would bring the program total to \$180,000.

The projects discussed included:

The Hickman County Board of Education was approved for up to \$42,909 in Hickman County funds for equipment and teaching materials to revitalize training for student agriculture workforce skills.

The Kentucky Horse Council, Inc. was approved for up to \$200,000 in state funds to contract with the National Agricultural Statistics Service to complete an equine industry survey.

Nelson County Farm Bureau was approved for up to \$2,188 in Nelson County funds to purchase grain bin rescue equipment for the Nelson County Fire Department.

Corner Shop Butchery was denied \$1,500 in Lawrence County funds to build a new processing facility due to the applicant's failure to respond to the committee's request for information and documentation.

Upton Meats and Custom Processing, LLC was denied \$138,238 in state funds for site preparation to build a processing facility, and to buy processing equipment due to the applicant's failure to respond to the committee's request for information and documentation.

In response to Representative Roberts, Mr. McCloskey stated Next Generation Farmer is a program developed for beginning farmers that would otherwise have to compete with established farmers through CAIP. All farmers are eligible for programs offered by KOAP regardless of their background. Kentucky State University has a small grant program that targets small scale farmers.

In response to Representative Reed, Mr. McCloskey stated \$6 million has been awarded in the last 18 months to 30 meat processing facilities. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided one-third of the funds.

In response to Representative Dossett, Mr. McCloskey stated youth are eligible for funds to purchase livestock, show equipment, or a small scale greenhouse through the Youth Agricultural Incentives Program.

Rural Mental Health and Suicide Prevention Pilot Program

Dave Morris stated the Cabinet for Health and Family Services (CHFS) received an appropriation of \$500,000 from the state executive branch budget bill passed in the 2020 Regular Session. The Kentucky Department of Agriculture received a \$500,000 grant from the United States Department of Agriculture that will be used to fund public marketing campaigns,

small grants for farmer appreciation efforts, peer-to-peer mobile support, and support to young farmers.

Dr. Cheryl Witt stated the Kentucky Department of Agriculture has developed a new campaign called Raising Hope. The campaign will promote the health and safety of Kentucky's farmers and farm families by developing community-based programming, education, communication, and support systems to reduce stress, depression, and suicide rates. The campaign has many programs including: "Question, Persuade, and Refer" (QPR) training, the 988 Crisis Call Center, the Challenge Coin Initiative, and small grants for farmer appreciation.

From May 2020 through March 2021, the Farm

and Ranch Stress Assistance Network provided QPR training to 278 individuals in Kentucky. Between July 2022 and June 2023, it is projected that Kentucky will receive 42,600 inbound calls, place 2,100 outbound calls, have 28,700 chats, and receive 1,700 text messages through the 988 Crisis Call Center.

Dr. Susan Jones conducted focus groups with farmers across Kentucky to discover where funds should be directed. Based on the research conducted, the funds should be concentrated in increasing awareness and reducing the stigma of mental health issues, and showing farmers appreciation.

Dale Dobson provided a brief overview of the Challenge Coin Initiative and several legislative members accepted the challenge.

In response to Representative Roberts, Dr. Witt stated that calls to the 988 Crisis Call Center come from both rural and urban parts of the state. Dr. Witt also stated that increased access to telehealth has allowed more Kentuckians to utilize mental health resources.

In response to Representative King, Dr. Witt stated due to limited funding the programs are targeting high priority counties.

Madyson Planck delivered her award-winning speech in relation to rural mental health and suicide prevention.

There being no further business, the meeting was adjourned.



2022 Prefiled Bills

BR22 - Representative Kim Banta
(6/2/2021)

AN ACT relating to crimes and punishments.
Repeal KRS 510.100, relating to sodomy in the fourth degree; amend KRS 194A.380 and 532.031 to conform.
(Prefiled by the sponsor(s).)

BR40 - Representative Jerry Miller, Representative Brandon Reed
(8/11/2021)

AN ACT relating to changes in pension payments due to overtime worked during a local emergency and declaring an emergency.
Amend KRS 61.598 to exempt from the anti-pension spiking provisions any overtime directly attributable to a local government emergency in which the Governor calls in the Kentucky National Guard; make amendments retroactive to May 30, 2020; EMERGENCY.
(Prefiled by the sponsor(s).)

BR43 - Representative Buddy Wheatley
(6/17/2021)

AN ACT relating to cremation.
Amend KRS 367.97501 to create definition for “alkaline hydrolysis,” amend the definition of “cremation” to include “alkaline hydrolysis,” and amend the definition of “cremation container” to include alkaline hydrolysis; amend KRS 367.97514 to correct statutory reference; make conforming amendment to KRS 316.010.
(Prefiled by the sponsor(s).)

BR45 - Representative Lisa Willner, Representative Kim Banta, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Attica Scott
(6/1/2021)

AN ACT relating to civil rights.
Amend KRS 344.010 to include definitions for “sexual orientation” and “gender identity”; amend KRS 344.020, relating to the purpose of the Kentucky’s civil rights chapter, to include a prohibition against discrimination because of sexual orientation and gender identity; amend KRS 344.025, 344.040, 344.050, 344.060, 344.070, and 344.080, relating to prohibited discrimination in various labor and employment practices, to include sexual orientation and gender identity; amend KRS 344.100 and 344.110 to conform; amend KRS 344.120 and 342.140, relating to prohibited discrimination in places of public accommodation and advertisements therefor, to include sexual orientation and gender identity; amend KRS 344.170, 344.180, 344.190, 344.300, and 344.310, relating to the state and local human rights commissions, to include prohibition of discrimination on the basis of sexual orientation and gender identity in the scope of their powers and duties; amend KRS 344.360, 344.370, 344.380, and 344.680, relating to prohibited discrimination in certain housing, real estate, and other financial transactions, to include sexual orientation and gender identity; amend KRS

344.367, relating to prohibited discrimination in certain insurance sales, to include sexual orientation and gender identity; amend KRS 344.400, relating to prohibited discrimination in certain credit transactions, to include sexual orientation and gender identity; make various technical amendments; amend KRS 18A.095 to conform.
(Prefiled by the sponsor(s).)

BR49 - Representative Lisa Willner, Representative Kim Banta, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Attica Scott
(6/1/2021)

AN ACT relating to youth mental health protection and declaring an emergency.
Create a new section of KRS Chapter 210 define sexual orientation and gender identity change efforts, mental health professional, and public funds; to prohibit mental health professionals from engaging in sexual orientation and gender identity change efforts with a person under 18 years of age or a person who is 18 years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510; require violations to be subject to board discipline; prohibit public funds from being used for sexual orientation and gender identity change efforts; create a new section of KRS Chapter 211 to require the Department for Public Health to develop, produce, and disseminate educational materials regarding sexual orientation and gender identity change efforts; permit the cabinet to contract for the educational materials; add the short title “Youth Mental Health Protection Act”; EMERGENCY.
(Prefiled by the sponsor(s).)

BR53 - Representative Danny Bentley, Representative Patti Minter
(8/4/2021)

AN ACT relating to the establishment of emergency insulin programs and declaring an emergency.
Create various new sections of KRS Chapter 211 to define terms; establish the Urgent-Need Insulin Program and the Continuing Access to Insulin Program; establish eligibility guidelines; establish the application process; establish the process by which insulin is dispensed to eligible individuals; establish the responsibilities of insulin manufacturers; establish the responsibilities of the Kentucky Board of Pharmacy for administering the program; require manufacturers to annually report certain information to the board; require the board to report certain information to the General Assembly upon request; establish penalties; EMERGENCY.
(Prefiled by the sponsor(s).)

BR60 - Representative Joseph Fischer, Representative Melinda Prunty, Representative Lynn Bechler, Representative Mark Hart, Representative Kim King, Representative Savannah Maddox, Representative Felicia Rabourn, Representative Brandon Reed, Representative Richard White
(6/1/2021)

AN ACT relating to public education and declaring an emergency.
Amend KRS 158.183 to require a local board of education or board of a public charter school to ensure that no public school or public charter school offers any classroom instruction or discussion that incorporates designated concepts related to race, sex, and religion; provide that a school district employee that violates the prohibition is subject to disciplinary action; authorize the Attorney General to enforce the prohibition; authorize a penalty of \$5,000 for each day a violation persists after the Attorney General issues notification that a violation has occurred; require the commissioner of education to deduct the penalty from funds distributed to a school district; create a new section of KRS Chapter 164 to provide that no student enrolled at a public postsecondary education institution shall be required to engage in any form of mandatory gender or sexual diversity training or counseling; title the Act the “Education Non-Discrimination Act”; EMERGENCY.
(Prefiled by the sponsor(s).)

BR61 - Representative Phillip Pratt
(8/11/2021)

AN ACT relating to crimes and punishments.
Amend KRS 519.010 to add definition of “emergency response”; amend KRS 519.040 to increase the penalties for falsely reporting an incident that results in an emergency response; create a new section of KRS Chapter 41 to provide for a civil cause of action for damages arising from the false reporting of an incident; amend KRS 134.127 to conform.
(Prefiled by the sponsor(s).)

BR65 - Representative Brandon Reed, Representative Lynn Bechler, Representative Jennifer Decker, Representative Thomas Huff, Representative Savannah Maddox, Representative Felicia Rabourn
(6/10/2021)

AN ACT relating to SARS-CoV-2 documentation.
Create a new section of KRS Chapter 61 to prohibit a governmental body from requiring persons to provide vaccine passports to enter or obtain service from the governmental body; create a new section of KRS Chapter 160 to prohibit a school from requiring persons to provide vaccine passports to enter or obtain service from the school; create a new section of KRS Chapter 164 to prohibit a university board from requiring persons to provide vaccine passports to enter or obtain service from the university; create a new section of KRS Chapter 214 to prohibit a business entity from requiring persons to provide vaccine passports to enter or obtain service from the business entity; create a new section of KRS Chapter 214 to allow the Cabinet for Health and Family Services to impose of fine not to exceed \$5,000 per violation of this Act.
(Prefiled by the sponsor(s).)

BR69 - Representative Matt Lockett, Representative Shane Baker, Representative Lynn Bechler, Representative Josh Calloway, Representative Jennifer Decker, Representative Ryan Dotson, Representative Daniel Fister, Representative Jim Gooch Jr., Representative Mark Hart, Representative Thomas Huff, Representative Kim King, Representative Norma Kirk-McCormick, Representative Jerry Miller, Representative Melinda Prunty, Representative Felicia Rabourn, Representative Nancy Tate, Representative Walker Wood Thomas, Representative Bill Wesley, Representative Richard White (6/4/2021)

AN ACT relating to prohibited instruction and declaring an emergency.
Amend KRS 158.183 to require a local board of education or board of a public charter school to ensure that no public school or public charter school offers any classroom instruction or discussion that promotes designated concepts related to race, sex, and religion; provide that a school district employee that violates the prohibition is subject to disciplinary action; amend KRS 164.348 to prohibit classroom instruction or discussion that incorporates designated concepts related to race, sex, and religion at public postsecondary education institutions; EMERGENCY.
(Prefiled by the sponsor(s).)

BR91 - Senator Reginald Thomas (9/2/2021)

AN ACT relating to wages.
Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from \$95,000 to \$500,000 average annual gross volume of sales for the employer and to define “small employer” and “large employer”; amend KRS 337.275 to incrementally raise minimum wage for small and large employers to \$12.00 an hour and \$15.00 an hour respectively; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.
(Prefiled by the sponsor(s).)

BR96 - Representative Patti Minter, Representative Attica Scott (8/19/2021)

AN ACT relating to student loan servicers.
Establish Subtitle 12 of KRS Chapter 286 and create sections thereof to define terms; establish licensing requirements for certain student loan servicers; establish requirements for student loan servicing activities; require student loan servicers to comply with applicable state and federal law; establish fines for violations of the subtitle; establish a private right of action for violations of the subtitle; permit the commissioner of the Department of Financial Institutions to monitor risk to consumers relating to servicing student loans; require the commissioner to designate a student loan ombudsman; set forth requirements for student loan ombudsman; amend KRS 452.005 to conform; state that provisions of this Act shall be severable.
(Prefiled by the sponsor(s).)

BR97 - Representative Patti Minter, Representative Joni Jenkins, Representative Rachel Roberts (6/1/2021)

AN ACT relating to civil rights.
Amend KRS 344.010 to include definitions for “sexual orientation” and “gender identity”; amend KRS 344.020, relating to the purpose of the Kentucky’s civil rights chapter, to prohibit discrimination on the basis of sexual orientation or gender identity; amend KRS 344.025, 344.040, 344.050, 344.060, 344.070, and 344.080, relating to prohibited discrimination in various labor and employment practices to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.100 and 344.110 to conform; amend KRS 344.120 and 342.140, relating to prohibited discrimination in places of public accommodation and advertisements therefor, to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.170, 344.180, 344.190, 344.300, and 344.310, relating to the state and local human rights commissions, to include prohibition of discrimination on the basis of sexual orientation or gender identity in the scope of their powers and duties; amend KRS 344.360, 344.370, 344.380, and 344.680, relating to prohibited discrimination in certain housing, real estate, and other financial transactions, to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.367, relating to prohibited discrimination in certain insurance sales, to include discrimination on the basis of sexual orientation or gender identity; amend KRS 344.400, relating to prohibited discrimination in certain credit transactions, to include discrimination on the basis of sexual orientation or gender identity; make various technical amendments; amend KRS 18A.095 to conform.
(Prefiled by the sponsor(s).)

BR98 - Representative Patti Minter, Representative Pamela Stevenson, Representative Rachel Roberts (6/10/2021)

AN ACT relating to Women Veterans’ Appreciation Day.
Create a new section of KRS Chapter 2 to designate June 12 as Women Veterans’ Appreciation Day in the Commonwealth.
(Prefiled by the sponsor(s).)

BR102 - Representative Patti Minter, Representative Cherlynn Stevenson, Representative Rachel Roberts (6/17/2021)

AN ACT relating to state benefits for veterans.
Amend KRS 12.245, 12.354, 14A.1-070, 16.040, 40.010, 40.310, 40.650, 42.0146, 148.0211, 158.105, 158.140, 161.048, 164.512, 164.515, 186.041, and 186.416 to make certain LGBTQ and qualifying veterans eligible for state veterans’ benefits.
(Prefiled by the sponsor(s).)

BR106 - Representative Savannah Maddox, Representative Mark Hart, Representative Shane Baker, Representative Kim Banta, Representative Lynn Bechler, Representative Josh Calloway, Representative Jennifer Decker, Representative Ryan Dotson, Representative Joseph Fischer, Representative Daniel Fister, Representative Regina Huff, Representative Thomas Huff, Representative William Lawrence, Representative Matt Lockett, Representative Felicia Rabourn, Representative Nancy

Tate, Representative Bill Wesley, Representative Richard White (6/21/2021)

AN ACT relating to immunization disclosure.
Create a new section in KRS Chapter 336 to prohibit public entity employers from requiring employees and applicants from disclosing his or her immunization status; create a new section in KRS Chapter 164 to prohibit postsecondary schools from requiring a student, staff, or faculty member to disclose his or her immunization status; amend KRS 344.120 to include the discrimination on the basis of “immunization status” as an unlawful practice; create a new section in KRS Chapter 365 to prohibit a business from requiring customers to disclose his or her immunization status as a condition for service or entry upon the premises; create a new KRS Chapter 214 to prohibit a public entity from creating standardized documentation with the purpose of certifying vaccination status; amend KRS 214.036 to allow objection to immunization on the basis of “conscientiously held beliefs”.
(Prefiled by the sponsor(s).)

BR119 - Representative Lisa Willner, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Attica Scott (6/1/2021)

AN ACT relating to health education.
Repeal and reenact KRS 158.1415 to require each school district to provide healthy relationship education instruction to all public school students; establish minimum requirements for the instruction; establish minimum requirements for the healthy relationship curricula and instructional materials; prohibit a school or school district from restricting the ability of an instructor to answer a question related to the instruction; require that a school make the healthy relationship curricula and instructional materials available upon the request of a parent or guardian and establish a procedure for a parent or guardian to opt a student out of the instruction; require the Kentucky Board of Education to promulgate administrative regulations necessary to implement, administer, and enforce this section; require the Kentucky Board of Education to promulgate administrative regulations requiring that each school district submit a report on healthy relationship instruction in the district biennially; require the Kentucky Department of Education to maintain a list of recommended healthy relationship curricula and instructional materials; permit a parent or guardian to file an enforcement action in Circuit Court.
(Prefiled by the sponsor(s).)

BR125 - Representative Danny Bentley, Representative Patti Minter (8/4/2021)

AN ACT relating to coverage for diabetes treatment.
Amend KRS 304.17A-148 to require that cost sharing for noninsulin drugs and certain equipment and supplies necessary for the treatment of diabetes not exceed certain cost-sharing thresholds; EFFECTIVE January 1, 2023.
(Prefiled by the sponsor(s).)

BR128 - Representative Danny Bentley
(10/7/2021)

Proclaim April 26, 2022, to be Diabetic Ketoacidosis Awareness Day in Kentucky.
(Prefiled by the sponsor(s).)

BR133 - Representative Kim Banta
(6/2/2021)

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.
Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four terms of office, not including partial terms of two years or less, and to prevent members of the House of Representatives from serving more than six terms of office, not including partial terms of two years or less, beginning with those elected in November 2024; provide ballot language; submit to voters for ratification or rejection.
(Prefiled by the sponsor(s).)

BR134 - Representative Kim Banta
(6/14/2021)

AN ACT relating to CPA licensure.
Amend KRS 325.240 to give the State Board of Accountancy the authority to establish a scholarship program; grant former and current members of the board, its agents, and employees immunity from suit for performing discretionary acts when performed in good faith; amend KRS 325.280 to allow CPAs from other states who did not obtain a license in their home state within five years of passing the CPA exam to get a Kentucky license.
(Prefiled by the sponsor(s).)

BR135 - Representative Kim Banta
(6/8/2021)

AN ACT relating to boating safety.
Amend KRS 235.285 to require individuals born on or after January 1, 1975, to possess a safe boating certificate prior to operating a personal watercraft or motorboat on the waters of the Commonwealth; provide for exemption certificates; delay enforcement and require courtesy warnings for violations until July 1, 2023; amend KRS 235.990 to conform.
(Prefiled by the sponsor(s).)

BR137 - Senator Ralph Alvarado
(10/13/2021)

AN ACT relating to long-term care facilities.
Amend KRS 194A.700 to delete, amend, and add definitions; amend KRS 194A.703 to replace “client” with “resident” and to include requirements for living units in a dementia care unit; amend KRS 194A.705 to allow assisted living communities to provide additional services; amend KRS 194A.707 to change the administrative procedure process of assisted living communities, to add a biennial review process, and to change the certification process to a licensure process; amend KRS 194A.709 to remove the requirement of reporting to the Division of Health Care and to make technical language changes; amend KRS 194A.711 to revise the criteria to be met by residents in an assisted living community; amend KRS

194A.717 to include staffing needs pursuant to an assisted living community’s service plan; amend KRS 194A.719 to require orientation education prior to independently working with residents; amend KRS 194A.727 to clarify which businesses can be licensed as an assisted living community; create multiple new sections of KRS 194A.700 to 194A.729 to provide requirements for the cabinet to consider when an applicant is seeking a license as an assisted living community with dementia care; for when a licensee chooses to voluntary relinquishment of a license as an assisted living community with dementia care; to list the responsibilities of an assisted living community with dementia care; to require continuing education training for assisted living managers of an assisted living community with dementia care; to require assisted living communities with dementia care to develop and implement additional policies; to provide staffing requirements for individuals employed in assisted living communities with dementia care; to include additional services an assisted living community with dementia care must provide; to list training requirements for staff working in dementia care units; to establish two categories of licensure for assisted living communities and to require assisted living communities to obtain a license from the cabinet to operate as a dementia care unit; to allow licensed personal care homes, under specific circumstances, to be licensed as an assisted living community or assisted living community with dementia care; to establish the rules for fines and violations of an assisted living community; amend KRS 216.510 and 216.535 to expand the definition of “long-term care facilities” to include assisted living communities; amend KRS 216.535 to amend the definition of “long-term care ombudsman” to exclude assisted living communities; amend KRS 216.530 to amend the inspection period for assisted living communities, personal care homes, and specialized personal care homes; amend KRS 216.557 to exclude assisted living communities from receiving citations as type A or type B violations; amend KRS 216.515, 216.560, 216.563, 216.565, 216.577, 216A.030, and 218A.180 to exclude assisted living communities; amend KRS 216.765 to require a specific medical examination in the admission into assisted living communities; amend KRS 216.573 to broaden the cabinet’s power to institute injunctive proceedings; create a new section of KRS Chapter 216 to create new definitions; to establish rules for residence in a personal care home or a specialized personal care home; to allow a personal care home or specialized personal care to provide additional services in certain situations; to establish staffing requirements in personal care homes or specialized personal care homes; to require the cabinet to promulgate administrative regulations to regulate an initial and biennial licensure review process and to establish additional procedures; and to allow the cabinet to request information and to conduct on-site visits; amend KRS 216B.015 to expand the definition of “health facility”; amend KRS 216B.155 to add the exemption of assisted living communities from specific standard requirements; amend KRS 216B.160 to allow a manager’s designee in an assisted living community to conduct an ongoing assessment; amend various sections of KRS Chapter 194A and KRS 216.595 to make technical corrections and changes; repeal KRS 194A.723 and 194A.724.
(Prefiled by the sponsor(s).)

BR140 - Representative Chris Freeland, Representative Kim Banta, Representative Tina Bojanowski,

Representative McKenzie Cantrell, Representative Jennifer Decker, Representative Ken Fleming, Representative Kelly Flood, Representative Thomas Huff, Representative C. Ed Massey, Representative Phillip Pratt, Representative Melinda Prunty, Representative Rachel Roberts, Representative Cherlynn Stevenson, Representative Killian Timoney, Representative Susan Westrom, Representative Richard White, Representative Lisa Willner
(6/8/2021)

AN ACT relating to torture of a dog or cat.
Amend KRS 525.135, relating to torture of a dog or cat, to add specific acts to definition of torture; make all violations a Class D felony; make each act of torture prosecutable as a separate offense; make the exemptions applicable only where there is no intent to cause, increase, or prolong the pain and suffering of the dog or cat.
(Prefiled by the sponsor(s).)

BR142 - Representative Attica Scott
(6/17/2021)

AN ACT relating to the taxation of feminine hygiene products.
Amend KRS 139.010 to define “feminine hygiene products”; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of feminine hygiene products; apply to sales or purchases made on or after August 1, 2022.
(Prefiled by the sponsor(s).)

BR147 - Representative Rachel Roberts, Representative Patti Minter
(8/3/2021)

AN ACT relating to maternal mental health.
Create a new section of KRS Chapter 211 to require all hospitals or alternative birthing centers offering obstetric services or licensed health care providers, including nurse midwives or certified professional midwives, to provide each maternity patient with information on maternal depression and available resources; require the Cabinet for Health and Family Services to post on its Web site information about providers who assist with maternal depression.
(Prefiled by the sponsor(s).)

BR152 - Representative Rachel Roberts
(10/8/2021)

AN ACT relating to medical order for scope of treatment.
Amend KRS 311.621 to add new definitions and amend current definitions; amend KRS 311.6225 to expand the scope of who can complete a MOST form; to require an electronically fillable version of the MOST form to be accessed online; to require a Spanish translation of the MOST form; to accept out of state versions of the form as long as certain conditions are met; and amend various sections of KRS 311 to include physician assistants and advanced practice registered nurses.
(Prefiled by the sponsor(s).)

BR154 - Representative Ryan Dotson, Representative Melinda Prunty, Representative Shane Baker, Representative Josh Calloway, Representative Jennifer Decker, Representative Daniel Fister, Representative Thomas Huff, Representative Norma Kirk-McCormick,

Representative Brandon Reed, Representative Scott Sharp, Representative Bill Wesley, Representative Richard White (6/11/2021)

AN ACT relating to athletics.
Amend KRS 156.070 to require KHSAA to promulgate administrative regulations or bylaws requiring schools to designate all interscholastic athletics based upon the biological sex of the students eligible to participate; prohibit male students from participating in girls' athletics; establish how to designate biological sex; prohibit designated agencies from entertaining complaints or investigations of policies; create a cause of action against a school that violates these provisions; create a new section of KRS Chapter 164 to require a public postsecondary education institution or private postsecondary education institution that is a member of a national intercollegiate athletic association to designate all intercollegiate and intramural athletics authorized by the institution based on biological sex of students eligible to participate; require that institutions prohibit male students from participating in womens' athletics; prohibit designated agencies from entertaining complaints or investigations of policies; create a cause of action against a postsecondary institution that violates these provisions; title the Act "Fairness in Womens' Sports Act."
(Prefiled by the sponsor(s).)

BR159 - Representative Daniel Fister
(6/29/2021)

AN ACT relating to food products.
Amend KRS 217.015 to add dried coffee and tea to the definition of home-based processor.
(Prefiled by the sponsor(s).)

BR162 - Representative Bill Wesley
(6/25/2021)

Direct the Cabinet for Health and Family Services to establish policies and reports related to children in out-of-home care during the COVID-19 pandemic.
(Prefiled by the sponsor(s).)

BR171 - Representative Josh Bray, Representative Kim Banta, Representative Daniel Fister, Representative Thomas Huff, Representative Brandon Reed, Representative Russell Webber
(6/25/2021)

AN ACT relating to prohibiting the enforcement of a federal ban or regulation of firearms and declaring an emergency.
Createa new section of KRS Chapter 237 to prohibit identified entities from enforcing federal firearm bans; prohibit identified entities from adopting rules, regulations, or ordinances that require enforcement of federal firearm bans; and prohibit identified entities from allocating public resources or moneys in the enforcement of federal firearm bans; EMERGENCY.
(Prefiled by the sponsor(s).)

BR172 - Representative Josh Bray, Representative Josh Branscum
(7/2/2021)

AN ACT relating to biometric data collection practices.

Createa new section of KRS Chapter 369 to define terms; require private entities to develop and comply with a retention and destruction schedule for biometric identifiers and information; prohibit private entities' collection, trade, and disclosure of biometric information with limited exceptions; create a standard of care for private entities collecting biometric information; create a civil cause of action for violations.
(Prefiled by the sponsor(s).)

BR180 - Representative Rachel Roberts
(8/27/2021)

AN ACT relating to coverage of mental health wellness examinations.
Createa new section of Subtitle 17A of KRS Chapter 304 to define terms; require certain health insurance policies to provide coverage for an annual mental health wellness examination of at least 45 minutes provided by a mental health professional; require the coverage to be no less extensive than coverage for medical and surgical benefits; require the coverage to comply with the Mental Health Parity and Addiction Equity Act of 2008; provide that coverage shall not be subject to cost-sharing requirements; amend KRS 164.2871 to require self-insured employer group health plans provided by the governing board of a state postsecondary education institution to comply with the mental health wellness examination coverage requirement; amend KRS 205.522 to require the Medicaid benefits to comply with the mental health wellness examination coverage requirement; amend KRS 205.6485 to require the Kentucky Children's Health Insurance Program to comply with the mental health examination coverage requirement; amend KRS 18A.225 to require the state employee health plan to comply with the mental health coverage requirement; require the Cabinet for Health and Family Services to seek federal approval if they determine that such approval is necessary; EFFECTIVE, in part, January 1, 2023.
(Prefiled by the sponsor(s).)

BR185 - Representative Bobby McCool, Representative Lisa Willner
(8/4/2021)

AN ACT relating to student mental health.
Amend KRS 159.035 to require a local school district's attendance policy to include provisions for a student's mental or behavioral health status.
(Prefiled by the sponsor(s).)

BR191 - Representative Richard White
(9/8/2021)

AN ACT relating to assisted reproduction.
Createa new section of KRS Chapter 510 to create the crime of fraudulent assisted reproduction; define terms; authorize a civil action; establish penalty; amend KRS 311.597 to add fraudulent assisted reproduction to the list of violations that may cause a doctor to lose his or her medical license.
(Prefiled by the sponsor(s).)

BR192 - Representative Adam Bowling
(8/5/2021)

AN ACT relating to resource recovery.

Amend KRS 224.1-010 to redefine "disposal," "municipal solid waste disposal facility," "waste site or facility," "waste," and "solid waste management facility"; define "advanced recycling," "advanced recycling facility," "depolymerization," "gasification," "post-use polymer," "pyrolysis," "recovered feedstock," and "solvolysis"; amend KRS 109.012 to redefine "solid waste," "solid waste management," and "solid waste management facility."
(Prefiled by the sponsor(s).)

BR201 - Representative Attica Scott
(6/30/2021)

AN ACT relating to discriminatory practices against a person.
Amend KRS 344.010 to provide definitions of "protective hairstyle" and "race" that include traits historically associated with race; amend KRS 158.148 to provide that school disciplinary codes shall prohibit discrimination on the basis of race; establish the short title of "C.R.O.W.N. Act".
(Prefiled by the sponsor(s).)

BR203 - Senator Gerald Neal
(6/18/2021)

AN ACT relating to state holidays.
Amend KRS 2.147 and 18A.190 to make June 19, also known as "Juneteenth National Freedom Day," a state holiday for state employees.
(Prefiled by the sponsor(s).)

BR208 - Representative Daniel Fister, Representative Norma Kirk-McCormick, Representative William Lawrence, Representative Richard White
(7/19/2021)

AN ACT relating to the taxation of firearms and ammunition.
Amend KRS 139.010 to add definitions of "firearm" and "ammunition"; amend KRS 139.480 to exempt firearms and ammunition from sales and use tax and require reporting related to the exemption; amend KRS 131.190 to allow reporting by the Department of Revenue; EFFECTIVE August 1, 2022.
(Prefiled by the sponsor(s).)

BR209 - Representative Richard White
(7/28/2021)

AN ACT relating to transportation.
Amend KRS 189.030 to require the illumination of headlamps on motor vehicles during any period of precipitation that necessitates the use of windshield wipers by motorists; specify that there will be a courtesy warning period until January 1, 2023.
(Prefiled by the sponsor(s).)

BR210 - Representative DJ Johnson
(9/2/2021)

AN ACT relating to limited X-ray machine operators.
Amend KRS 311B.020 to redefine "limited X-ray machine operator" and "medical imaging technologist" to provide limited exemptions from the place-of-employment restrictions on limited X-ray machine operators.

(Prefiled by the sponsor(s).)

BR211 - Representative Shane Baker
(8/4/2021)

AN ACT relating to religion.
Amend KRS 39A.100 to exclude houses of worship from emergency condemnation authority; prohibit a governmental entity from prohibiting religious services during an emergency to a greater extent than imposed on other organizations or businesses that provide essential services; require a compelling governmental interest to place a burden on a religious organization; prohibit a governmental entity from taking any discriminatory action against a religious organization on the basis that the organization is religious; define “discriminatory action,” “governmental entity,” “religious organization,” and “religious services”; allow a religious organization to assert a violation of this section as a claim against a governmental entity or as a defense and waive sovereign, governmental, and qualified immunity to the extent of liability under the section; set out remedies available to a religious organization; require construction in favor of protecting free exercise of religion; require a religious organization to bring an action no later than two years from the date the person should have known of the discriminatory action.
(Prefiled by the sponsor(s).)

BR226 - Representative Josh Branscum
(7/6/2021)

AN ACT relating to school facilities.
Amend KRS 157.455 deleting the Kentucky efficient school design trust fund; delete reporting requirement for efficient design; amend KRS 198B.060 to allow local plan review, inspection and enforcement of educational facilities; repeal KRS 162.062, which requires new public school buildings to provide sufficient water bottle fillings station and drinking fountains.
(Prefiled by the sponsor(s).)

BR238 - Representative Kim Banta
(7/9/2021)

AN ACT relating to medicaid coverage for individuals with mental illness.
Create a new section of KRS 205.565 to 205.647 to allow treatment for adults under age 65 in psychiatric residential facilities and hospitals to be claimed as a service; and require the Cabinet for Health and Family Services or the Department for Medicaid Services to request federal authorization for a waiver if necessary.
(Prefiled by the sponsor(s).)

BR254 - Representative Attica Scott
(7/20/2021)

AN ACT relating to implicit bias in perinatal care.
Amend KRS 211.680 to expand the scope of the legislative intent and findings; create new sections of KRS Chapter 211 to define terms; require licensed health facilities under KRS Chapter 216B to provide each patient with written information regarding the patient’s rights and implement an evidence-based implicit bias program for all health providers involved in the perinatal care of patients within those facilities; require the Department for Public Health to

track data on maternal death and severe morbidity.
(Prefiled by the sponsor(s).)

BR255 - Representative Attica Scott
(7/20/2021)

AN ACT relating to pregnant inmates.
Amend KRS 196.173 to allow an inmate who is known to be pregnant or who has given birth in the last six weeks access to reasonable accommodations for the provision of available certified professional midwifery services or doula services.
(Prefiled by the sponsor(s).)

BR256 - Representative Attica Scott
(7/20/2021)

AN ACT relating to Medicaid coverage for doula services.
Create a new section of KRS Chapter 205 to require the Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services to provide coverage for doula services; establish training and education requirements for doulas; permit the department to promulgate administrative regulations; require the Cabinet for Health and Family Services or the Department for Medicaid Services to seek federal approval if they determine that such approval is necessary.
(Prefiled by the sponsor(s).)

BR257 - Representative Attica Scott
(7/14/2021)

AN ACT relating to Medicaid coverage for lactation support services and breastfeeding equipment.
Create a new section of KRS Chapter 205 to require the Department for Medicaid Services and Medicaid managed care organizations to provide coverage for lactation counseling, lactation consultation, and breastfeeding equipment; require the Cabinet for Health and Family Services or the Department for Medicaid Services to request federal authorization for a waiver if necessary.
(Prefiled by the sponsor(s).)

BR267 - Representative Shawn McPherson
(8/9/2021)

AN ACT relating to the promotion of organ and bone marrow donation.
Create a new section of KRS Chapter 141 to establish the employers’ organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; amend KRS 131.190 to allow disclosure of certain information on the credit to the Legislative Research Commission; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act of 2022.
(Prefiled by the sponsor(s).)

BR275 - Representative James Tipton, Representative Steve Riley, Representative Kim Banta, Representative Tina Bojanowski, Representative Jennifer Decker, Representative Kim King, Representative C. Ed Massey, Representative Bobby McCool, Representative Melinda Prunty, Representative Josie Raymond, Representative Attica Scott, Representative Lisa Willner
(9/9/2021)

AN ACT relating to full-day kindergarten.
Amend KRS 158.060 to remove language that allows for half-day kindergarten programs; amend KRS 157.320, 157.360, and 158.030 to conform.
(Prefiled by the sponsor(s).)

BR287 - Representative Nancy Tate
(10/14/2021)

AN ACT relating to motor vehicle taxes.
Amend KRS 138.470 to exempt motor vehicles purchased by members of the Armed Forces on duty in Kentucky and motor vehicles titled and registered in Kentucky by members of the Armed Forces on duty in Kentucky from motor vehicle usage tax.
(Prefiled by the sponsor(s).)

BR290 - Representative Kim Banta, Representative Cherlynn Stevenson
(9/29/2021)

AN ACT relating to animal cruelty.
Create new sections of KRS Chapter 525 to define terms; require peace officers and animal control officers to serve notice of seizure of an animal subjected to cruelty; create procedure for seizing agencies to petition a court to order payment of animal care costs by owner; establish penalties; prohibit the destruction of seized animals, except for humane reasons determined by a veterinarian.
(Prefiled by the sponsor(s).)

BR301 - Senator John Schickel
(9/1/2021)

AN ACT relating to the Kentucky Educational Excellence Scholarship.
Amend the definition of “KEES Award” in KRS 164.7874 to include a dual credit course award amount; amend KRS 164.7879 to provide a dual credit course award amount to high school students who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education.
(Prefiled by the sponsor(s).)

BR306 - Representative Buddy Wheatley, Representative Attica Scott
(9/15/2021)

AN ACT relating to elections.
Amend KRS 117.087 and 118.035 to extend the ending voting hours from 6 p.m. to 7 p.m.
(Prefiled by the sponsor(s).)

BR307 - Representative Buddy Wheatley
(9/24/2021)

AN ACT relating to elections.
Amend 118.025 to remove straight ticket voting as a ballot option in an election; amend KRS 63.200, 117.125, 118A.090, and 118A.100 to conform.
(Prefiled by the sponsor(s).)

BR334 - Representative Norma Kirk-McCormick
(9/9/2021)

AN ACT relating to the Licensed Professional Counseling

Compact.
Createa new section within KRS Chapter 335.500 to 335.599 to declare the purpose of the Licensed Professional Counseling Compact; establish definitions; establish requirements for states that want to enter the compact; recognize a multistate licensure privilege to practice for licensed professional counselors; establish provisions for active duty military personnel or their spouses; recognize a multistate licensure privilege to practice for licensed professional counselors in any member state via telehealth; establish procedures for adverse actions a home and member state can take against a licensed professional counselor; create the Counseling Compact Commission; establish and elect an executive committee; provide immunity for party states, officers, employees, or representatives of the commission who act in accordance with the compact; require the commission to create, maintain, operate and use a coordinated database and reporting system containing, licensure, adverse actions, and investigative information on all licensed individuals in member states; establish procedures for rulemaking; authorize the commission to attempt to resolve disputes related to the compact that arise among member states and between member and non-member states; allow the compact to go into effect on the date the compact is enacted into law in the tenth member state; establish withdrawal procedures for a member state that withdraws from the compact; provide severability for any provision in the compact that is contrary to the constitution of any party state or of the United States or the applicability to any government, agency, person, or circumstance.
(Prefiled by the sponsor(s).)

BR341 - Representative Jerry Miller
(10/20/2021)

AN ACT relating to actuarial investigations.
Amend KRS 21.440, 61.670, 78.784, and 161.400 to require the Legislators' Retirement Plan, the Judicial Retirement Plan, the Kentucky Retirement Systems, the County Employees Retirement System, and the Teachers' Retirement System to perform an actuarial investigation of economic assumptions once every two years rather than once every five years while retaining a review of demographic assumptions once every five years; amend KRS 78.784 to require the County Employees Retirement System to provide a projection/analysis over a 30-year period rather than a 20-year period regarding projections in the annual actuarial valuation and as it relates to experience studies, assumption changes, and other changes made by the boards of each system; require the first actuarial investigation of economic assumptions to occur prior to 2023 actuarial valuations.
(Prefiled by the sponsor(s).)

BR348 - Representative Norma Kirk-McCormick
(8/6/2021)

AN ACT relating to the operation of a motor vehicle using a bioptic device.
Amend KRS 186.578 to provide options for in-state and out-of-state drivers coming to Kentucky regarding the removal of a daytime-only restriction in the licensee's previous state for drivers using a bioptic device; amend KRS 186.579 to comply and to specify the evaluations must be performed by the Office of Vocational Rehabilitation.

(Prefiled by the sponsor(s).)

BR353 - Representative Felicia Rabourn, Representative Savannah Maddox, Representative Shane Baker, Representative Lynn Bechler, Representative Kevin Bratcher, Representative Josh Calloway, Representative Jennifer Decker, Representative Ryan Dotson, Representative Mark Hart, Representative Regina Huff, Representative Thomas Huff, Representative William Lawrence, Representative Matt Lockett
(8/23/2021)

AN ACT relating to workers' compensation and declaring an emergency.
Amend KRS 342.0011 to define "COVID-19"; create a new section of KRS Chapter 342 to establish workers' compensation liability in instances where employers require vaccination against COVID-19 as a condition of employment and the employee develops an adverse reaction to the vaccine; create a rebuttable presumption that an adverse reaction was caused by the COVID-19 vaccine if it was not present prior to and arises within 14 days of receipt of the vaccine; retroactive to December 14, 2020; EMERGENCY.
(Prefiled by the sponsor(s).)

BR358 - Representative Lynn Bechler, Representative Mark Hart, Representative Thomas Huff
(8/18/2021)

AN ACT relating to immunizations.
Amend KRS 344.010 to define "immunization"; amend KRS 344.040 to prohibit employers from discriminating against an individual who declines immunization or requiring immunization as a condition of employment or inquiring as to the employee's immunization status; create a new section of KRS Chapter 338 to prohibit an employer from requiring an employee or applicant for employment to be immunized or inquiring regarding immunization status.
(Prefiled by the sponsor(s).)

BR359 - Representative Lynn Bechler, Representative Mark Hart, Representative Thomas Huff, Representative Savannah Maddox, Representative Felicia Rabourn
(8/16/2021)

AN ACT relating to facial coverings in educational settings.
Amend KRS 199.896 to provide that the license or certification of a child-care center shall not be refused or revoked for refusing to require facial coverings; amend KRS 199.898 to provide that parents and guardians of children enrolled in licensed, certified, or publicly funded child care facilities have a right to refuse facial coverings on behalf of their children without any retribution; create a new section of KRS Chapter 158 to prohibit requiring facial coverings on any public school premises, on school-sponsored transportation, or at a school-sponsored event; create a new section of KRS Chapter 164 to prohibit requiring facial coverings on property owned, leased, or operated by public postsecondary education institutions; provide exceptions for healthcare licensing board requirements imposed prior to January 1, 2020, and clinical research settings.
(Prefiled by the sponsor(s).)

BR367 - Representative Kim King
(8/13/2021)

AN ACT relating to pari-mutuel tax.
Amend KRS 138.510 to impose a 1.5% surtax on historical horse races, on or after October 1, 2022; amend KRS 138.513 to impose a 2.5% surtax on advance deposit account wagers; amend KRS 138.530 and 230.750 to conform.
(Prefiled by the sponsor(s).)

BR370 - Senator David Yates
(9/1/2021)

AN ACT relating to theft of mail matter.
Amend KRS 514.140 to include common carriers and delivery services in protection against theft of mail matter.
(Prefiled by the sponsor(s).)

BR376 - Representative Cherlynn Stevenson
(9/1/2021)

AN ACT relating to chronic pain treatments.
Createa new section of Subtitle 17A of KRS Chapter 304 to establish that any health benefit plan issued or renewed in the Commonwealth that provides coverage for hospital, medical, or surgical expenses shall include coverage for chronic pain treatments provided by a licensed professional; create a new section of KRS Chapter 205 to require Medicaid and Medicaid managed care organizations to include coverage for chronic pain treatments provided by a licensed professional; amend KRS 218A.172 to require that a health care practitioner discuss and refer or prescribe alternative chronic pain treatments before initially prescribing or dispensing a controlled substance; EFFECTIVE January 1, 2023.
(Prefiled by the sponsor(s).)

BR377 - Representative Cherlynn Stevenson
(9/1/2021)

AN ACT relating to family care leave.
Amend KRS 337.010 to define "family care leave," "family member," "health care provider," "same employer," and "serious health condition"; create a new section of KRS Chapter 337 to prohibit employers from preventing an employee to take family care leave; to entitle employee to family care leave for the birth of a child or to take care of a family member and establish parameters.
(Prefiled by the sponsor(s).)

BR379 - Representative Cherlynn Stevenson
(9/1/2021)

AN ACT relating to health care to provide for an all-payer claims database and making an appropriation therefor.
Createa new section of KRS Chapter 194A to require the executive director of the Office of Health Data and Analytics to establish an advisory committee to make recommendations regarding the creation and implementation of a Kentucky all-payer claims database; establish the Kentucky all-payer claims database fund; require the executive director to establish the database if certain conditions are met; set forth requirements for the database; amend KRS 304.2-100 to require the commissioner of the Department of Insurance to assist; create a new section of Subtitle 99 of KRS Chapter 304

to require the commissioner to promulgate administrative regulations designating the assessment of a fine for persons that do not comply with reporting requirements; establish short title; permit the executive director to make an application for a grant under 42 U.S.C. sec. 247d-11; APPROPRIATION.
(Prefiled by the sponsor(s).)

BR384 - Representative Mark Hart, Representative Lynn Bechler, Representative Felicia Rabourn
(9/1/2021)

AN ACT prohibiting vaccination requirements for postsecondary education students.
Createa new section of KRS Chapter 164 to prohibit a public postsecondary educational institution from requiring a student to receive certain vaccinations unless the student is participating in an educational program that involves the delivery of health care services.
(Prefiled by the sponsor(s).)

BR427 - Representative Attica Scott
(9/13/2021)

AN ACT relating to curriculum.
Amend KRS 156.160 to require public middle and high school curriculum to include instruction on the history of racism.
(Prefiled by the sponsor(s).)

BR430 - Representative Thomas Huff, Representative Lynn Bechler, Representative Kevin Bratcher, Representative Jennifer Decker, Representative Ryan Dotson, Representative Russell Webber, Representative Richard White
(8/30/2021)

AN ACT relating to death benefits for first responders, making an appropriation therefor, and declaring an emergency.
Amend KRS 61.315 to create a presumption that first responders who die of COVID-19 do so while in the line of duty and thus qualify for death benefits; apply subsection retroactively; APPROPRIATION; EMERGENCY.
(Prefiled by the sponsor(s).)

BR432 - Representative Richard White
(9/2/2021)

AN ACT relating to workers’ compensation and declaring an emergency.
Amend KRS 342.0011 to define “COVID-19”; create a new section of KRS Chapter 342 to establish workers’ compensation liability in instances where employers require vaccination against COVID-19 as a condition of employment and the employee develops an adverse reaction to the vaccine; create a rebuttable presumption that an adverse reaction was caused by the COVID-19 vaccine if it was not present prior to and arises within 14 days of receipt of the vaccine; retooactive to December 14, 2020; EMERGENCY.
(Prefiled by the sponsor(s).)

BR440 - Representative Kevin Bratcher, Representative Ken Fleming, Representative Jerry Miller, Representative Jason Nemes
(9/2/2021)

AN ACT relating to school resource officers.
Amend KRS 158.4414 to require the assignment of school resource officers to schools by August 1, 2022.
(Prefiled by the sponsor(s).)

BR490 - Senator John Schickel, Senator Paul Hornback
(10/7/2021)

AN ACT relating to labeling requirements for fresh produce.
Amend KRS 217.015 to create a definition for “fresh produce”; create a new section of KRS 217.005 to 217.215 to require retail food stores to provide state of origin and season of harvest information for fresh produce.
(Prefiled by the sponsor(s).)

BR496 - Representative John Blanton, Representative James Tipton, Representative Lisa Willner
(9/22/2021)

AN ACT relating to occupational exposure to COVID-19 and declaring an emergency.
Extend the provisions of paragraph 3 of 2020 Executive Order 2020-277, related to temporary disability from occupational exposure to COVID-19 from September 7, 2021, to January 31, 2023; EMERGENCY.
(Prefiled by the sponsor(s).)

BR826 - Representative Mary Lou Marzian, Representative Lisa Willner
(9/29/2021)

AN ACT relating to reproductive privacy and declaring an emergency.
Createnew sections of KRS Chapter 311 to establish legislative findings; to provide every individual the right to choose or refuse contraception, sterilization, to carry a pregnancy to term, give birth to a child, or terminate a pregnancy; EMERGENCY.
(Prefiled by the sponsor(s).)

BR832 - Representative Danny Bentley
(10/19/2021)

AN ACT relating to DNA.
Createa new section of KRS Chapter 311 to regulate the collection, use, and transfer of human DNA samples; create penalties for violations of the prohibitions; state the Act shall be known as the Protecting DNA Privacy Act.
(Prefiled by the sponsor(s).)

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