



# INTERIM RECORD

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## Lawmakers approve \$213 million package to assist flooded communities

by Nancy Royden - LRC Public Information

FRANKFORT — The Kentucky General Assembly wrapped up a major, bipartisan push on Aug. 26 to send millions in emergency aid to ravaged communities in Eastern Kentucky, where dozens have died and thousands remain homeless in the aftermath of record flooding.

The House and Senate voted in unison to finalize a \$213 million relief package for flood-swamped counties that fell under a federal disaster declaration following several days of torrential rainfall in July.

The legislation – House Bill 1 – culminated a three-day special session that began on Aug. 24 with a focus on providing funds for recovery efforts. Several lawmakers referred to the package as the first phase in a long recovery process.

“What we have to do right now is we have to be attending to immediate needs,” said the bill’s primary sponsor, Rep. John Blanton, R-Salyersville. “We’re not really ready to start looking long term because we still got these immediate things going on with people living in tents. They’re living in shelters, and we got to get a roof over these people’s heads before cold weather gets here.”

HB 1 establishes the Eastern Kentucky State Aid Funding for Emergencies – called EKSAFE. It provides \$115 million to the state Division of Emergency Management for recovery efforts and



Rep. John Blanton, R-Salyersville, receives a standing ovation on the House floor on Aug. 26 following passage of the Eastern Kentucky relief package. The vote wrapped up a three-day special session focused on flood recovery.

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\$45 million to the state Transportation Cabinet to repair roads and bridges.

The state Department of Education will also receive \$40 million for building repairs and necessary wrap around services, such as after-school programs, mental health care and transportation.

The bill also gives local school boards more flexibility when it comes to construction bids to help expedite the process. In addition, it lets school districts waive up to 15 instructional days and use 20 remote instruction days. It also gives teachers emergency leave days if a teacher needs to miss school to assist

in recovery efforts, such as attending a meeting with Federal Emergency Management Agency officials.

Government entities or nonprofits that receive money from the EKSAFE fund and subsequently receive monies for the same damages from FEMA will be required to refund the EKSAFE fund, Blanton said.

Nearly \$12.7 million in fiscal year 2022-2023 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 is also earmarked for EKSAFE.

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## Lawmakers hear from advocates of bourbon barrel tax

by Nancy Royden - LRC Public Information

FRANKFORT — Legislators on the Bourbon Barrel Taxation Task Force say they want to strike a balance between the success of distillery companies and the needs of Kentucky communities where they operate.

The task force held its third meeting of the year on Sept. 1, hearing from county officials about the barrel tax's impact on local coffers.

Lawmakers established the panel earlier this year to study the tax structure on bourbon barrel sales and propose ways to increase revenue while also boosting jobs. Task force members are expected to report their findings in December, ahead of the 2023 legislative session.

One legislator, House Majority Whip Chad McCoy, R-Bardstown, who is also co-chair of the task force, said the state must look to the future to remain successful in the industry. He said one large distillery in Kentucky has already moved to Texas, and he fears another could move as well.

"I just, in my heart, believe that Kentucky can be so amazing, but we have been so reactive in our history rather than being proactive," McCoy said. "I just keep coming back to my little town of Bardstown – Bourbon Capital of the World, trademark. We will lose that Bourbon Trail if we don't continue to bring in those new folks who are not in this room, who are not here, who are not yet impacted by this."

Sen. Christian McDaniel, R-Taylor Mill, said no tax structure is perfect, but everyone must work together for success.



"Any taxation structure, a county's taxation structure or corporate taxation structure or whatever it is, is a structure for a reason," he said "And that reason is you've got to look at it as a whole. If you pick out any given tax, you can find your flaw in anything, very simply."

McDaniel said both distillery firms and governmental entities are important, and he encouraged both sides to look for solutions. He also cautioned that the state general fund and the budget reserve trust fund are not an answer to disputes over the tax structure.

During the meeting, lawmakers heard from Jim Henderson, executive director of the Kentucky Association of Counties, and Jerry Summers, judge-executive of Bullitt County.

Summers told the panel that, since 2012, counties have provided about \$2.5 billion in financial incentives to distilleries based on the expectation of the future barrel tax revenue. He also cited con-

cerns about some costs associated with infrastructure near distilleries in Bullitt County.

"Last year alone, to repair the roads for the construction for the distilleries in our community, we spent close to \$350,000 out of our general fund," Summers said.

Henderson said, though nothing is set in stone yet, abolishment of the tax would be tough for some counties. KACo estimates that the barrel tax generated more than \$10 million in revenue for local taxing districts in 2021, not including schools.

"There's just no other way to say it, but that it does put a hole in the budget of our counties, our schools, our cities, our fire departments, our sheriff's offices, and we just have to acknowledge that is a fact, unless there's something else," he said.

Henderson argued that the simple solution is to leave the tax as it is.

Last month, task force members heard from representatives of the Kentucky Distillers' Association who voiced concerns that Kentucky needs to take steps to ensure the viability of the bourbon industry.

They argued that the amount of barrel taxes paid by the industry has increased from \$10.7 million in 2009 to \$33 million today. That creates a barrier for new distillers wanting to establish their operations in Kentucky, they said, and that other states are structuring taxes in a more competitive way.



# Lawmakers hear pleas to require training for bar bouncers

by Nancy Royden - LRC Public Information

FRANKFORT — Supporters of proposed legislation to establish training standards for bouncers testified before the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations on Aug. 24.

The widower of Christopher McKinney, Nick Clark, said regulations are needed to prevent deaths like ones that happened in Georgia, Tennessee and Pennsylvania, along with his spouse's in Louisville. McKinney died from blunt force trauma to the head following an interaction with a bouncer at a bar in 2020.

Christopher's Law would require bouncers to receive training developed by the Department of Alcoholic Beverage Control on de-escalation tactics, interpersonal communication, threat mitigation and more. Advocacy has been a true grassroots effort, Clark said.

"Just like our police force, military, firefighters, lifeguards, teachers and basically any other profession, has to have training," he said. "Bouncers who are hired to protect the most vulnerable in an alcohol driven environment do not have to have any training or special skills. Most are hired by word of mouth, physical stature and through social media."

The hearing was not part of the special legislative session that began on Aug. 24 to address issues related to flooding in Eastern Kentucky. Instead, it was part of the interim period when lawmakers consider proposals for the next regular session that starts in January.

Senate Minority Floor Leader Morgan McGarvey, D-Louisville, and Rep. Lisa Willner, D-Louisville, have both sponsored similar legislation on training bouncers in the past.

McGarvey told the committee that Clark and others have been strong advocates and have helped craft the legislation over a couple of years, taking suggestions from everyone from retailers to the owners of bars and restaurants.

McGarvey asked committee members to think of all the different professions that come in front of the committee.

"There is far more regulation, licensing and oversight of someone who is giving you a pedicure, of someone who is cutting your hair," he said. "There is nothing related to bouncers."

Sen. John Schickel, R-Union, and co-chair of the committee, offered condolences.

"First of all, I just want to extend my sincere sympathy on behalf of myself and this entire committee for your loss," he said. "I can only imagine the pain you are going through. This is very recent. I didn't realize how recent it is."

Schickel said he used to be a part-time bouncer when he was a police officer.

"And you're right, they get thrown into situations, very dicey situations, with little or no training. You're very right about that," he said.

Nick Clark's father also testified during the meeting. He called McKinney's death senseless and a preventable tragedy. He said it could happen to anyone.

"Christopher was the kindest, most loving and thoughtful human being you could ever meet, and our family is heartbroken and miss him every day," Kenny Clark said.

Rep. Adam Koenig, R-Erlanger, and co-chair of the committee, expressed sympathy to McKinney's relatives, and asked for confirmation that organizations on a list given to committee members approved of the proposed legislation and changes made to it. They include the Kentucky Restaurant Association, the ACLU of Kentucky and other groups.

Nick Clark responded they have seen the new language and are supportive of the bill.



Senate Minority Floor Leader Morgan McGarvey, D-Louisville, testifies on a proposal for bouncer training standards at the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations on Aug. 24



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## Lawmakers approve package, from page 2

Funds will be used to repair water and sewer infrastructure.

Lawmakers said the funding approved during the special session is just the beginning, and Blanton stressed that \$75 million of the funds channeled toward Emergency Management can be used for immediate housing such as trailers.

Senate President Robert Stivers, R-Manchester, and the lead sponsor for the relief package in the Senate, said that some residents are frustrated with the bureaucracy at FEMA.

“The federal government has not moved fast enough,” he said.

The more people from the federal government who arrive in the damaged areas, the better, Stivers said.

“I think we’ve taken a step that we’ve had to take in getting this through,” he said. “I think the key and critical component now, from first-hand experience, is for the federal government to get out on the ground, reach out to these people, get assessments and the dollars that they are justly entitled and qualified for out the door and into their hands.”

Stivers said the second phase is for legislators to meet with those in the executive branch during the 2023 Regular Session.

Throughout the week, several other legislators recounted the things they saw in Eastern Kentucky. One of them was Rep. Chris Fugate, R-Chavies, who represents Breathitt, Owsley and Perry coun-

ties. There are about 2,800 people without housing in his district due to the floods. He thanked everyone who has helped people directly and those who donated supplies.

“We’ve got a lot of rebuilding to do,” Fugate said. “Not just material things, but the lives and the minds who lost their family members, who now when it thunders or lightning flashes, they’re scared to death.”

Sen. Brandon Smith, R-Hazard, said the General Assembly missed the mark by not providing an additional \$50 million for housing that was included in the amendment he sponsored. However, he said he’s grateful for the support he has received so far, and he’s aware of a long-term plan to help.

“There are children on river banks and in hollows,” he said. “There are 7,000 of them, if you want to see the numbers, that are in some sort of displaced shelter where the walls are missing, there’s a tarp, and that’s on us to fix it. There’s nobody else to blame. We are the leaders, and we had a chance with my amendment to put \$50 million in there to get aid to them immediately.”

On Aug. 26, the governor was joined by Stivers and Speaker of the House David W. Osborne, R-Prospect, in the Capitol Rotunda for the signing of HB 1.

The House and Senate adjourned sine die, and will not convene again until the regular session begins Jan. 3, 2023 or until the governor calls the General Assembly to an extraordinary session.

## LRC Publications 2022 Price List

Daily Record Pick up: \$165

Daily Record Mailed: \$165

(plus postage)

Friday Record Mailed: \$38.50

(plus postage)

Individual Record Pick up: \$2.75

Individual Record Mailed: \$2.75

(plus postage)

### Bills

Complete Set of Bills and Resolutions  
(Pick up): \$630

Individual Bills Per Page: \$.05

Amendments Per Page: \$.05

Roll Call Votes: \$.15 Per Page

### Publications

1-10 copies: Free to general public;  
larger numbers of free copies  
are available to schools and state  
agencies (*Copies over preapproved  
limits require agency approval*)

### Administrative Regulations

Administrative Register (monthly):  
\$120.00

### Acts of the General Assembly (2022)

Regular Session: \$80.00 (2 volumes)

Special Sessions: Priced after printing

### Journals

House and Senate Complete Set,  
House Set, Senate Set: Priced after  
printing

(All prices subject to 6% Kentucky sales tax  
within Kentucky and subject to change)

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# Committee Meetings

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Minutes of the 3rd Meeting of the 2022 Interim

August 17, 2022

#### Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 17, 2022, at 1:00 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, Donald Douglas, David P. Givens, Morgan McGarvey, Stephen Meredith, Michael J. Nemes, and Stephen West; Representatives Lynn Bechler, Danny Bentley, John Blanton, Randy Bridges, Myron Dossett, Joseph M. Fischer, Ken Fleming, Kelly Flood, Chris Fugate, Al Gentry, David Hale, Mark Hart, Angie Hatton, Bobby McCool, Jason Nemes, Melinda Gibbons Prunty, Josie Raymond, Brandon Reed, Steve Riley, James Tipton, and Lisa Willner.

Guests: John Hicks, State Budget Director, Office of State Budget Director (OSBD); Dr. Kevin Gardner, Executive Vice President, Research and Innovation University of Louisville; Dr. Sharon Kerrick, Assistant Vice President, Digital Transformation Center University of Louisville; Dr. Andrew Wright, Assistant Professor and Chair, Information Systems, Analytics, and Operations Department, University of Louisville; Rick Halbleib, President, Global Watchmen Associates; Michael Shaffer, Executive Vice President of Strategic Partnerships and Economic Development, Georgia Cyber Center; and Jennifer Hays, Committee Staff Administrator, Appropriations & Revenue Committee.

LRC Staff: Jennifer Hays, Hope Rowlett, Katy Jenkins, Sarah Watts, Hunter Branham, and Lexi Bensberg.

#### Approval of Minutes

A motion was made by Senator Nemes, seconded by Senator Douglas, to approve the minutes of the July 6, 2022, meeting. The motion carried by voice vote.

#### Fiscal Year 2022 Close Out

John T. Hicks, State Budget Director, discussed the condition of the state revenue, general fund, and road fund at the close of the 2022 fiscal year. Director Hicks announced that the general fund revenue

totaled \$14.7 billion, which was larger than the official estimate.

The general fund revenue growth rate of FY22 was 14.6 percent, continuing the trend from FY21, with both years having a combined growth rate of 27 percent. Revenues from individual income tax were the highest since 1991, growing 17.6 percent, and two-thirds of the FY22 revenue surplus is attributed to individual income tax receipts. Revenues from sales tax were up 11 percent, which is higher than the growth of 4.1 percent 15-year average.

Each quarter of FY22 produced high revenue growth, which resulted in a \$1.03 billion general fund surplus.

FY22 road fund revenues were 0.3 percent less than the official estimate, totaling \$1.67 billion and increasing 2 percent over FY21. Motor Vehicle Usage Tax set a record of \$629.1 million and Motor Fuels Tax grew by 3.5 percent. There was a \$70.3 million road fund surplus, which will be going to the highways-state construction account.

In response to a question from Representative Nemes, Director Hicks testified that the rest of the nation is seeing similar increases in revenue regardless of recent laws that have been passed altering the percentage of income taxes. This can be attributed to a low unemployment rate and record levels of corporate profit.

In response to a question from Representative Tipton, Director Hicks testified that the General Assembly capped the amount of lottery receipts that would go into the general fund, and that the numbers presented do not act as evidence of the health of the lottery. Director Hicks also testified that increasing inflation is impacting the revenue from sales tax.

In response to a comment from Representative Blanton, Director Hicks testified that the total employment rate in Kentucky is equal to what it was pre-pandemic.

#### University of Louisville Cybersecurity Program

Dr. Kevin Gardner, Executive Vice President for Research and Innovation, University of Louisville; Dr. Sharon Kerrick, Assistant Vice President, Digital Transformation Center University of Louisville; Dr. Andrew Wright, Assistant Professor and Chair, Information Systems, Analytics, and Operations Department, University of Louisville; Rick Halbleib, President, Global Watchmen Associates; and Michael Shaffer, Executive Vice President of Strategic Partnerships and Economic Development, Georgia Cyber Center testified on the necessity of the proposed Kentucky Cybersecurity Center (KentuckyCYBER) and advocated for its funding.

Dr. Gardner testified that KentuckyCYBER will bring together public and private partners to fill a critical gap in the state's infrastructure. The institution will be built on a 30-acre plot of undeveloped land,



and will house Sensitive Compartmented Information Facilities (SCIFs), cyber-ranges, students, professionals, and organizations.

The University of Louisville is qualified to host KentuckyCYBER because it is the only Carnegie Research, Community-Engaged Institution in Kentucky that is nationally recognized as a Center of Academic Excellence in Cybersecurity by the Department of Homeland Security and the National Security Agency.

Mr. Halbleib testified that cybersecurity is the largest national crisis, as it has the potential to collapse power grids. America is unprepared for a cyber-attack, with over 700,000 cybersecurity job vacancies because of an untrained workforce. According to the cybersecurity company PurpleSec, the education industry is ranked last in cybersecurity preparedness.

Mr. Halbleib testified that the K-12 system is not preparing students to fill the job vacancies in this sector, and that there are national programs that need to be implemented to supplement students' education. This lack of preparedness calls for the development of KentuckyCYBER, like the Georgia Cyber Center, to combine the talents of academia, industry, and government that will address this crisis.

Dr. Shaffer testified remotely from Augusta, Georgia. The Georgia Cyber Center was announced in January of 2017 and by January of 2019 the center had opened its second building. The total investment in the Center was \$122 million, with \$106 million from the state of Georgia for the project and \$16 million from the city of Augusta for the parking structure. The Center was built on 16 acres of land previously acquired by Augusta University.

The mission of the Georgia Cyber Center was to combine the talent of government, academia, and private industry to provide affordable cybersecurity training, develop the state's cybersecurity workforce, solve complex cybersecurity challenges, and offer advice to policy-makers to create an advantage in the cyberspace industry.

The total state allocation for the center for FY23 is \$5.45 million. Estimated earned revenue for the center for FY23 is \$12.98 million, which consists of lease revenue, cyber range, training, and events. The center's building is a self-sustaining model, with minimized appropriated operational budget allocations.

To keep the Center up to date technologically, an advisor was brought in to develop a 20-year refresh plan for facilities and a 10-year refresh plan for information technology and audio/visual equipment. These plans require saving \$2.5 million annually over the Center's operational budget.

In response to a question from Senator McDaniel, Dr. Shaffer testified that Army Cyber moved to Georgia in 2021. Army Cyber has a presence in the Georgia Cyber Center, and the Center interacts with the NSA and the Army Cyber Center of Excellence. Dr. Gardner added that the University of Louisville has had discussions with Fort Knox to create similar interactions if KentuckyCYBER is built.

Dr. Kerrick testified that the University of Louisville was awarded \$8.3 million to create a six-month cybersecurity workforce certificate program from the National Security Agency (NSA). The

University of Louisville leads a consortium of schools that have cyber security experts.

Dr. Wright testified that the curriculum for the six-month program was created at the request of the National Centers for Excellence in Cybersecurity, requesting an industry specification. Healthcare was chosen for the University of Louisville's specification, because it is a large contributor to the regional economy. There was also a request for the development of 'cutting-edge' modules, covering topics such as cognitive computing and data mining, which are not typical in undergraduate/graduate cyber security training.

The University of Louisville has experience in developing other cybersecurity training programs as well, having developed military, law enforcement, and teacher trainings. Dr. Kerrick mentioned the curriculum for the six-month program is embedded with Google, IBM, and Microsoft certificates to ensure students can reskill their knowledge if they choose a career path outside of cybersecurity.

Dr. Gardner testified that the initial request for FY23 is \$1 million, which will provide funding for personnel, training development, and cyber-range hardware and software. The FY24 request is \$10.7 million, which will provide funding for more personnel, more training, a P-12 pipeline, architecture and construction management, and site infrastructure improvements.

Senator McDaniel clarified that there needs to be further explanation of how KentuckyCYBER will fit into the national infrastructure.

In response to a question from Senator Carroll, Dr. Gardner testified that he is not sure how the development of KentuckyCYBER will increase the rates of cyber insurance for the institution.

In response to a question from Representative Tipton, Dr. Kerrick testified that there has been collaboration between the University of Louisville and the Kentucky Council on Postsecondary Education, and that collaboration has allowed them to work with Kentucky State University. Dr. Gardner added that he assumed, if funded, this would be a mandated program outside the performance-based funding formula.

In response to Senator Givens, Dr. Wright testified that the need to fill this sector of the workforce is at every level of education. Dr. Kerrick continued that it is critical that constituents have a basic level of cybersecurity awareness, and that the free training program the University of Louisville is developing can help develop that awareness. Dr. Gardner added that the more detailed proposal has an explanation of how to implement this training into K-12 programs and beyond.

In response to a question from Senator Nemes, Dr. Shaffer explained that the difference in the leasing rates for the Georgia Cyber Center between sectors was based primarily on negotiation and that the federal government's presence attracts industry partners and Dr. Kerrick testified how important it was to collaborate with other postsecondary institutions to share the knowledge within KentuckyCYBER across the state.

Senator McDaniel stated that solving this issue is a necessity, because practically everything is

connected to the internet in Kentucky.

## **Continued Review of Revenue Provisions within 22RS HB 8**

Jennifer Hays, Committee Staff Administrator, Appropriations & Revenue Committee, Legislative Research Commission, testified on the revenue provisions within 22RS HB 8, continuing the conversation from the committee meeting on June 2, 2022.

Ms. Hays testified that the Department of Revenue, with assistance from the State Budget Director, will review the individual income tax rate reduction conditions and report the findings by September 5, 2022. As FY22 has closed, there are two years of rate reduction conditions to evaluate. Both LRC and Executive Branch employees have reviewed the conditions and believe that reduction conditions have been met for FY22. FY21 will impact tax year 2023 and FY22 may impact tax year 2024. The impact on tax year 2024 is pending, because the language of HB 8 requires the General Assembly to act before the second year of tax rate reductions occur.

The Internal Revenue Code was updated. The reference date was updated to the code in effect on December 1, 2021, and that applies to taxable years beginning on or after January 1, 2022.

The decontamination tax credit was created in RS22 HB 8, which began January 1, 2022. This credit applies to any taxpayer making a qualifying expenditure at a decontamination property. A decontamination property is the same property that qualifies for the environmental remediation tax credit that was established in 2010. Language in this tax credit clarifies that you cannot take both credits. The decontamination tax credit is refundable and has limitations based upon \$30 million per qualifying decontamination property. Once the credit is approved, it is taken over a four-year period and it cannot exceed 25 percent of the total approved tax credit within a taxable year.

There has also been a change in the tax credit threshold for historic properties. The maximum income tax credit for certified rehabilitations allowed on an owner-occupied residential property was increased to \$120,000 from the previous \$60,000. The threshold for other property was increased to \$10 million. Because this is a tax credit that can be transferred, there was language added to reflect the change that financial institutions now pay the income tax instead of the bank franchise tax.

There are 35 new services that become taxable on January 1, 2024. These services include marketing, website hosting, cosmetic surgery, testing, and security system monitoring services. Kentucky has a sale-for-resale certificate that allows businesses to purchase items for resale without them being taxed.

Under the definition in 22RS HB 8, taxable cosmetic surgeries will not include those that are determined to be medically necessary related to facial reconstruction or bodily defects. Under 22RS HB 8, taxable testing services excludes medical, educational, or veterinary testing services. Under 22RS HB 8, taxable parking services excludes parking at educational institutions.

The definition of extended warranty services

has been expanded to include items of real property, which are now taxable as of January 1, 2023.

The tax exemption for admissions to historical sites has been eliminated as of January 1, 2023.

A tax exemption was created for prescription and over the counter drugs for any person engaged in the business of farming, if those drugs are being used to treat livestock that already have agricultural tax exemptions.

The current exemption for residential utilities was limited, so that it is only applicable to a taxpayer's place of domicile.

The car rental and ride sharing tax will be begin January 1, 2023, and its revenues will be deposited into the general fund. It will be imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent. It will be 6 percent of the gross receipts derived from peer-to-peer car sharing, rental cars, transportation network companies, taxi services, and limousine services.

The electric vehicle power excise tax will begin on January 1, 2024, and its revenues will be deposited into the road fund. This power must be distributed by an electric vehicle power dealer, not personal refueling at a constituent's own home. The initial base rate is \$0.03 per kilowatt hour, with a surtax base rate of \$0.03 per kilowatt hour if the charging station is located on state property. This rate will be adjusted annually, beginning January 1, 2025, based on the National Highway Construction Cost Index 2.0. This annual adjustment cannot increase or decrease more than 5 percent, and it cannot decrease below the base rate. There is a current staff study, conducted by Hope Rowlett, on other states and the federal government's similar taxes.

The electric vehicle ownership fee will begin on January 1, 2024, and its revenues will be split 50/50 between the general and road funds. It is imposed for the privilege of owning an electric vehicle. This tax is in addition to the motor vehicle usage tax. It will be \$120 for electric vehicles and \$60 for electric motorcycles or hybrids, and it is to be paid at the same time as annual registration. This tax will be indexed at the same time and in the same manner as the electric vehicle power tax.

There is also a provision for tax amnesty within 22RS HB 8. It is a 60-day period, between 10/1/2022 and 11/29/2022. The Finance Cabinet is to procure services to conduct the program. The taxpayers must file all delinquent state returns, pay all state tax dues and 50 percent of the interests, and must pay all federal tax, penalties, fees, and interest referred to the Department for collection. If a bid for procurement is not secured, the Department of Revenue shall implement the tax amnesty program during a similar 60-day period during 2023.

There are two local taxes added or changed within 22RS HB 8. The first being the Transient Room tax, to take effect January 1, 2023. This adjusts the statutory references to the taxpayer and taxable base so they are conformed to the sales and use tax statutory references. Customers paying sales tax on a room, would also pay the state and local transient room tax. Similarly, the Local Car Rental and Ride Sharing License Fee was expanded to include the same taxpayers as the state tax.

Responding to a comment from Senator Nemes, Ms. Hays testified that the wording of the electric vehicle ownership fee followed statutory language.

Responding to a question from Representative Nemes, Ms. Hays clarified that cosmetic surgeries that are medically necessary will not be taxable.

With no further business before the committee, the meeting was adjourned at 2:30 p.m.

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

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

#### **Minutes of the 2nd Meeting of the 2022 Interim**

August 17, 2022

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

The 2nd meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, August 17, 2022, at 9:00 AM, in Room 154 of the Capitol Annex. Senator Matt Castlen, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Matt Castlen, Co-Chair; Senators Morgan McGarvey, and Wil Schroder; Representatives Al Gentry, Bart Rowland, and Russell Webber.

Guests: Jamie Eads, Interim Executive Director, Kentucky Horse Racing Commission; Shan Dutta, Deputy General Counsel, Kentucky Horse Racing Commission; Waqas Ahmed, Director of Pari-Mutuel Wagering and Compliance, Kentucky Horse Racing Commission; Jeff Noel, Secretary, Cabinet for Economic Development; Katie Smith, Commissioner, Cabinet for Economic Development.

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

#### **Pari-mutuel Wagering Licensing and Taxation**

Representatives from the Kentucky Horse Racing Commission gave a presentation to the committee focusing on Pari-Mutuel wagering and excise tax. The presentation outlined changes related to 2022 Regular Session House Bill 607.

In response to a question from Senator McDaniel, Ms. Eads said that the Thoroughbred Development Fund is a supplemental purse incentive program to benefit owners of Kentucky-sired and Kentucky-foaled runners.

In response to a question from Sen Schroder, Mr. Ahmed said that the Kentucky Standardbred Development Fund would only be in effect at harness tracks.

In response to a question from Representative Gentry, Mr. Ahmed explained that each Historical Horse Racing licensee is required to conduct live racing.

In response to a question from Chair Castlen, Mr. Ahmed said that Ellis Park in Henderson, Kentucky,

has been permitted to have Historical Horse Racing at an off-track betting site nearly 40 miles away in Owensboro.

In response to a question from Senator Schroder, Ms. Eads said that Equine Drug Research Council is established by law and appointed by the Governor to allocate dollars to fund research for the betterment of the equine industry.

In response to a question from Chair Castlen, Mr. Ahmed said that Advance-Deposit Wagering is mobile betting and is only offered for live racing. He added that Historical Horse Racing is only offered at brick-and-mortar facilities.

#### **Cabinet for Economic Development Budget Overview**

The Cabinet's presentation included information on electric vehicle batteries, wage growth, and international investment. Jeff Noel, Secretary, Cabinet for Economic Development, said that performance-based incentives and workforce programs were essential to attracting new corporate investors.

In response to a question from Senator McDaniel, Mr. Noel said that the Cabinet would provide the subcommittee with information regarding the Chinese involvement with lithium batteries. Mr. Noel said that the incentives the Commonwealth offers to companies are performance-based.

In response to a question from Representative Webber, Mr. Noel said there is a need to enhance workforce training and ways to identify a potential workforce. He noted the importance of collaborating with universities and regional hubs around technology.

In response to a question from Representative Gentry, Mr. Noel said that Kentucky is aggressive and will pursue funding and opportunities relative to recent coal industry legislation.

There being no further business before the committee, the meeting adjourned at 10:16 a.m.

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

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

#### **Minutes of the 2nd Meeting of the 2022 Interim**

August 17, 2022

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

The 2nd meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, August 17, 2022, at 10:30 AM, in Room 154 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Stephen West, Co-Chair; Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senator Max Wise; Representatives Kim Banta, Bobby McCool, and Charles Miller.

Guests: Dr. Paul Czarapata, President, Kentucky Community and Technical College System; Buddy Combs, Assistant Vice President of Financial Support Services, Kentucky Community and Technical

College System; Dr. Gerald Patton, Chair, Board of Regents, Kentucky State University; Tammi Dukes, Member, Board of Regents, Kentucky State University; Dr. Ronald Johnson, Interim President, Kentucky State University; Dr. Daarel Burnette, Chief of Staff, Kentucky State University; Dr. Gerald Shields, Vice President and Chief Financial Officer, Kentucky State University; Dr. Aaron Thompson, President, Council on Postsecondary Education; Greg Rush, Senior Fellow for Policy Development, Council on Postsecondary Education; Travis Powell, Vice President and General Counsel, Council on Postsecondary Education.

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

### **Kentucky Community and Technical College System (KCTCS)**

KCTCS provided a budget overview and explained how funds are allocated between the different functions of KCTCS. The presentation included updates on 2022 Regular Session House Bill 1 initiatives Workforce Development Trust Fund, Commonwealth West Healthcare Workforce Innovation Center, and Asset Preservation.

In response to a question from Chair West, Mr. Combs said that the total KCTCS budget is approximately \$900 million. Mr. Combs agreed to provide additional budget information to the committee. Mr. Combs said there are 289 employees including those at the Kentucky Fire Commission. Dr. Czarapata said that initial data shows the flooding damage in Hazard to be between \$15-20 million and at the Southeast campus between \$3.5-7 million.

In response to a question from Representative Tipton, Dr. Czarapata said he received many emergency financial aid requests. He said rebuilding will be a years-long process, and students will need additional resources and wrap-around support services. He vowed to be flexible with students who have had their lives upended by the floods in Eastern Kentucky. Dr. Czarapata acknowledged that discussions are ongoing with K-12 on the use of facilities and dual-credit instructors. He added that the percentage of unprepared students has grown since the beginning of the pandemic. In response to a question regarding the 2022 Regular Session House Bill 8 Kentucky Employees Retirement System supplement, Mr. Combs said that the amount is insufficient and will only cover one month.

In response to a question from Representative Banta, Dr. Czarapata said that KCTCS is putting a deep focus on credit for prior learning.

### **Kentucky State University (KSU) Financial Update**

Dr. Johnson and representatives from KSU provided the committee with a financial status update.

In response to a question from Representative Tipton, Dr. Johnson said that campus dorms are old and were not constructed properly, nor will they work with a modern air conditioning system. He stated the addition of the 408-bed residence hall would give KSU the opportunity to consider taking older facilities out of active use and ask for support to provide new housing for students.

### **2022 Regular Session House Bill 250 Update**

Dr. Aaron Thompson and Travis Powell, Council on Postsecondary Education (CPE), gave an update pursuant to 2022 Regular Session House Bill 250.

In response to a question from Chair West, Mr. Powell said the \$23 million was a prior year appropriation that has been used to backfill. Mr. Rush said that KSU has several vacancies that are causing delays with reconciliation and month-end close. CPE and KSU are working together to monitor the situation until these vacancies can be filled. Mr. Powell stated that the Auditor of Public Accounts has testified it intends to complete the examination by the fall of 2023. Lisa Lang, General Counsel at Kentucky State University, confirmed the ongoing litigation. She added that there are investigations tied to ongoing litigations.

In response to a question from Representative Tipton, Dr. Thompson said that additional appropriated money for KSU may be invested in adult online learning, teacher education programs, and credential programs related to state government. Dr. Patton said that the board is excited about the future despite the challenges the university faces. He stated that the board is highly engaged, organized, and committed to moving the university forward.

There being no further business before the subcommittee, the meeting adjourned at 11:45 A.M.

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

### **Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement Minutes of the 2nd Meeting**

**of the 2022 Interim**

**August 17, 2022**

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

The second meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 17, 2022, at 9:00 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 John Blanton, Co-Chair; Senators Adrienne Southworth, Reginald Thomas, and Stephen West; Representatives Kevin D. Bratcher, Jeffery Donohue, Derrick Graham, Mark Hart, Michael Meredith, Jerry T. Miller, Phillip Pratt, Josie Raymond, Nancy Tate, and Buddy Wheatley.

Guests: David Carter, Chief Information Security Officer, Commonwealth Office of Technology (COT); Blake Christopher, Deputy General Counsel, Director of Legal Policy, Office of Attorney General (OAG); Matt Cocanougher, Assistant Attorney General, Office of Consumer Protection, OAG; Matt Hedden, Director of Special Victims Unit, Department of Criminal Investigations, OAG; Kate Shanks, Senior

Vice President, KY Chamber of Commerce; and, Bryan Cobb, Chief Information Officer, C-Forward, Inc.

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

#### **Approval of Minutes**

Representative Pratt made a motion to approve the minutes of the July 6, 2022 meeting. The motion was seconded by Co-Chair Blanton, and the minutes were approved without objection.

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

David Carter, Chief Information Security Officer, COT, provided an overview of the measures being taken to manage cyber security within the Executive Branch.

In response to a question from Representative Wheatley regarding cell phones and cyber protections, Mr. Carter said Microsoft Office 365 is being used to monitor and containerize any state data on those devices. State government related data can be wiped from them without jeopardizing any personal content. There is also a cyber insurance policy in place which has people on retainer for legal representation, public relations, and technical responses, which are all highly skilled positions.

In response to a question from Senator West regarding the possibility of creating an extra tier in classifications for those highly skilled Information Technology cyber security positions, Mr. Carter said that would be very beneficial, as it is extremely challenging to compete with the private sector.

In response to a question from Representative Miller regarding coordination with the Legislative Research Commission, Mr. Carter replied that when incidents cross lines between government branches, COT collaborates with the LRC when the need arises.

In response to a question from Chair Nemes regarding recruitment from public universities, Mr. Carter said they are looking at establishing a program with the four top state universities. In relation to the shutdown that occurred in Virginia a couple of years ago that affected their backup systems, Mr. Carter said the COT has their own alternate data center in a secondary location which includes synchronization with the other data location. There is a multiple layer backup system, and multiple opportunities for recovery.

In response to a question from Chair Nemes regarding insurance and prosecution of cyber criminals, Mr. Carter said he has a great partnership with the Federal Bureau of Investigation (FBI).

#### **Office of Attorney General**

Matt Cocanougher, Assistant Attorney General, provided a brief overview of data breach notices. Matt Hedden, Director of Special Victims Unit, Department of Criminal Investigations, OAG, provided an overview of hacks and other forms of criminal activity on both the civil and government sides.

In response to a question from Representative Miller regarding phishing emails, Mr. Hedden replied that spear phishing is more targeted than regular, more generalized phishing.

In response to a question from Senator Southworth



regarding how ransomware is handled, Mr. Hedden said they coordinate with the Secret Service and the FBI with encryption. The local field office coordinates with other local field offices.

In response to a question from Chair Nemes regarding payment of ransom, Mr. Hedden likened it to a mouse you gave a cookie, and he comes back looking for milk. Just because you pay a ransom, it does not mean the hacker will follow through.

#### **KY Chamber of Commerce**

Kate Shanks, Senior Vice President, KY Chamber of Commerce, provided a brief overview of cyber security in businesses across the Commonwealth, and introduced Bryan Cobb, Chief Information Officer of C-Forward, Inc. who provided additional information.

In response to a question from Representative Miller regarding public university students majoring in cyber security, Chair Nemes commented that there are several, and four of them offer top notch degree programs which could result in a six-figure income.

In response to a question from Representative Graham regarding locations of cyber-criminal activities, Ms. Shanks said the majority of that activity originates outside the US. Mr. Cobb confirmed that statement, adding that they typically come from Eastern Europe, the Middle East, Russia, China, and North Korea.

In response to a question from Senator Southworth regarding tracking data, Mr. Cobb answered that all data mentioned is based on the original source.

Chair Nemes recommended that people use phony information if necessary, in order to thwart the illegal use of their personal data.

#### **Adjournment**

There being no further business, the meeting was adjourned at 10:20 AM.

### **INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE Budget Review Subcommittee on Human Resources Minutes of the 2nd Meeting**

**of the 2022 Interim**  
August 17, 2022

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

The 2nd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, August 17, 2022, 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 and Danny Carroll; Representatives Deanna Frazier Gordon, Melinda Gibbons Prunty, Russell Webber, and Lisa Willner.

Guests: Nancy Galvagni, President, Chief Executive Officer, Kentucky Hospital Association (KHA); Jim Musser, Senior Vice President, Policy

and Government Relations, KHA; Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS); Eric Friedlander, Secretary, CHFS; Dr. Steven Stack, Commissioner, Department for Public Health, CHFS; and Eric Lowery, Executive Director, Office of Finance and Budget, CHFS.

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

#### **Approval of Minutes**

Co-Chair Bentley made the motion to approve the minutes of the July 6, 2022 meeting of the subcommittee. Senator Alvarado seconded the motion, and the minutes were approved without objection.

#### **Hospital Rate Improvement Program for Outpatient Services**

Ms. Galvagni and Mr. Musser provided an update on the Hospital Rate Improvement Program (HRIP).

In response to questions from Chair Meredith, Ms. Galvagni stated that inflation numbers for prescription drugs were over forty percent. Ms. Galvagni said that Kentucky hospitals lost 2.6 billion dollars in revenue in 2020, roughly one billion of which wasn't covered by federal funds. Ms. Galvagni stated that the Kentucky Hospital Association expects to see hospitals close with a continued loss of revenue. Ms. Galvagni noted that ninety percent of Medicaid patients are managed care patients, and hospitals negotiate directly with managed care organizations rather than the Cabinet for Health and Family Services for reimbursement for the care of those patients.

In response to a question from Senator Alvarado, Ms. Galvagni said that HRIP applies to Medicaid patients. Ms. Galvagni stated that Medicare pays at below cost. Ms. Galvagni noted that HRIP money is tied to the care that is being delivered by the hospital. Ms. Galvagni stated that there is no hard cap on HRIP funds, rather the funding is based on utilization.

In response to a question from Representative Bentley, Ms. Galvagni said that she hadn't heard of an increase in malpractice lawsuits because of the nursing shortage.

#### **Overview and Update on COVID-19 Funding**

Secretary Friedlander and Dr. Stack provided an update on COVID-19 expenditures and remaining federal funds.

In response to a question from Senator Carroll, Secretary Friedlander noted that the Cabinet was a couple of months out from having a model for the funding of childcare services.

In response to a question from Representative Willner, Secretary Friedlander stated that school mental health services should be a collaboration between the Cabinet for Health and Family Services and the Kentucky Department of Education.

In response to questions from Senator Alvarado, Dr. Stack stated that American Rescue Plan Act funding could be used for a state laboratory.

There being no further business before the subcommittee, the meeting was adjourned at 12:06 PM.

### **INTERIM JOINT COMMITTEE ON APPROPRIATIONS & REVENUE Budget Review Subcommittee on Justice and Judiciary Minutes of the 2nd Meeting of the 2022 Interim** August 17, 2022

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

The 2nd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations & Revenue was held on Wednesday, August 17, 2022, at 9:00 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, Daniel Elliott, C. Ed Massey, and Jason Nemes.

Guests: Dr. Bill Ralston, Chief Medical Examiner, Office of the State Medical Examiner; Rebecca Norton, Finance Director, Justice and Public Safety Cabinet (JPSC); Keith Jackson, Deputy Secretary, JPSC; Kevin Rader, Administrative Division Director, Department of Criminal Justice Training; and Jennifer Linton, Executive Director, Department for Facilities and Support Services, Finance and Administration Cabinet.

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

#### **Approval of Minutes**

Senator Schickel made the motion to approve the minutes from the July 6, 2022 meeting of the subcommittee. Representative Massey seconded the motion, and the minutes were approved without objection.

#### **Office of the State Medical Examiner**

Dr. Ralston and Ms. Norton spoke on the budgetary needs and challenges of the Office of the State Medical Examiner (OSME).

In response to a question from Chair Carroll, Dr. Ralston noted that thanks to investments made by the legislature, the OSME was able to increase salaries to a competitive level in order to retain existing staff and increase staffing at all locations. Funding has also been set aside to provide adequate staffing at the Northern Kentucky Regional Medical Examiner's Office when a site has been determined and properly outfitted as a medical examiners laboratory. Dr. Ralston stated that the OSME handles between 2,800 and 3,000 cases per year.

In response to questions from Senator Schickel, Ms. Norton noted that the Finance and Administration Cabinet (FAC) had located several possible sites for the Northern Kentucky Regional Medical Examiner's Office and was working to determine the best option. Ms. Norton stated that the FAC was unable to provide a specific timeline on when the office would be opened, citing issues such as necessary renovations after a space is selected and the need for adequate

staffing.

In response to question from Chair Carroll, Dr. Ralston said that the site chosen for the Northern Kentucky Regional Medical Examiner's Office would ultimately need to be a medical grade facility when renovations are complete.

In response to a question from Representative Elliott, Dr. Ralston confirmed that rotating staff from other regions to fill out the northern Kentucky office would lead to understaffing in the other regions.

#### **Department of Criminal Justice Training**

Mr. Jackson and Mr. Rader provided comments on the possibility of a new training center in the western portion of the state, as well as progress being made on the indoor firing range at the eastern Kentucky campus.

In response to questions from Chair Carroll, Mr. Jackson noted that a feasibility study regarding a proposed criminal justice training site should be completed in October, 2022.

There being no further business before the subcommittee, the meeting was adjourned at 10:14 AM.

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

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

#### **Minutes of the 2nd Meeting of the 2022 Interim**

August 17, 2022

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

The second meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 17, 2022, at 10:30 AM, in Room 131 of the Capitol Annex. Representative Sal Santoro, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Jimmy Higdon, Co-Chair; Representative Sal Santoro, Co-Chair; Senators Johnnie Turner and David Yates; Representatives Randy Bridges, Chris Fugate, Samara Heavrin, Thomas Huff, Shawn McPherson, Phillip Pratt, Rachel Roberts, Cherlynn Stevenson, and Ken Upchurch.

Guests: Jim Gray, Secretary, KY Transportation Cabinet (KYTC); Kenny Bishop, Legislative Liaison, KYTC; Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC; and, Pat Grugen, Executive Director, KYTC Support Services.

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

#### **Approval of Minutes**

Co-Chair Higdon made a motion to approve the minutes of the July 6, 2022 meeting. The motion was seconded by Representative Fugate, and the minutes were approved without objection.

## **Flood Damage in Eastern Kentucky**

Co-Chair Higdon commended Secretary Gray and the Transportation Cabinet for all they are doing to assist with the disaster in Eastern Kentucky. He said Secretary Gray has been dubbed "The Master of Disaster" as a result. He thanked all who have been involved with the aftermath of the flooding.

Secretary Gray presented information on the catastrophic event and provided an overview of what is being done to assist in recovery efforts. He commented on the competence and commitment of all those helpers, the response of the Governor, and KY Emergency Management, among others.

Representative Fugate commented that he could not name everyone, but wanted to convey his appreciation for Chief Advisor Rocky Adkins, and all who helped. He then expressed his concern for road conditions on KY 451, KY 1110, and the Airport Road in Hazard. There are more than two hundred residences affected. He asked about the possibility of placing travel trailers on personal property rather than at a state park. Secretary Gray said cases are considered individually, and he will get back with an answer on those guidelines.

In response to a question from Representative Heavrin regarding privately-owned bridges in the low areas, Secretary Gray said the Federal Emergency Management Agency (FEMA) has dealt with similar issues in the past, and ongoing discussions are taking place regarding what can be done and how best to achieve that.

In response to a question from Representative Heavrin regarding whether there would be an infrastructure investment or a patchwork approach, Secretary Gray said it is not a case of either/or, rather it is both/and. There is an opportunity for improvement in the rebuilding effort.

In response to a question from Senator Turner regarding widening streams, Secretary Gray said they are working on parallel tracks with the Energy and Environment Cabinet on stream debris removal.

In response to a question from Chair Santoro regarding highway contractors providing assistance, Secretary Gray said contractors and consulting engineers familiar with the area were the first to step up, volunteering to help. Contractors also did the same in the aftermath of the recent tornadoes in Western Kentucky.

Co-Chair Higdon expressed his appreciation for the KYTC team and all they do. He then inquired about cost estimates and Secretary Gray replied that the number is more than can be speculated, and it would be significant.

In response to a question from Co-Chair Higdon regarding grants, required matching funds, and the time frame for announcement of grant awards, Secretary Gray said that seven transit agencies, most of which were Community Action Councils, had received approximately \$3 million. Applications were submitted for the Bridges of National Significance bridge investment program funding, which would include approximately \$1.66 billion for the Brent Spence Bridge project. The bridge investment program award may be the first and could be expected as early as the next quarter of this year. There are two applications in process for the Brent Spence Bridge,

requiring a multi-year commitment.

## **KYTC Capital Budget**

Robin Brewer, Executive Director, Office of Budget and Fiscal Management, and Pat Grugen, Executive Director, KYTC Support Services, provided a brief overview of the Capital Projects within the Transportation Cabinet.

In response to a question from Representative McPherson regarding the effect of inflation within the construction industry, Mr. Grugen replied that a conservative estimate would be approximately thirty-five percent.

Chair Santoro thanked the KYTC for the information provided and expressed his appreciation for all they do as they face the challenges we are currently facing.

## **Adjournment**

There being no further business, the meeting was adjourned at 11:40 AM.

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

### **Minutes**

August 25, 2022

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

Pursuant to the approvals of the President of the Senate and Speaker of the House, the Senate Standing Committee on Banking and Insurance and the House Standing Committee on Banking and Insurance met jointly at the Kentucky State Fair on August 25 during the 2022 Special Session. Senator Girdler, Chair and Representative Rowland, Chair called the meeting to order, and the secretary called the roll for each committee.

#### **Present were:**

Members: Representative Bart Rowland, Co-Chair; Senators Julie Raque Adams, Ralph Alvarado, Donald Douglas, Rick Girdler, Morgan McGarvey, Dennis Parrett, and Brandon J. Storm; Representatives Danny Bentley, Joseph M. Fischer, Patrick Flannery, Deanna Frazier Gordon, Jim Gooch Jr., Angie Hatton, Norma Kirk-McCormick, Derek Lewis, Matt Lockett, Michael Meredith, Michael Sarge Pollock, Rachel Roberts, Cherlynn Stevenson, and Susan Westrom.

Guests: Shelby Williams, Great Louisville Inc.; Mark Haney, President, Kentucky Farm Bureau Federation; John Sparrow, Executive Vice President & CEO, Kentucky Farm Bureau Mutual Insurance Company; DJ Wasson, Chief of Staff and Legislative Liaison, Public Protection Cabinet

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

## **Introduction**

Shelby Williams, Greater Louisville Inc., gave a brief introduction and thanked the committee for coming to the Kentucky State Fair.

## Discussion of recent storm responses and relief efforts

### Kentucky Farm Bureau

Mark Haney, President, Kentucky Farm Bureau Federation, thanked the committee for their oversight and provided an introduction.

John Sparrow, Executive Vice President & CEO, Kentucky Farm Bureau Mutual Insurance Company introduced multiple Vice Presidents. Next, a video was played for the committee which showed the devastation of the recent floods in Eastern Kentucky, how Kentuckians and communities came together, and Kentucky Farm Bureau (KFB) assisting people in need. Mr. Barrow discussed KFB's relief efforts for Kentuckians impacted by recent natural disasters. The December tornadoes that hit Western Kentucky resulted in over 8,000 claims and approximately \$220 million in losses with KFB. To date, the recent floods that affected Eastern Kentucky resulted in around \$52 million worth of loss and 5,000 claims with KFB, with 20 percent of those being automotive claims.

Traditionally, most mobile homes have flood coverage. However, other homes, farms, businesses, and buildings do not traditionally have flood coverage unless it is provided by a third party. The Federal Emergency Management Agency (FEMA) has an insurance program and KFB also provides a lot of that coverage, which is funded with FEMA dollars. Flood coverage is expensive and complicated to get. KFB tries to quickly provide denial letters when there is no coverage and in cases of coverage, proof of deductibles so that the insured can apply for and obtain FEMA assistance. Lastly, Mr. Sparrow showed a video featuring KFB's annual skeet shooting charity event to help feed the hungry around the Commonwealth.

In response to Representative Rowland's questions, Mr. Sparrow explained that KFB has not experienced any negative financial impact due to the amount of claims that resulted from natural disasters. This is due to KFB being part of reinsurance programs and because they have been fiscally prudent. While he does not have exact numbers, Mr. Sparrow estimated that the December 2021 tornadoes was probably the largest claim event in KFB history.

In response to Representative Hatton's questions, Mr. Sparrow stated that there is no requirement to have flood insurance unless the individual has a loan. KFB is actively looking for more affordable flood insurance coverage options.

In response to Representative Kirk-McCormick's question, Mr. Sparrow explained that most insurers traditionally do not provide flood or surface water coverage unless it is a mobile home, it is an automobile with comprehensive coverage, or the coverage is purchased separately. Insurance rates are increasing across the board due to inflation.

### Department of Insurance

DJ Wasson, Chief of Staff and Legislative Liaison, Public Protection Cabinet (PPC) discussed the Department of Insurance's (DOI) response to the recent tornadoes and floods. When Western Kentucky

was devastated by multiple tornadoes in December 2021, DOI deployed its disaster response team to provide on-site assistance that included answering questions, distributing educational materials, providing information on how to avoid fraud and locate a lost life insurance policy, and providing contact information for insurers. DOI returned to the area two more times to provide additional assistance. DOI issued guidance to insurers to set a level playing field and provide some grace during the disaster's aftermath. DOI also issued data calls to insurers, who were very responsive, to obtain information for the purpose of monitoring claims and providing FEMA and the Department for Local Government location information for affected homes. As of January 7, there were 12,443 claims resulting from the December 2021 tornadoes, and from those claims, the DOI only received 40 complaints, which shows that the insurers were very responsive after this disaster. Most of the complaints dealt with confusion between actual cash value and replacement cost coverage. Finally, DOI is conducting some fraud investigations that are primarily related to debris removal.

The PPC administers the Team Western Kentucky Tornado Relief Fund, which is made up of private donations. Approximately 150,000 people donated over \$52 million. PPC used some of the funds to help assist with immediate needs, but is also saving funds for long-term recovery. Ms. Wasson detailed some of the disbursements from the Fund, which included funeral payments, assistance to both uninsured and insured homeowners and renters, funding to nonprofit organizations for longer-term recovery efforts, and assistance to farmers in Graves County due to a destroyed grain elevator. PPC is also meeting with long-term recovery groups in the area to assist impacted families with future needs.

Ms. Wasson briefly discussed DOI's response to the floods, which was very similar to the tornado response. The government response to the floods was more coordinated due to lessons learned from the tornadoes. In response to Representative Hatton's previous question, Ms. Wasson stated that between 1 and 2.5 percent of impacted homes in Eastern Kentucky were believed to be insured with flood coverage. There is a flood relief fund, which is up to about \$8.2 million in donations. Funeral assistance payments have been made for the 39 deaths to date resulting from the floods. PPC is currently meeting with community partners in the area to provide immediate assistance, especially with getting mud out of homes. They are also meeting with federal and local government partners to address longer-term needs.

In response to Representative Westrom, Ms. Wasson stated that she would provide a link to the Team Eastern Kentucky Flood Relief Fund for disbursement to the members.

There being no further business, the meeting was adjourned.

## BOURBON BARREL TAXATION TASK FORCE

### Minutes of the 3rd Meeting

#### of the 2022 Interim

September 1, 2022

#### Call to Order and Roll Call

The 3rd meeting of the Bourbon Barrel Taxation Task Force was held on Thursday, September 1, 2022, at 10:00 AM, in Room 169 of the Capitol Annex. Representative Chad McCoy, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Robert Stivers, Co-Chair; Representative Chad McCoy, Co-Chair; Senators Jimmy Higdon and Christian McDaniel; Representatives Jennifer Decker, Thomas Huff, and Cherlynn Stevenson.

Guests: Timothy J. Eifler, Stoll Keenon Ogden PLLC; Jerry Summers, Judge-Executive, Bullitt County; Jim Henderson, Executive Director, Kentucky Association of Counties (KACO); and Kayla Carter, KACO.

LRC Staff: Jennifer Hays, Sarah Watts, Hunter Branham, and Lexi Bensberg.

#### Discussion of Industrial Revenue Bonds

Timothy Eifler, Stoll Keenon Ogden PLLC, presented a general overview of Industrial Revenue Bonds in the context of their usage as a mechanism to obtain a state and local property tax abatement.

Mr. Eifler testified that an Industrial Revenue Bond (IRB) is essentially a loan with an obligation to repay. Statutes were enacted and bonds were first authorized in 1946 and may be issued by specific governmental entities to finance projects. These statutes provide requirements and guidelines for what type of assets can be financed through IRBs. The tax exemption at the local level is automatic once an IRB is issued for a project, but a project must apply to the Kentucky Economic Development Finance Authority (KEDFA) to receive a lower state tax rate. The evaluation criteria for this application includes variables such as amount on project capital investment, county unemployment rate, size and percentage of the abated tax, and estimated tax revenues among other things. If KEDFA approves the application, the state property tax rate for the Project is reduced to \$0.015 per \$100 of fair cash value.

IRBs act as a locally administered economic development incentive, with specific cities or counties having authority over whether to issue an IRB to a project that is planning to locate in its jurisdiction. IRBs are an alternative method to finance capital assets of a project that allows the project to obtain a state and local property tax abatement on those assets while the IRB is outstanding.

The leasehold interest in a project is exempt from local property tax. However, it must be approved by KEDFA to receive the reduced state rate of \$0.015 per \$100 of fair cash value.

Mr. Eifler explained that to obtain this tax abatement, the IRB must be structured specifically so



that the title to the assets is held by the city or county during the bond's term (up to 40 years). Those assets are leased to the company by the city or county, and the IRBs are issued to pay the cost of those assets. The company's lease payments are used to repay the debt during the term of the bond. With the city or county acting as a conduit, projects that receive an IRB shall be exempt from taxation to the same extent as other public property used for public purposes during the term of the bond.

Due to this structure, the city or county is a conduit and the city or county is not obligated to levy a tax to repay the IRB if there is a default on the loan. Via statute and case law, an IRB is not considered a debt of the city or county for purposes of the limits on the city or county's ability to borrow.

KRS confirms that the purpose of an IRB is to promote economic development of the Commonwealth and to encourage the increase and retention of industry in the state. IRBs can finance the cost of any industrial building, as defined by KRS. There are 15 categories in the legal definition, though they are primarily used in manufacturing projects. Under Kentucky law, distilleries are considered to be manufacturers.

Mr. Eifler testified that the first step in the process of issuing an IRB is the adoption of a bond inducement resolution by the city or county's legislative body that will specify details of the project and the bond being issued. Once the project is constructed, the city or county will adopt the bond ordinance, which authorizes the issuance of the bond and specifies details such as amount and repayment term. Upon repayment of the bond, the lease terminates. The issuer transfers the project title to the company for a previously agreed upon nominal payment, and the property tax abatement ends.

In the context of distilleries, the barrels that hold the liquid can be financed through an IRB because the barrels are a depreciable asset.

Mr. Eifler testified that the issuer of the IRB may require payments in lieu of taxes (PILOT) to local taxing districts that may be impacted by the project's tax exemption. These payments are negotiated amounts that the company contractually agrees to pay during the term of the IRB.

In response to a comment from Co-Chair Stivers, Mr. Eifler testified that if an IRB is issued to a company to expand a preexisting project, the added value provided by the expansion will be exempt from local property tax.

In response to a question from Senator Higdon, Mr. Eifler testified that the maximum duration of an IRB increased from 30 to 40 years. There is no guaranteed escape clause, but one could be negotiated into the terms of an IRB.

In response to a question from Senator Higdon, Mr. Eifler testified that KEDFA will agree to the state tax property rate reduction if there is an agreement for a full school PILOT. If the company is required to make a PILOT payment to another district, KEDFA would require the company to enter into a PILOT agreement with the state to match it.

In response to a question from Senator McDaniel, Mr. Eifler testified that South Carolina and Georgia have very similar IRB structures. He continued that

KEDFA, under KRS, can issue conduit bonds. He also testified that he was unaware of any previous defaults on IRBs. When underwriters consider IRBs, they understand that the sole source of repayment is the revenue stream of the company. The city or county does not offer any collateral for repayment. If a company were to default on an IRB, it should not impact that city or county's ability to borrow in the future.

In response to a question from Chair McCoy, Mr. Eifler testified that the bourbon barrel tax is usually still being collected if a distillery has an IRB agreement. Mr. Eifler explained that it benefits a city/county to enter into an IRB agreement because it offers an incentive for economic development in their jurisdiction. He also testified that if the bourbon barrel tax disappeared there would be no breach of existing IRB contracts.

In response to a question from Senator McDaniel, Mr. Eifler testified that the IRB is a loan and that the interest on the loan is treated as ordinary income. There is no prohibition on an affiliate of the project company from purchasing the IRB debt, and this process is common on property tax abatement bonds.

In response to a question from Representative Decker, Mr. Eifler testified that it is not unusual to have a PILOT agreement written into the contract of an IRB.

#### **Discussion of County Concerns**

Jerry Summers, Judge-Executive, Bullitt County; Jim Henderson, Executive Director and Kayla Carter, Kentucky Association of Counties, testified to the concerns facing counties if the Bourbon Barrel Tax were to be abolished.

Mr. Summers testified that the Bullitt County barrel tax revenue is expected to double by 2026. The revenue from the tax provides funding for multiple local districts. Bullitt County does not have an occupational tax or a licensing fee, so it would be difficult to compensate for the lack of revenue if the tax were to be abolished.

Mr. Summers testified that counties have issues \$2.5 billion in IRBs since 2012. These IRBs were issued based on the expectation of future revenue growth from the bourbon barrel tax.

In response to a question from Senator McDaniel, Mr. Summers stated that he would provide the document with the annual unrealized property tax revenue by county at a later date. Mr. Summers clarified that his administration has not issued any IRBs, but historically there was an expectation of a revenue stream via the bourbon barrel tax from these projects.

In response to a question from Chair McCoy, Mr. Henderson testified that the interest is to maintain and grow the bourbon industry's interest in residing in Kentucky. The barrel tax is often a reason that a city or county would consider issuing an IRB to a distiller interested in locating in their jurisdiction.

Mr. Henderson testified that the 2021 barrel tax revenue provided over \$1.1 million to the Nelson county fiscal court. The 2021 barrel tax revenue provided over \$300,000 to the Marion county fiscal court. These counties issued millions of dollars in IRBs to distillers.

Henry County does not currently have a high dependence on revenues from the bourbon barrel tax. However, it recently sold 40 acres of the county industrial park at a discounted rate, with the expectation of a return on investment through the barrel tax. Once current projects are completed, it is expected that there will be a 20 percent increase in fiscal court tax revenue.

Mr. Henderson testified that many smaller counties are heavily reliant on revenues from local property taxes to fund local districts, but forego this revenue by issuing IRBs with the expectation that the bourbon barrel tax would account for a portion of lost revenue. If the bourbon barrel tax were to be abolished, it would put a large hole in the budgets of many counties. It is uncertain how that hole would be filled.

Mr. Henderson also discussed the correlation between tangible property tax and real property tax rates. He expressed concern about the decrease in personal property tax having a bearing on the real property tax rate, due to the convoluted relationship between the two.

Senator Higdon commented that in 2014, the General Assembly eliminated the ad valorem tax by way of tax credits. The local governments would receive their tax revenue, but then the companies would receive a tax credit on the state return for local taxes paid to local tax districts.

Senator McDaniel commented that the General Assembly made a generous contribution to the bourbon industry in 2014. He acknowledged that the Commonwealth's budget reserve trust fund cannot act as a solution to the issue at hand, as the state must find solutions to state workforce wage and pension liabilities.

In response to a question from Representative Decker, Mr. Henderson testified that the escape clause in the IRB issued within the representative's district, which voids the contract if the bourbon barrel tax is abolished, is not common and likely was only negotiated because of the current discussion in the legislature to abolish the tax.

In response to a question from Co-Chair Stivers, Mr. Summers testified that a bourbon barrel costs around \$200. However, the rate at which the barrel is taxed differs by county. Mr. Summers agreed that any solution to a hole in revenue created by the abolishment of the bourbon barrel tax would have to vary based on the preexisting tax structure in each county.

In response to a question from Co-Chair Stivers, Ms. Carter testified that the liquid in the barrels is taxed at the tangible rate set by each county. She also stated that most of the IRBs that she has seen in Kentucky have had a 30-year repayment term.

In response to a question from Chair McCoy, Mr. Henderson testified that the graphs included in the KACo presentation were designed to showcase the financial impact of the barrel tax, but that the \$230,000 impact to the Nelson County sheriff's office is included in the other tax revenues listed. Also, Mr. Henderson testified that his office does not typically set tax policy. However, if the barrel tax were to be abolished the expectation that was set when the local government agreed to the IRB should continue to be

filled. How this fulfillment would happen, once again, would vary by county based on tax structure.

Chair McCoy commented that this conversation is not being heard at the local level because new distilleries are not choosing to locate within the state. Chair McCoy announced that he will not be attending the fourth meeting of the Bourbon Barrel Task Force and that Co-Chair Stivers will be chairing the meeting.

Seeing no other questions or comments, Chair McCoy adjourned the meeting at 11:50 a.m.

## **BENEFITS CLIFF TASK FORCE**

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

#### **of the 2022 Interim**

August 24, 2022

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

The 2nd meeting of the Benefits Cliff Task Force was held on Wednesday, August 24, 2022, at 9:00 AM, in Room 131 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 Jonathan Dixon, Co-Chair; Senators Michael J. Nemes, and Phillip Wheeler; Representatives Josh Bray and Russell Webber.

Guests: Charles Aull, Executive Director, Kentucky Chamber Center for Policy and Research; Benjamin Gies, Director of Early Childhood Policy and Practice, The Prichard Committee for Academic Excellence; Sarah Vanover, Policy and Research Director, Kentucky Youth Advocates; and Mandy Simpson, Chief Policy Officer, Metro United Way.

LRC Staff: Audrey Ernstberger, Chris Joffrion, Kirk Smith, and Liz Hardy.

#### **Approval of Minutes**

A motion to approve the minutes of the July 20, 2022 meeting was made by Representative Webber, seconded by Representative Dixon, and approved by voice vote.

#### **The Business Community's Perspective on Benefits Cliff and Child Care Challenges**

Charles Aull, the Executive Director of the Kentucky Chamber Center for Policy and Research, discussed the challenges that employers face due to benefit cliffs. These challenges are primarily caused when an employer offers an employee a wage increase or when an employer offers an employee more hours or a transition from part time employment to full time employment. The state's labor market shortage has resulted in an increased frequency of these challenges. Mr. Aull detailed policy changes that could combat the issue which included a benefits cliff calculator for families and employers, public private partnerships that offer solutions to the issues associated with benefit cliffs, and an earned income tax credit for low-income earners. The Kentucky Chamber of Commerce also recommends ensuring the success of HB 499 from the 2022 Regular Session that established a statewide Employee Child Care Assistance Partnership program, stabilizing the Child

Care Assistance Program (CCAP), studying local zoning ordinances, and ensuring the success of the Business Partnerships Grants Program.

Answering a question from Senator Wheeler, Mr. Aull stated that many different reform options have been considered for the earned income tax credit and discussed the possible benefit of individuals claiming the earned income tax credit on a quarterly basis. In response to a follow up, Mr. Aull commented about bringing awareness of the earned income tax credit to low-income earners.

Responding to Representative Bray, Mr. Aull confirmed that some public assistance programs have programmatic lifetime limits that are not associated with benefit cliffs.

Addressing questions from Senator Howell, Mr. Aull discussed how the child care shortage effects older individuals in the workforce, factors causing the labor market shortage, employers' reactions to the labor shortage, the ongoing loss of child care providers over the past decade, employment burnout, removing barriers for individuals in the workforce, and transition periods for individuals that have lost public assistance benefits.

Replying to additional questions from Senator Wheeler, Mr. Aull noted that although benefit cliff and cost of living calculators can be helpful to families, the General Assembly may be limited on some statutory changes due to federal regulations.

Answering a question from Representative Dixon, Mr. Aull said it is possible for a state to implement some type of state earned income tax credit without an individual income tax.

#### **The Child Care Cliff Effect**

Benjamin Gies, Director of Early Childhood Policy and Practice at The Prichard Committee for Academic Excellence, Sarah Vanover, the Policy and Research Director with Kentucky Youth Advocates, and Mandy Simpson, the Chief Policy Officer at the Metro United Way, gave an overview of the major issues throughout the child care sector in the Commonwealth. Child care in the state includes child care centers, family child care homes, and regulated family, friend, and neighbor care. The average cost of child care in the state for center based infant care is \$11,200, and more than half of all Kentuckians live in a child care desert. According to Ms. Vanover, there is a child care funding cliff that will be created when federal sustainability payments and flexible funding ends in the next two years. This will result in programs not being able to sustain current employee wages and child care capacity drastically decreasing. Policy considerations for child care include sustaining investment in the Child Care Assistance Program reimbursement rates, eligibility, and transition periods; supporting competitive wages, benefits, and educational opportunities for child care educators; ensuring the success of the Employee Child Care Assistance Partnership; and considering the recommendations of the Early Childhood Task Force.

Answering a question from Representative Bray, Ms. Vanover stated approximately nine percent of child care centers and family child care homes in the state closed as a result of the pandemic, and the capacity of child care centers prior to the pandemic

was 165,314 but has decreased to 158,000. She noted that many child care centers across the state are not currently at full capacity due to staffing shortages. In response to a follow up question, Ms. Vanover explained that the number of child care centers that will close because of the federal funding that will soon end is not known, but centers are currently being surveyed.

Replying to Representative Dixon, Ms. Vanover described the tiered system for the \$470 million of American Rescue Plan funding that was dedicated to sustainability payments for child care programs explained how the impending child care funding cliff may increase costs and decrease wages. Answering a follow up, Ms. Vanover stated that most of the Commonwealth's child care regulations are based on federal requirements, but Kentucky has some of the least stringent regulations in the country. There are however some zoning laws in local communities across the state that are preventing family child care homes.

Addressing questions from Senator Howell, Ms. Simpson clarified that the average Kentucky child care employee earns about \$22,000 a year full time with a 40-hour work week. The pandemic may have increased the work week for some child care providers due to staffing shortages. Replying to follow up questions, Ms. Vanover discussed reimbursement options for nontraditional child care providers.

There being no further business before the committee, the meeting adjourned at 10:45 a.m.

## **CHILD WELFARE OVERSIGHT**

### **AND ADVISORY COMMITTEE**

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

#### **of the 2022 Interim**

July 21, 2022

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

The 1st meeting of the Child Welfare Oversight and Advisory Committee was held on Thursday, July 21, 2022, at 3:00 PM, in Room 131 of the Capitol Annex. Senator Julie Raque Adams, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

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

Guests: Heather Wagers, Executive Director, Kentucky Office of the Attorney General; Mary Carpenter, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services; Kelli Root, Division Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services; Laura Begin, Staff Assistant, Regulation Coordinator, Department for Community Based Services, Cabinet for Health and Family Services; and Christa Bell, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services.

LRC Staff: Ben Payne, Lead Staff, Becky Lancaster, and Eric Rodenberg.

### **Approval of Minutes**

A motion to approve the minutes of the October 13, 2021, meeting was made by Representative Tate, seconded by Representative Meade, and approved by voice vote.

### **2022 Regular Session Senate Bill 8 Implementation Update**

Heather Wagers, Executive Director, Kentucky Office of the Attorney General, discussed Kentucky's rankings regarding child abuse and neglect incidences, the Child Abuse and Neglect Prevention Board's voting and non-voting members, and the responsibilities of the board, successful campaigns and programs on child safety issues sponsored by the Child Victims Trust Fund (CVTF). Ms. Wagers discussed the total number of child sexual abuse medical exam reimbursements by CVTF from fiscal years 2019 to 2021.

In response to questions and comments from Senator Adams, Ms. Wagers stated that changing the definition of how CVTF works with Medicaid to make sure the bundle amount will be different and the amount paid by CVTF will be decreasing.

Ms. Wagers discussed events where the Attorney General's office staff met with partners and organizations to exchange information and better develop public awareness for the prevention of child maltreatment. She discussed the effective date of 2022 Regular Session Senate Bill 8, dissolution of the State Child Sexual Abuse and Exploitation Prevention Board, the grant application deadline, and the meeting of the new board, the State Child Abuse & Neglect Prevention Board, which will cover all forms of child maltreatment. She discussed several items on the agenda for the new board's first meeting.

Laura Begin, Staff Assistant, Regulation Coordinator, Department for Community Based Services, Cabinet for Health and Family Services (CHFS), gave an overview of 2022 Regular Session Senate Bill 8. Kelli Root, Division Director, Division of Protection and Permanency, Department for Community Based Services (DCBS), Cabinet for Health and Family Services, discussed the amended definition of fictive kin that could result in a decrease in the number of children entering the state's custody and an increase in children being placed with siblings and reunifying with birth parents.

Kelli Root, Division Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, discussed the number of children in the custody of or committed to CHFS and the number of children in the custody of relative or fictive kin from June 2016 to June 2022. She discussed the establishment, requirements, and exceptions regarding the putative father registry, and the number of putative father search requests. Mary Carpenter, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services, discussed Kentucky's national poverty rating, the average childcare cost for one child in Kentucky and how 2022 Regular Session Senate Bill 8 amended the

definition of an abused or neglected child to better differentiate poverty from neglect. She discussed the number of types of maltreatment related to child protective services reports with a substantiated or services needed finding and an out-of-home care case disposition from state fiscal year (SFY) 2016 to SFY 2022, the expansion and impact of family preservation services provided by 2022 Regular Session Senate Bill 8.

Ms. Begin discussed the positive changes for young adults formerly and currently in the custody of the state created by 2022 Regular Session Senate Bill 8 in regards to re-entry, the Foster Child Bill of Rights, and extended commitment options. She reviewed the number of youth exiting to independence from SFY 2015 to SFY 2022.

In response to questions and comments from Senator Adams, Ms. Root stated that there are 8,684 children in the custody of or committed to CHFS and 1,494 children are in the custody of relative and fictive kin.

In response to questions and comments from Senator Berg, Ms. Root stated that 43 men put their names on the Kentucky putative father registry, a putative father has up until 21 days after a child's birth to submit a registration request, and searches are done so that an adoption notice may be provided to the putative father.

In response to questions and comments from Representative Tate, Ms. Root stated if a child came into the custody of CHFS through a newborn safety device, there is an exception that a putative father request would not be completed for a public agency adoption.

In response to questions and comments from Senator Storm, Ms. Root stated that DCBS does keep records of where children are located when placed in out-of-home care. Ms. Carpenter stated that a child's removal from a home is not automatic but dependent on if there is a safety risk, even if born into a home where other children were removed. Ms. Begin stated that a reunification plan with goals must be completed in order for children to return to the home of removal. Ms. Carpenter stated that if a child is removed and custody is given to a relative, DCBS may not have an active or open record of where the child is placed.

In response to questions and comments from Representative Moser, Ms. Carpenter stated that when 2018 Regular Session House Bill 1 was implemented, CHFS created the putative father registry education programs and brochures to educate the public and providers. Ms. Root stated that a private agency adoption must submit a request to the Adoption Services Branch to check the putative father registry prior to adoption.

### **Update on Use of Budget Funding for Kentucky Prevention Services for Families**

Christa Bell, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services, discussed the number of Family First Services Act families served in SFY 2022, compared the prevention, out-of-home care, and adoption expenditures from SFY 2019 to SFY 2022, reviewed the increased spending for Family First Services Act

prevention programs, and listed the additional state general funds used for other prevention and pilot programs. She discussed the number of children in the custody of or committed to CHFS from SFY 2016 to SFY 2022, the three types of prevention activities and the coordinating programs, and ways to prevent maltreatment before it occurs.

### **Current and Past Year Child Welfare Statistics Discussion**

Christa Bell, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services, discussed the statewide numbers and various categories of child protective services (CPS) intakes for SFY 2022, the different types of maltreatment, and the contributing risk factors to substantiated CPS intake reports. She gave an overview of the Helping Others and Promoting Empowerment (HOPE) community response pilot program along with other primary and secondary prevention efforts. She discussed future funding sources to support prevention programs, a joint initiative by large national partners to rethink the approach to child welfare, and the new formal statewide prevention collaborative, the launch of the Birth Parent Advisory Council. She reviewed the number of reports that met acceptance criteria for child abuse and neglect assessment and all types of CPS intakes for SFY 2020 through SFY 2022. She stated that the provision of economic and concrete supports of prevention is a contributing factor in reducing the number of maltreatment reports. She discussed a study that relates to state spending on public benefits and how it drives down maltreatment.

In response to questions and comments from Senator Berg, Ms. Bell stated that she could provide reports that were completed when DCBS was preparing for implementation of Family First and that the reports listed the number of total population that could meet the definition of candidates for foster care. She stated that she has not been involved in conversations relating to DCBS anticipating an increase in providing additional needs and services to women being denied abortions.

In response to questions and comments from Representative Meade, Ms. Bell stated that the number of child abuse and neglect reports are not worse than anticipated post-pandemic. Ms. Begin stated that a previous statement made in the Early Childhood Education Task Force referred to the severity of the maltreatment cases and not the total number of cases reported. Ms. Bell stated that approximately \$7.3 million of the \$20 million appropriated by the Kentucky General Assembly to be utilized for prevention was sent back to the CHFS general fund because it was not used by July 2022. She stated that the information on the additional state general funds for prevention is helpful in showing CHFS' strategy to blend one-time funding federal funding and the state's general funds that were provided.

In response to questions and comments from Representative Tate, Ms. Bell stated that the terminology for the expansion of candidacy for foster care is federal language, set by each state, and approved at a federal level. She stated that to fulfill a claim for federal reimbursement, the child being served must meet the definition of a candidate for



foster care. She stated that Kentucky has a more traditional definition of a candidate for foster care and is reviewing how other states have expanded the definition to include more of the populations who are at risk of entry into foster care. She stated that there is not a requirement for legislative involvement for CHFS to submit a request for a changes to the plan with the federal government.

### **Adjournment**

There being no further business, the meeting was adjourned at 4:54 PM.

## **EARLY CHILDHOOD EDUCATION TASK FORCE**

### **Minutes of the 3rd Meeting of the 2022 Interim**

August 24, 2022

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

The 3rd meeting of the Early Childhood Education Task Force was held on Wednesday, August 24, 2022, at 1:00 p.m., in Room 149 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 Samara Heavrin, Co-Chair; Senators Wil Schroder, Reginald Thomas, and Mike Wilson; Representatives Adam Bowling, Josie Raymond, and Scott Sharp.

Guests: Jennifer Washburn, Executive Director, iKids Childhood Enrichment Center; Amy Smith, Principal/Preschool Coordinator, Memorial Education Center – Pulaski County Schools; Tom Haggard, Director, Kentucky Out-of-School Alliance; Sandra Woodall, Executive Director/Founder, Early Childhood Learning Education Assessment Resource Network; Cori Gadansky, Executive Director, Community Coordinated Child Care (4-C); Jody V. Rogers, President, KY Prescribed Pediatric Extender Care, Inc. – The Kidz Club; Michelle Rushing, Director, Mt. Zion Church Preschool West Paducah; Rachel Wurth, Director, First Christian Church Paducah.

LRC Staff: Ben Payne, Eric Rodenberg, and Maurya Allen.

Co-Chair Carroll welcomed those who had traveled and advised that as an extraordinary session was underway to address the impact of historic flooding in Eastern Kentucky.

#### **Approval of Minutes – July 26, 2022**

Senator Schroder made a motion to approve the minutes of the July 26, 2022, meeting. The motion was seconded by Representative Bowling and approved by voice vote.

#### **Discussion of Types of Child Care Offered in the Commonwealth**

Jennifer Washburn, Executive Director, iKids Childhood Enrichment Center began the presentation by discussing her facility established in Benton, Kentucky over 20 years ago. The iKids facility is rated 5 Stars in the Kentucky All STARS program

and is accredited by the National Association for the Education of Young Children (NAEYC). While the facility is licensed for 97 children, they are not at full capacity due to staffing concerns and a desire to maintain a lower student/teacher ratio. The center serves as a co-op placement for local high school seniors seeking child development/child care credentials and has employees participating in apprenticeship programs and practicum placements with local postsecondary education providers. Even as a high-quality provider, iKids teachers only make \$13 an hour, an increase from pre-pandemic rates thanks to ARPA funding expansions. However, when ARPA funds expire, the pay for employees will drop back to approximately \$10 per hour and that will force employees to leave. If the center chooses to maintain higher pay, those costs will be passed on to families which will be forced some families to go to low-quality/lower cost child care providers. Ms. Washburn said 55 percent of surveyed child care providers report that the loss of ARPA funds will impact them. As many as 40 percent will raise tuition and up to 20 percent may be forced to close. The legislature should invest in the implementation of House Bill 499 from the 2022 Regular Session, expanding CCAP reimbursement rates, and supporting competitive wages, benefits, and educational opportunities for early childhood staff.

Amy Smith, Principal/Preschool Coordinator, Memorial Education Center, Pulaski County Schools spoke to the value of public preschool and how it relates to public schools. The Memorial Education Center is an early childhood center serving children age 6 weeks through preschool as well as some kindergarten aged children. Each classroom has a structured curriculum and staff participate in mandated state training. Unfortunately, preschool is only a half-day program, and this does not meet the needs of working families. Currently, 63 percent of enrolled preschool students also attend the 'wrap-around' before school/after school program offered at Memorial Education Center. During that time, the students receive continued curriculum and other services from certified teachers and child care staff. Preschool staff are employees of the school district and receive the same benefits as classified school teachers and staff. Funding for the center is provided from the state budget, but additional funds are needed to cover the costs of all-day care. The center has received funding through grants, CCAP, and tuition. Public preschool prepares students for kindergarten through the development of language skills, social skills, and improved attention span. Speech, occupational, and other therapists are also available as they are on site to serve the larger school body. Data shows that 63 percent of students participating in the wrap-around program were ready for kindergarten compared to 50 percent of peers in the state and 45 percent of peers in the district. Ms. Smith asked for continued support of public preschool which does not have a waiting list and is required to take all students who qualify. Districts have been forced to find the funding for materials, staff, and facilities as the number of students who qualify for preschool has increased every year, as have the costs for materials and staff. More resources would also allow for better collaboration between

early childhood education providers and schools, increased parental engagement, and improvements to the local workforce.

Responding to a question from Co-Chair Carroll, Ms. Smith said to participate in publicly funded preschool, 3-year-olds must be identified as having a disability. 4-year-olds can qualify if they have a disability or if they are below an income threshold, although if there are available slots, those above the income threshold may be admitted if they pay tuition. Because of the high demand, there are not always slots available even for those willing to pay tuition.

Tom Haggard, Director, KY Out of School Alliance (KYOSA), spoke to the importance of summer enrichments and comprehensive after-school programs for young people. Out-of-school programs allow students to expand their education and provide peace of mind for parents who need child care for older children during the summer or after the traditional school day. Data shows that participation in out-of-school programs reduces children's participation in risky behaviors by providing a safe and supervised environment. Often, these programs reinforce what students learn in the classroom or help address areas where students need remedial attention. KYOSA has identified over 1,300 out-of-school programs, but Mr. Haggard discussed how these are not distributed equitably across the state. He also informed the members that for every dollar of investment in out-of-school programs, the community realizes a benefit of \$3 to \$4 of reduced spending in policing and corrections as well as increased productivity from working parents. Out-of-school programs are also helping address the education loss caused by school closures during the pandemic. As many as 37 percent of families say there is not an afterschool program available in their area, and 46 percent do not have reliable transportation to or from an out-of-school program even if it is available. Mr. Haggard said out-of-school programs are a resource waiting to be tapped, because these programs can accelerate student learning and learning recovery. Rightfully, much attention is paid to early childcare, but he insisted that some attention also needs to be directed to school aged children because every student in Kentucky should have access to quality afterschool and summer school programs.

In response to a question from Senator Thomas, Ms. Smith said children can only participate in public preschool if they qualify according to the guidelines outlined previously. To qualify with a disability, children must be screened, evaluated by a trained professional, and receive a qualifying educational disability diagnosis. There are occasionally slots available to tuition paying families in the wrap-around portion of the program because those services are funded separately from the public preschool.

In response to a question from Co-Chair Carroll, Ms. Smith explained that while some centers have closed due to the pandemic, others have been opening. This is due in part to the expansion of eligibility for CCAP which encouraged some families to go to centers that provide all-day care rather than half-day public preschools. Additionally, the public preschools do not receive SEEK funding for the afternoon wrap-around services they provide. For those services, they

follow the same funding and regulation structures as other child care centers.

Responding to questions from Representative Raymond, Ms. Washburn said the Kentucky All STARS program rates child care providers and her center has sought additional accreditation from the National Association for the Education of Young Children (NAEYC). To receive NAEYC accreditation, all teachers in the center must have an early childhood education credential and the center's facilities, programing, and materials are rated by an outside entity. At iKids they strive to be child driven and developmentally appropriate. Additionally, interactions between staff and students and between the parents and the center are measured and evaluated for engagement and how it enhances early childhood education. All children are also assessed in an ongoing fashion to help them achieve developmental milestones. iKids participates with community programs for wrap-around services and coordinates with their local Head Start program to provide full-day care for working families. Ms. Smith said full-day public preschool would be ideal, improving outcomes for all students, but especially for the increasing number of students with disabilities who would benefit from the increased attention and assistance provided by trained teachers.

Responding to a question from Co-Chair Heavrin, Ms. Washburn said the impact of universal preschool would be dramatic. Currently, the five preschool classrooms at her school provide the funding source for the two toddler classrooms. Even with higher tuition rates for toddlers, the cost of caring for toddlers is much higher and if the preschool funding disappeared it would be impossible to have the toddler rooms open. Additionally, the infrastructure does not exist for the public schools to care for all 3- and 4-year-olds, there simply is not enough classroom space. The best proposals will look at a mixed delivery model to increase support for the school system, incentivize participation of private centers in the All STARS program, and improve quality across the board.

In response to a question from Co-Chair Carroll, Dr. Sarah Vanover, Policy and Research Director, Kentucky Youth Advocates provided a brief overview of a mixed delivery model.

Sandra Woodall, Executive Director, Early Childhood Learning Education Assessment Resource Network (EC Learn), and Francis Allison, a licensed in-home childcare provider, spoke to their experience as local, in-home childcare professionals providing an alternative to public programs and center-based child care. EC Learn is one of five partners in the Family Child Care Network which recruits, supports, and trains in-home child care providers. The Family Child Care Network is a national model as the only state funded network for in-home childcare providers and consists of eight regions with five local resource agencies. There are different levels of certification for in-home providers including Registered Home Child Care, which provides in-home care for up to three children receiving CCAP or up to eight children if they are siblings or related to the provider, Certified Home Child Care, which allows up to six unrelated children, and a Type II Home Child Care provider who can care for as many as 12 children if they meet the director

qualifications for a Type II child care center. All levels of in-home providers can serve mixed age groups and provide sibling care. In-home providers have lower child-to-adult ratios, have a home environment, and frequently provide non-traditional hours. Typically, in-home providers form lifelong relationships with the children in their care and contribute to a sense of community for families. Ms. Allison said that she is licensed for up to 12 children, but in order to stay in compliance with ratio regulations, she currently only has ten children in her care. She does have a 5 Star rating with Kentucky's All STARS program and participates in CCAP. Half of the families currently enrolled with her receive CCAP assistance. She said she chose this profession because she loves working with children, seeing them grow, and helping them be ready for kindergarten. Ms. Woodall spoke to how zoning regulations are a significant problem for many in-home providers and those wishing to becoming providers. In some cities the fee to change zoning in a neighborhood to allow for in-home childcare is small, approximately \$25, and in others it can be as much as \$500. Also, some cities allow for the fee to simply be paid while others require a home visit by an inspector. She also advocated for investment in implementing HB 499 and stabilizing funding for the CCAP.

Cori Gadansky, Executive Director, Community Coordinated Child Care (4-C), spoke to how the organization serves as a local child care resource in Louisville, is a part of the Family Child Care Network, and has more than 50 years of experience. The 4-C organization seeks to ensure that childcare is high quality and there is support for the highly fragmented network of childcare throughout Louisville. 4-C is also a partner with Greater Louisville Head Start and serves as a source of professional development for child care providers and staff. They are funded through a blended funding model and infuse additional funding into programs targeting low-income families and providing high-quality child care access to those populations. They are also a resource for child care directors for letters, training materials, sample documents, resources on food service, and nutrition. Ms. Gadansky said 4-C also facilitates getting staff credentialed with the Child Development Associate (CDA), the first level credential for staff, and connects job seekers with quality child care programs. 4-C provides referrals to families so they can find providers that meet their needs and advocates for families with young children and for child care providers. They meet regularly with other advocacy groups and recently performed a survey of providers regarding CCAP. The preliminary results showed that 57 percent of providers are not fully staffed, with over 70 percent of those needing to hire between one and five staff. Additionally, up to 55 percent reported they would have closed if not for stabilization payments and CCAP increases. This data was used to demonstrate how tense the situation is, the need to sustain investment in CCAP reimbursement, eligibility, and transition periods, and the critical need to support competitive wages and educational opportunities for child care staff.

Jody Rogers, President, The Kidz Club, spoke to the role played by prescribed Pediatric Extended Care (PPEC) providers for medically fragile children.

Often these children need multiple subspecialists and cannot easily attend traditional child care facilities. Children with medical complexities, while a very small subset of children, account for nearly 30 percent of all childcare medical costs. These children deserve a quality medical and educational support system. Kentucky is one of only 12 states with PPEC in its state licensure statutes and as a result there are ten PPEC providers spread throughout the state. All PPEC providers have early education teachers as well as medical support services. During this small window of time, staff at PPECs can help get these children on the path to long-term success. They also help reduce feelings of isolation for families, prevent emergency room and hospital visits, and help provide stability for children and families. PPECs are an upstream solution and can be expanded to help more children. In recent years, PPEC funding has been stabilized, however, reimbursement can be difficult through Medicaid. PPECs do provide a cost savings by preventing hospitalization, but there is a need to increase awareness and include this style of care in case management discussions for children with medical complexities.

In response to a question from Co-Chair Carroll regarding zoning barriers, Ms. Woodall said having a common framework for the entire state is helpful, but in Northern Kentucky alone there are so many cities with so many different ordinances and fee structures that it quickly becomes a barrier. Ms. Gadansky said that in Louisville, the primary barrier is faced by certified childcare providers trying to become Type II providers. Recent changes to Louisville ordinances were made based on statutory language and have facilitated transition, and provided a financial benefit for entrepreneurs. However, Ms. Woodall explained there is also a wide range of reimbursements to in-home childcare providers based on their location and participation in CCAP, the food service program, and other partnerships. Ms. Gadansky stressed that no one will become rich providing in-home childcare, but the peace of mind provided for new parents who want to stay home with their own children and supplement lost wages from leaving the workforce is helpful. The Family Network aids new in-home childcare providers in terms of how to establish the business and keep within a budget. Ms. Allison said becoming an in-home childcare provider is more than simply being a babysitter, it is starting a business and becoming a teacher. She made the transition from homeschooling her own child to helping raise other children in her neighborhood and she provides quality care. Part of her job involves helping children build routines and set boundaries just like a parent would. Children stay with her for years and are usually more than ready for kindergarten. She also values the bonds she forms with parents and children. She greatly appreciated the legislature including in-home childcare providers in these discussions.

In response to a question from Representative Raymond, Ms. Gadansky said becoming an in-home childcare provider is an excellent entrepreneurial opportunity for Spanish speaking and other minority populations who may have a cultural preference for childcare provided by a family member, as it contributes to the finances of the family while also

preserving their cultural values. More in-home childcare providers increase access and give families more choice. The average salary of \$27,000 for an in-home provider is not sustainable as a sole family income, and some providers also receive public assistance themselves. Co-Chair Carroll said the task force will look more into the numbers of childcare providers and staff receiving public assistance at a future meeting. Regarding the potential increase in medically fragile children needing care in a PPEC facility, Mr. Rogers said PPECs do provide peace of mind to parents who can return to work if their child can be evaluated and find placement in a facility.

Rachel Wurth, Director, First Christian Church Preschool, Paducah, and Michelle Rushing, Director, Mt. Zion Church Preschool, West Paducah, testified to their experiences operating church affiliated child care programs. Ms. Wurth said her center is lucky to be within the church space, although they operate only ten months of the year and follow the school calendar, due partly to staff having children in the school system. The Paducah First Christian Church congregation has 100 active members, although a majority of the 73 enrolled students and 13 teachers are not church members. Ms. Rushing said the Mt. Zion Baptist Church preschool operates year-round and only closes for major holidays. They have approximately 126 enrolled students and approximately 20 staff. The Mt. Zion Baptist Church preschool summer program expanded this summer and was instrumental in allowing the center to hire more staff and enroll more children. Currently, her center is 3 Star rated, but is seeking 5 Star rating, dependent largely on the need to hire more staff and reduce student/teacher ratios.

Ms. Wurth said her center does not currently have any CCAP enrolled children, all parents pay tuition and the wait list is long. Her center is recognized in the community as an actively engaged preschool option where parents expect to find high quality care. Her facility is largely staffed by individuals with advanced degrees, and they should receive wages to reflect that level of training. It is not uncommon for her to lose excellent staff because the wages are too low and there are no additional benefits such as health insurance or retirement funds. The First Christian Church Preschool has not raised tuition for five years, but when ARPA expires, that will force a tuition hike to maintain staff wages at their current rate. Ms. Wurth also said that many children enter the preschool at 18 months old and families will stay in the center until they go to kindergarten. This reduces the number of available openings. Ms. Rushing said her center has partnered with the public school system and hopes to get grant funding into the next school year. Both directors testified that families desire quality child care but there is over a year-long wait list for infant and toddler slots. Most families, both in the centers and on wait lists, do not qualify for the public school system preschool. Ms. Wurth said her classroom facilities have been increased and remodeled over time, but the space is limited because of licensure requirements and the existing structure of the church building. Additionally, she cannot provide a food program, as the church kitchens do not meet licensing requirements, so families must send their own lunches for children. Ms. Wurth said her facility does

participate in the federal food program, but again, the church was built before the preschool was established and there is no additional room for expansion.

In response to a question from Co-Chair Carroll regarding wait lists, all providers agreed the wait lists are exceptionally long with many pregnant mothers calling to reserve a spot well before their children are even born.

With no further business to come before the task force, the meeting adjourned at 3:00 p.m.

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

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

**of the 2022 Interim**

**August 25, 2022**

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

Pursuant to the approval of the President of the Senate and Speaker of the House, the Senate Standing Committee on Economic Development, Tourism, and Labor; House Standing Committee on Economic Development and Workforce Investment; House Standing Committee on Small Business and Information Technology; and House Standing Committee on Tourism and Outdoor Recreation met jointly at the Kentucky State Fair in the ULA Ballroom of Freedom Hall located at 937 Phillips Lane, Louisville, Kentucky on August 25, 2022, at 2:00 P.M. during the 2022 Extraordinary Session. Senator Wil Schroder, Chair; Representative Russell Webber, Chair; Representative Phillip Pratt, Chair; and Representative Kim King, Chair called the meeting to order, and the secretary called the roll for each committee.

#### **Present were:**

Members: Senator Wil Schroder, Co-Chair; Representative Russell Webber, Co-Chair; Representative Kim King, Co-Chair; Representative Phillip Pratt, Co-Chair; Senators Robby Mills, Adrienne Southworth, Brandon J. Storm, Reginald Thomas, and Phillip Wheeler; Representatives Shane Baker, Josh Branscum, Josh Bray, George Brown Jr., Josh Calloway, Ryan Dotson, Daniel Elliott, Daniel Fister, Deanna Frazier Gordon, Chris Freeland, Al Gentry, David Hale, Thomas Huff, William Lawrence, Matt Lockett, Michael Sarge Pollock, Josie Raymond, Scott Sharp, Steve Sheldon, Nancy Tate, and Timmy Truett.

Guests: Sarah Davasher-Wisdom, President and CEO, Greater Louisville Incorporated; Chris Girdler, President and CEO, Somerset-Pulaski Economic Development Authority; Robert Lawson, Mayor, Burnside; Steve Robertson, Government Relations Principal, Frost Brown Todd; David Beck, President and CEO, Kentucky Venues; Mark Lynn, Chair, Kentucky State Fair Board; and H. David Wallace, Vice Chair, Kentucky State Fair Board.

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

#### **Welcome**

Sarah Davasher-Wisdom, the President and

CEO of Greater Louisville Incorporated, gave a brief welcome and thanked members for visiting Louisville.

#### **Dream BIG Burnside**

Chris Girdler, the President and CEO of Somerset-Pulaski Economic Development Authority, Robert Lawson, Mayor of Burnside, and Steve Robertson, Government Relations Principal with Frost Brown Todd, detailed the Dream BIG Burnside project. The tourism initiative is planned to be a public private partnership on General Burnside Island that will offer lodging, restaurants, and other tourism amenities.

Kentucky Exposition Center, Kentucky International Convention Center, and Fair Grounds-Facility Improvements, Tourism and Economic Development Impacts

David Beck, the President and CEO of Kentucky Venues, Mark Lynn, Chairman of the Kentucky State Fair Board, and H. David Wallace, Vice Chairman of the Kentucky State Fair Board, discussed the Kentucky Venues properties, infrastructure improvement needs, plans for event hosting opportunities, ideas for additional tourism amenities, and the potential return on investment for future projects.

There being no further business before the committees, the meeting adjourned at 2:27 p.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

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

**of the 2022 Interim**

**August 16, 2022**

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

The 3rd meeting of the Interim Joint Committee on Education was held on Tuesday, August 16, 2022, at 11:00 a.m., in Room 154 of the Capitol Annex. Representative Regina Huff, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Max Wise, Co-Chair; Representative Regina Huff, Co-Chair; Senators Danny Carroll, David P. Givens, Jimmy Higdon, Stephen Meredith, Gerald A. Neal, Adrienne Southworth, Reginald Thomas, and Stephen West; Representatives Shane Baker, Kim Banta, Tina Bojanowski, Jennifer Decker, Jeffery Donohue, Mark Hart, Scott Lewis, C. Ed Massey, Bobby McCool, Charles Miller, Melinda Gibbons Prunty, Steve Riley, Killian Timoney, James Tipton, Russell Webber, and Lisa Willner.

Guests: Lt. Governor Jacqueline Coleman; Dr. Marty Pollio, Superintendent, Jefferson County Public Schools; and Student Mental Health Initiative Student Advisors: Alexandra Perry, Bentley White, Charleigh Browning, Juleah Edie, Logan Justice, Solyanna Mesfin, and Spandana Pavuluri.

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

#### **Approval of Minutes – July 15, 2022**

Following welcome and introductions, Representative Riley made a motion to approve the

minutes of the July 15, 2022, meeting. The motion was seconded by Representative Timoney and passed by voice vote.

#### **Team Kentucky Student Mental Health Initiative**

Lt. Governor Coleman recognized student advisors Delany Daugherty, Dyllan Tipton, Rohin Dutt, Rox Lockard, Sam Smith, Soleila Elliott Gonzalez, and Ollie Fegenbush who were unable to attend but had contributed to the presentation. Present representing the Student Mental Health Initiative Student Advisors were Alexandra Perry, Bentley White, Charleigh Browning, Juleah Edie, Logan Justice, Solyanna Mesfin, and Spandana Pavuluri. Ms. Mesfin asked members to participate with the program by checking in with their own mental health using a QR code or web address provided in the handouts. She then briefly presented the results of the mental health survey and expressed how important it is for teachers and students to consider their mental health daily.

Lt. Governor Coleman said the CDC reports that nearly 1 in 5 children has a mental disorder, but only about 20 percent are receiving care. In Kentucky, approximately 57 percent of students aged 12-17 have experienced a major depressive episode but did not receive care. Student mental health and access to care were only worsened by the pandemic and students are feeling less motivated, more depressed, and more anxious. All of this was indicative of the need for Student Mental Health Action Summits. The KDE Student Advisory Council created the summits, led surveys and conversations, and analyzed the data from those meetings to create the policy recommendations presented to members.

There were 10 student mental health summit events held throughout the state, both in person and virtually. Many were regional but a statewide virtual event was available to any student who wanted to participate. Approximately 300 students attended and there were 25 breakout sessions where mental health clinicians served as moderators and scribes to capture the discussions and to provide a resource should any student need to discuss a mental health concern. Examples of questions used during breakout sessions included: how does your school/home/life in general affect your mental health, what mental health resources do you wish you had access to at school, what recommendations on mental health do you have for policy makers, and what do students need to be mentally healthy. Flexibility in classroom assignments and deadlines, access to more mental health resources including mental health clinicians, updated suicide prevention training for students and faculty, and mental health days as an excused absence from school were all suggestions that came from those breakout conversations. Follow-up surveys were distributed to participants and helped reduce stigma among students who said they felt heard and less alone in facing their struggles with mental health following the summits.

Lt. Governor Coleman stated that while these conversations were happening among students in Kentucky, there were national groups including the White House and the CDC issuing their own guidance regarding student mental health. The student

representatives presented their ten recommendations, which include elevating student voice and more comprehensive suicide prevention training. They emphasized that having student voice is more important than having a token student at the table. Adult leaders need to seek an authentic student voice and solicit input from student led spaces. Comprehensive suicide prevention is also critical and needs to be available throughout the school and included in the curriculum, so that all students are exposed to that information at least twice a year.

The student advocates thanked the members for their passage of House Bill 44 of the 2022 Regular Session, but asked that this piece of legislation be strengthened. It is critical to foster stigma free school environments, require updated evidence-based informed mental health curriculum for K-12 students, and offer opportunities to learn and practice executive coping skills. Additional recommendations include increasing and improving professional development for faculty and staff to include evidence-based mental health skills, covering not only suicide prevention but also eating disorders, anxiety, depression, etc. It is also necessary for all school staff to participate in that training to foster a stigma free school environment.

Lt. Governor Coleman stated while they do not have all the answers, the wrong answer would be doing nothing. We must continue to address student mental health moving forward. The federal government has indicated their commitment to supporting student health by setting aside nearly \$300 million to expand access to student mental health services and the state is still looking into ways to access and utilize those federal funds.

Chair Huff thanked the presenters and commented on how vital these conversations are for today's students. She said she was proud of the suicide prevention training requirement that was passed as part of legislation she sponsored in House Bill 30 of the 2018 Regular Session.

Representative Bojanowski commented on how important social emotional learning is for students and expressed her gratitude to the committee for highlighting this topic.

In response to a question from Representative Gibbons Prunty, Lt. Governor Coleman said when they suggested putting a safeguard on using mental health days, such as a note from a mental health provider, students pointed out that getting a diagnosis, or even a consultation with a mental health provider, was a privilege not every student has access to. Heather Dearing, Deputy Chief of Staff, Office of the Lieutenant Governor, said the recommendation was also based on legislation in other states and there are expanded recommendations for ways to prevent abuse of the mental health days in the report. Expanding access to mental health professionals in schools would also help prevent abuse of mental health absences.

Responding to a question from Senator Wise, Lt. Governor Coleman said there was some comparison of data from before and after the pandemic, but the surveys on mental health were not structured in the same way as surveys conducted on mental health before the pandemic, because so much had changed. Additionally, the team sought information on what resources are available in order to ensure that updated,

evidence-based curriculum and training are provided to schools. She said they found some schools are still using VHS tapes on suicide prevention, so there is clearly room for modernization and more updated information. Ms. Dearing said the data from the summits is also available from KDE and KY Stats is working on ways to use that data to make additional recommendations.

Senator Thomas said Kentucky was recognized as the first southern state to address mental health absences at the Southern Legislative Conference meeting this past summer. In response to his questions regarding student participation on state and local school boards, Ms. Mesfin, the first student to sit on the Kentucky Board of Education, said it was a contentious time when she joined the state school board. It was helpful to have the seat start as a non-voting member during the transition so that the board could appreciate the role of the student without fearing how they would vote. She hoped that the student board member could transition to a voting position soon and that local boards will see that this is possible. Even having a non-voting student member on local school boards is a valuable opportunity for student voices to be heard. Lt. Governor Coleman said she also supports transitioning the student member on the Kentucky Board of Education to a voting capacity.

Representative Tipton spoke candidly about his own struggles with mental health and how critical it is to reduce the stigma surrounding mental health. In response to questions, the student advisors acknowledged that a few years of normalcy will return some mental health to normal, but the trauma of the past few years will impact students and their mental health for years to come, as any adverse childhood event does. Lt. Governor Coleman said the trauma of the pandemic, compounded by the natural disasters of the West KY tornados and the Eastern KY floods, and the ongoing impact of child abuse and the opioid crisis, led to the necessity of creating a mental health toolkit and other recommendations that can be disseminated to schools.

Responding to a question from Representative Baker, Lt. Governor Coleman said it is critical for all faculty and staff professional development to be reviewed so that it is relevant, evidence-based, and current. Most teachers would love to have the skills necessary to identify students who need help and know how to refer them to the appropriate services. Teachers today are tasked with teaching the whole child and professional development that assists in that is invaluable.

In response to questions from Representative Decker, Lt. Governor Coleman said schools have site-based decision-making councils with parent representatives who are involved in curriculum and other decisions. Additionally, there are parents in the legislature and in the field of teaching who will be involved in creating legislation and implementation of these recommendations in schools.

#### **Jefferson County Public Schools Update**

Dr. Marty Pollio, Superintendent, Jefferson County Public Schools, opened his presentation by recognizing the JCPS students on the Student Advisory panel and acknowledging that if 1 in 5



students is experiencing a mental health concern, that implies approximately 15,000 students in JCPS alone need support during this time. It is a tough time to be an educator and a leader, and there are resultant shortages in teachers, staff, and superintendents. There is a lot of improvement that has been done at JCPS, but much still to come.

Right now, the district is comprised of approximately 96,500 students, nearly 7,000 teachers, and 165 schools. Demographically, JCPS faces some challenges in that they have nearly 70 percent of their students receiving free/reduced price lunch, a marker of the amount of poverty faced by the population. While it is critical to address the achievement gaps, academic success is highly negatively correlated with the amount of poverty and homelessness experienced by students. Additionally, nearly 13 percent of the JCPS student population are English Language Learners and there are 139 languages spoken by students and families. While this enriches the schools, it can pose a barrier to learning.

In 2019, the district surveyed the schools and made an improvement plan. One of the first areas needing to be addressed was the student assignment plan, which was highly inequitable because the burden was placed largely on black families. Magnet schools need to reflect the diversity of the district, and they will be addressed with the new student assignment plan adopted by the district this summer. All students have the choice to attend a school close to their home, unless their parent elects to choose another school or program. There have also not been any new buildings constructed in over 40 years. Increasing taxes is always controversial, but it will be necessary in order to address what has become a critical need, as there are several buildings already at end-of-life. In the eyes of students, school facilities indicate how much they are cared for by their community, and it is time for Jefferson County to put more care into the school facilities. Additionally, modernizing technology is critical for creating a learning environment that meets today's standards and needs. Distribution of Chromebooks with imbedded wireless internet is necessary to meet the needs of students who may not have access to the internet at home. Also, in partnership with Evolve 502, students at JCPS have been given the opportunity to get some postsecondary education through KCTCS, Simmons College, or the University of Louisville.

Increased poverty, workforce shortages, including a dramatic lack of bus drivers, and rebounding from the impact of the COVID-19 pandemic are the primary challenges facing the district today. While the scope of challenges faced at JCPS seems enormous, these shortages and impacts are happening at the same rate as in smaller districts, it just is magnified in a district this size. Students in poverty and students of color have been more impacted by the pandemic, as was reflected in the number of students participating in summer learning programs. The district is growing new programs to address these needs, but it will take time.

In response to a question from Senator Meredith, Dr. Pollio said he had been watching during session while many negative comments were made by legislators about JCPS, which he found upsetting. The

SEEK funding is the right way to distribute funding to make sure all students get what they need, and his statements at the time were made based on his heated opinion of legislator discussions during the legislative session.

Responding to questions from Representative Bojanowski, Dr. Pollio said there is a critical shortage of special education teachers and those support staff who help identify needs and make recommendations. Due to other staffing shortages, those support staff have been assigned as primary classroom instructors and that takes away from a school's ability to evaluate and recommend services for special needs students.

In response to a question from Senator Thomas, Dr. Pollio said the school facilities are such a severe problem that it will take several years to get to where they need to be. Currently they are assessing the most critical needs and making recommendations for moving forward.

Responding to a question from Representative Miller, Dr. Pollio said enrollment has remained relatively stable at around 95,000 over the last 12 years. There are additionally around 2,500 enrolled in early childhood. Projections are that enrollment will exceed 100,000 in the next ten years.

Responding to a question from Senator Southworth, Dr. Pollio said the JCPS Board is meeting soon to continue the conversation about masking in the district. As a local decision, it is up to the board how they will proceed. This issue has been divisive, especially among those of different races. They continue to follow the CDC guidelines, which recommends universal masking when the community is in red. Currently, JCPS is in the red and when the community goes into yellow or green they can go into optional masking. If the numbers continue to decline, masks will become optional.

Representative Donohue said he is committed to help JCPS move forward and move all the schools of the Commonwealth forward.

In response to a question from Senator Wise, Dr. Pollio said he has spoken often with the State Security Marshal to get into compliance with the new law regarding hiring school resource officers (SROs). The funding is available, but the challenge is finding qualified personnel. LMPD is also experiencing a shortage of eligible candidates. JCPS has 11 school safety officers and four more in training who will be on the force later this week. There are more set to begin training soon which will bring the number to 35 when they complete their training, but Dr. Pollio said it will be difficult to see a full complement of 165 SROs because of the challenges of staffing.

With no further business to come before the committee, the meeting adjourned at 1:00 p.m.

## **EMERGENCY MEDICAL SERVICES TASK FORCE**

### **Minutes of the 2nd Meeting of the 2022 Interim August 16, 2022**

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

The 2nd meeting of the Emergency Medical

Services Task Force was held on Tuesday, August 16, 2022, at 3:00 PM, in Room 171 of the Capitol Annex. Senator David P. Givens, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

**Members:** Senator David P. Givens, Co-Chair; Representative Ken Fleming, Co-Chair; Senators Donald Douglas, Brandon J. Storm, and Robin L. Webb; Representatives Mark Hart, Michael Meredith, and Lisa Willner.

**Guests:** Kelsie George, Health Program Policy Associate, National Conference of State Legislatures; Kelly Hughes, Health Program Associate Director, National Conference of State Legislatures; Paul Phillips, Regional Director of Operations, Global Medical Response; Terence Ramotar, Regional Director of Government Affairs, Global Medical Response Southeast; Joe Baer, President, Kentucky Professional Fire Fighters; and Chris Bartley, State Policy and Legislative Representative, International Association of Fire Fighters.

**LRC Staff:** DeeAnn Wenk and Logan Schaaf.

The July 2022, meeting minutes were approved.

#### **Overview of State Emergency Medical Services**

Kelsie George, Health Program Policy Associate, National Conference of State Legislatures (NCSL) and Kelly Hughes, Health Program Associate Director, NCSL, provided an overview of emergency medical services in Kentucky, with comparisons to other states on issues of workforce, certificate of need, and reimbursement.

Other states have lowered licensure age requirements for emergency medical technicians, funded career pathway programs for high school students, provided income tax credits to compensate volunteer EMS clinicians, made volunteers eligible for health insurance and retirement benefits, and provided mental health resources.

Thirty five states, including Kentucky, and the District of Columbia operate a certificate of need (CON) program. However, only three states have CON for ambulances. Ambulances are often not reimbursed for services, unless a patient is transported to a hospital. Some states have supplemental payment programs to ambulance providers.

Responding to questions from Senator Givens, Ms. George explained the issue of maldistribution of clinicians. A state may have an overall shortage of EMS clinicians, but there may also be disparities within states. Ms. George also noted that funding and workforce issues are receiving the most attention.

Responding to questions from Representative Fleming, Ms. George said that collection of EMS data is often difficult. She also discussed the efforts of other states to collect data on EMS workforce issues and recommended contacting the Kentucky Board of Emergency Medical Services for similar efforts in Kentucky.

Responding to a question from Representative Hart, Ms. George noted that EMS providers have said that the adoption of interstate licensure compacts helped during both the COVID-19 pandemic and wildfire response efforts.

## State Emergency Medical Services – Challenges for Ambulance Services Providers

Paul Phillips, Regional Director of Operations, Global Medical Response (GMR) and Terence Ramotar, Regional Director of Government Affairs, GMR, provided an overview of the work of Global Medical Response and some of the challenges they face in reimbursement, access, and workforce.

EMS is paid for transportation and not necessarily for treatment. This creates a system of limited or no reimbursement for readiness, response, treatment without transport, and patient refusals of care. Kentucky Medicaid ambulance transport rates have remained the same for over ten years, while the cost of providing ambulance service has risen significantly, especially in the areas of fuel, vehicles, medications, physical infrastructure, and wages.

Access challenges include long transport times to definitive care and a lack of level one trauma centers. Transfers from rural areas to a trauma center can take an ambulance out of service for four to eight hours. In areas with a limited number of ambulances, this can significantly damage readiness capabilities. The lack of reimbursement for non-medical transports is also an issue.

Workforce challenges include unsustainable turnover, a lack of quantitative workforce data, reduced applicant pools, lack of career advancement, and an inability to increase wages. GMR is exploring solutions for the expansion of reimbursement, improved recruitment and retention for EMS personnel, and alternatives to the traditional EMS model in Kentucky.

Responding to questions from Senator Webb, Mr. Phillips discussed non-medical transports, which often involve mental health issues.

Responding to comments from Representative Meredith, Mr. Phillips discussed some of GMR's transportation solutions.

Responding to a question from Representative Hart, Mr. Phillips provided an overview of recruitment and retention efforts in rural and urban areas. A lack of universal connectivity to the internet can make social media recruitment more difficult in rural areas. Recruitment through newspapers and partnerships with local governments can be more successful in these areas.

Responding to questions from Senator Douglas, Mr. Ramotar discussed solutions to workforce issues.

## International Association of Fire Fighters

Joe Baer, President, Kentucky Professional Fire Fighters, and Chris Bartley, State Policy and Legislative Representative, International Association of Fire Fighters, discussed the role of firefighters within emergency response and some of the challenges they face. Mr. Bartley also covered the history of EMS and fire services in the United States.

Fewer people are interested in EMS work today. The COVID-19 pandemic exacerbated recruitment and retention efforts, and many paramedics have gone to work in hospitals for higher pay and benefits. When EMS organizations close, fire services often fill the gap. Counties and districts are merging to maximize services to citizens.

Fire-based EMS is the predominant system in

the United States. Nearly all fire fighters have some level of EMS training, and the fire-based system is versatile. Other advantages include the lack of profit motive, rapid response times, high standards, low turnover rates, and unity of command.

Innovation efforts in fire-based EMS include treatment in place, allowing on-scene treatment without transport, telehealth, transportation to alternative destinations, and community paramedicine.

Responding to a question from Senator Givens, Mr. Bartley emphasized the not-for-profit structure of fire-based EMS.

Responding to a question from Senator Webb, Mr. Baer said that rural fire-based EMS tries to do the best they can with what they have, but it is always a challenge. Mr. Bartley highlighted a program he is working on in Arizona to improve funding.

Responding to questions from Representative Fleming, Mr. Bartley estimated about 40 percent of fire-based EMS runs are non-emergency.

With no further business before the committee, the meeting was adjourned at 4:45 PM. The next meeting of the Emergency Medical Services Task Force will be September 20, 2022 at 3:00 PM.

## EXECUTIVE BRANCH EFFICIENCY TASK FORCE

### Minutes of the 3rd Meeting

#### of the 2022 Interim

August 22, 2022

#### Call to Order and Roll Call

The 3rd meeting of the Executive Branch Efficiency Task Force was held on Monday, August 22, 2022, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Robby Mills, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Michael J. Nemes and Whitney Westerfield; Representatives Shane Baker and Bobby McCool.

Guests: Matt Stephens, Billie Johnson, Wil Rhodes, Laura Redmon, and Aaron Jones, Department for Local Government; and Jamie Link, Vickie Wise, and Sam Flynn, Education and Labor Cabinet.

LRC Staff: Daniel Carter, Alisha Miller, and Cheryl Walters.

#### Approval of Minutes

The minutes of the July 18, 2022, meeting were approved without objection, upon motion by Representative Baker, and seconded by Senator Nemes.

#### Charge of the Task Force

Representative Miller stated the objectives of the task force, which are to look into the functions of the executive branch of the Commonwealth; allow agencies to explain their structure, funding, and budget building practices; and grant agencies the opportunity to propose to the legislature future reorganization plans and proposals to make their internal processes more efficient.

## Update from the Department for Local Government

Presenting for the Department for Local Government (DLG) were Matt Stephens, General Counsel; Billie Johnson, Executive Director, Offices of Federal and State Grants; Wil Rhodes, Executive Director, Office of Financial Management & Administration; Laura Redmon, Budget Manager; and Aaron Jones, Branch Manager, Coal Development Branch.

In response to questions from Representative Miller, Mr. Rhodes stated that inactive cities are cities that have not provided the department required information; he could not recall which cities were inactive. He further stated, that financially noncompliant cities would not have access to state funding, in particular municipal road funds.

In response to questions from Senator Mills, Mr. Stephens responded that (Kentucky) statutes determine the department's personnel policies in addition to any directives from the Personnel Cabinet. Ms. Redmon added that the department periodically reviews its organizational structure as part of its strategic plan which was provided to the members.

In response to questions from Representative Miller, the department stated that no flood control Lakes Management and Protection Program (LMPP) funds have been denied to any community. LMPP grant funds have not been used in affected areas yet. A Floyd County property acquisition by the Federal Emergency Management Agency (FEMA) was a buyout related to previous flooding. If an area experiences flooding on a regular basis, FEMA will offer to buy the property, but requires matching funds from the locality. DLG will provide funding for the local community if the locality cannot match the required funding. There is currently \$6 million available for relief, but no application has been made for the funds yet. With respect to the most recent flooding, much of FEMA's initial response has been for mitigation efforts as opposed to emergency relief.

In response to questions from Senator Mills, Ms. Johnson stated that there are a few positions within the Office of State and Federal Grants, DLG is trying to fill, and there will be a post for a position in the Office of Federal Grants soon. Mr. Rhodes added that the position for local government advisor in the Counties Branch recently closed. The local government advisor will aid particular territories for counties, fiscal courts, and fee offices, and offer assistance through local budget processes and administrative assistance. Mr. Stephens added that the department is discussing legislation needs for the 2023 legislative session, but noted it would be premature to discuss if they would need any specific legislative assistance at this time.

## Education and Labor Cabinet – Organizational, Operational, and Budgetary Overview

Guest speakers for the Education and Labor Cabinet were Jamie Link, Secretary; Vickie Wise, Deputy Secretary; and Sam Flynn, Chief of Staff and General Counsel. Secretary Link explained that the Education and Labor Cabinet was created as a result of a merger between the Education and Workforce Development Cabinet and the Labor Cabinet through Senate Bill 180 during the 2022 Regular Session. The

Education and Labor Cabinet officially merged on July 1, 2022. Governor Beshear recognized that the Labor Cabinet and Education and Workforce Development Cabinet had similar missions and purpose. Both sought to improve workforce participation, create job opportunities, and match workers with employers. Now, with merging the two cabinets, it allows the newly merged cabinet to address workforce issues from early childhood to job placement.

With the rapid increase in economic development and increase in number of jobs available, one of the cabinet's challenges has been to match the workforce with jobs that are needed. Other issues the cabinet has been dealing with include barriers to employment, such as child care, transportation, and re-entry into the workforce after recovery or incarceration. To assist in job placements and matching, the cabinet works closely with local workforce development boards, chambers of commerce, local officials, and the legislature.

The Education and Labor Cabinet contains 10 major organizational units and employs approximately 1,539 people. The operating budget for the cabinet is just over \$853 million and includes funding from federal funds, general fund, restricted funds, the Workers' Compensation Funding Commission, and Tobacco Settlement funds. Some of the major organizational units include: the Office of the Secretary, Department of Workplace Standards, Department of Workers' Claims, and the Department of Workforce Development. Some areas where the cabinet may need assistance from the legislature include compliance with the recently enacted House Bill 4, which changed unemployment insurance qualifications and requirements.

In response to questions from Senator Mills, Secretary Link stated that the Kentucky Department of Education (KDE) is administratively attached to the cabinet, but he did not know why KDE is attached. Secretary Link added that KDE is governed by the state board of education, and he meets regularly with KDE. While he is not a voting member on the board, he is on the board as an ex-officio, non-voting member.

In response to a question by Representative McCool, the cabinet uses an "Essential Skills System" to assess applicant skills and qualifications and whether an applicant needs additional training to help match them with an appropriate job. Attached to the Essential Skills System is a reporting system that shows skill assessment and job placement, as required by the U.S. Department of Labor. The system can also track whether an applicant went to work.

In response to questions from Representative Baker, Secretary Link responded that he would have to investigate Representative Baker's concerns about the Governor's Scholars Program.

In response to questions from Senator Westerfield, Secretary Link stated that the cabinet uses several IT systems and would have to provide a list of those systems. He added that the cabinet wants to use technology to reach out to citizens currently unemployed, determine why they are unemployed, and eliminate any barriers to employment. They are currently looking to improve the Essential Skills System and upgrade the Office of Vocational

Rehabilitation IT system and Unemployment Insurance IT system. They are in the process of executing a contract with LinkedIn to improve the Essential Skills System and in the process of upgrading the Office of Vocational Rehabilitation's IT system, but a high priority is improving the Unemployment Insurance IT system. Obstacles to improving the Unemployment Insurance system are with supply and demand. Only a few vendors can complete this type of work, and the vendors are in demand within several states.

In response to questions from Senator Mills, Secretary Link stated that the General Assembly appropriated \$47.5 million to replace their IT system in a previous budget, and the cabinet is negotiating with a vendor to upgrade the Unemployment Insurance system. The Secretary would like to have a new or upgraded system as soon as possible, but stated it would take approximately 30-40 months, once a contract with a vendor is executed.

The current Unemployment Insurance system has been upgraded over the last two years, after being several updates behind. Secretary Link receives daily updates on the Unemployment Insurance system, and there are currently no issues with it.

Unemployment Insurance staff has traveled to affected areas in eastern and western Kentucky to assist displaced persons, due to tornadoes and flooding, with their unemployment insurance claims. With respect to large purchases and large contracts, the cabinet relies on the U.S. Department of Labor and the National Association of State Workforce Agencies to review what products and vendors other states are using. The cabinet also relies on the expertise of their more experienced staff who understand the market and conditions.

In response to questions from Representative Miller, Secretary Link stated that there is not an off-the-shelf product available to replace the current Unemployment Insurance system. IT systems have been developed, but the systems would have to be tailored to meet different state laws. Very few vendors can build or maintain this type of system, which are large and complex systems. The cabinet wants to find a basic system and use a qualified vendor that has the expertise and flexibility to upgrade and maintain the system. Ideally, the cabinet would want a system addressed for catastrophic events to avoid a repeat of what happened in 2020.

Secretary Link testified that he was unsure of the savings incurred by merging the two cabinets, but he was willing to provide that information to the members. Many of the employees who worked for the Education and Workforce Development Cabinet are now with the Office of Vocational Rehabilitation, but the cabinet could provide a break down by agency.

In response to questions from Senator Nemes, Secretary Link testified that the cabinet's goal with respect to Occupational Safety and Health Administration (OSHA) and workplace safety is to educate and train companies, not citation and enforcement. They are working on a compensation package for OSHA Inspectors. The cabinet trains their inspectors and works with apprenticeship schools, particularly Eastern Kentucky University. Mr. Flynn testified that his office provides legal services to the

cabinet departments, particularly OSHA, but is not in charge of the departments. Secretary Link testified that the cabinet is trying to backfill positions where they have lost employees, but face competition from private companies for many positions. The Department for Libraries and Archives is now under the Office of the Secretary, and with respect to IT systems, there may be some code that the state would want to own, and some code that the state would not. The cabinet has also put in measures to combat against fraud in the Unemployment Insurance IT system.

In response to questions from Senator Mills, Secretary Link testified that the cabinet is continuously evaluating their performance, particularly with technology and data, to ensure that their systems are working and efficient. The U.S. Department of Labor provides much of their funding and the cabinet would have to comply with their regulations.

Senator Mills thanked the Education and Labor Cabinet representatives for their testimony, and the meeting was adjourned at 2:06 p.m.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

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

#### **of the 2022 Interim**

August 18, 2022

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

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Thursday, August 18, 2022, at 11:00 AM, in Room 149 of the Capitol Annex. Representative C. Ed Massey, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Representative C. Ed Massey, Co-Chair; Senators Danny Carroll, John Schickel, Johnnie Turner, Stephen West, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Joseph M. Fischer, Patrick Flannery, Samara Heavrin, Nima Kulkarni, Derek Lewis, Patti Minter, Kimberly Poore Moser, Jason Nemes, and Jason Petrie.

Guests: Shannon Stiglitz, Senior Vice President of Government Affairs, Kentucky Retail Federation; Matthew Rosteet, Kroger Asset Protection Manager, Organized Retail Crime; Nicole Toyloy, Director, Walgreens Asset Protection; and Martin Brock, Chief, North Carolina General Assembly Police Department.

LRC Staff: Roberta Kiser, Randall Roof, Michelle Spears, Lexington Souers, Stacy Byrns Taulbee, and Elizabeth Hardy.

Co-chair Massey provided an overview of the agenda. Co-chair Massey also introduced his guests, Bella Brooks and her father, stating that Ms. Brooks is a student at Lexington Catholic High School and shadowing the co-chairman for the day.

Co-chair Massey introduced and welcomed Representative Flannery, the newest member of the committee.

A motion was made and seconded to approve minutes of the July 7, 2022, meeting. Minutes were approved by voice vote without objection.

## Organized Retail Theft

Shannon Stiglitz, Senior Vice President of Government Affairs, Kentucky Retail Foundation, provided a brief overview of the retail industry's impact on Kentucky's economy and expressed concern regarding organized retail crime. Ms. Stiglitz stated that the FBI describes organized retail crime as professional burglars, boosters, cons, thieves, fences, and resellers conspiring to steal and sell merchandise obtained from retail establishments by theft or deception and proceeded to provide examples from across the country. She reported that according to the Association of Certified Anti-Money Laundering Specialists (ACAMS) the ease and anonymity of selling stolen goods online through third-party marketplace accounts is a factor in the increase in this type of criminal activity.

Ms. Stiglitz reported that 11 states have passed the Integrity, Notification, and Fairness in Online Retail Marketplace for Consumers Act (INFORM Act). The act requires online marketplaces to require "high-volume third-party sellers" to provide verification information to the marketplaces and consumers and requires marketplaces to verify this information. High-volume sellers are identified as those meeting a certain threshold of sales. She reported the benefits of the INFORM Act, including safety of the consumer.

Nicole Toyloy, Regional Director for Walgreens Asset Protection for Tennessee and Kentucky reported increases in product losses attributable to organized retail crime. She stated robberies and threats of violence have become a significant safety and security concern for employees. The products most targeted by the organized retail crime syndicates include over-the-counter medication, teeth whitening supplies, baby formula, and personal care products. The theft rings are not concerned about expiration dates or recommended ways to store items putting the consumer at risk.

Matthew Rosteet, Kroger Asset Protection Manager, testified regarding his experiences stating that now almost anything of value that is within the store has been targeted by organized crime syndicates. He discussed several of the security measures retailers are taking to address this issue. Mr. Rosteet stated that it will take law enforcement, courts, retailers, and legislatures working together to keep this problem at bay.

In response to Senator West, Ms. Stiglitz referenced Kentucky's current criminal statutes and stated that retailers are trying to ensure that all prosecutors and members of law enforcement know what is available to them under existing law and utilize those laws. In response to a follow-up question from Senator West, Ms. Stiglitz stated that prosecutions are low and both Ms. Stiglitz and Ms. Toyloy expressed concerns about the lack of prosecution of those that are higher level offenders. The INFORM act is a mechanism that will help retailers, law enforcement, and prosecutors identify offenders more quickly.

Chairman Massey stated that criminal justice reform works both ways – to tighten our laws and also lessen the amount of individuals incarcerated and provide treatment options instead. It means that in certain cases we might need to toughen our laws to make sure that people are held accountable.

Senator Carroll discussed issues faced by law enforcement, particularly in areas of Kentucky that border other states and offenders crossed state lines. Responding to a question from Senator Carroll, Ms. Toyloy stated that most of the incidents occur in Louisville and Lexington and there has been a tremendous spike in these incidents in the last five years.

Representative Cantrell discussed existing statutes and prosecutions in Kentucky and other states. In response to a question from Representative Cantrell, Ms. Stiglitz stated that under the INFORM Act, the marketplace is required to verify the seller's information. While law enforcement and retail groups can see stolen products are being offered for sale, they cannot track who is selling the product. It can be completely anonymous to sell these products and the INFORM Act would change that by requiring information about the seller. Mr. Rosteet added that some marketplaces have cooperated with law enforcement and provide authorization for some tracking services to be utilized in an effort to build a case from the low-level offenders to the larger syndicate.

In response to a question from Representative Cantrell relating to legitimate retailers in the marketplace, Ms. Stiglitz stated that if it is a brick and mortar business, the law requires registration with the Secretary of State and tax identification numbers. While some small businesses may be impacted under the INFORM Act, it is simply requiring that information be provided.

In response to a request from Representative Kulkarni, Ms. Stiglitz agreed to provide additional data from ACAMS.

In response to a request from Representative Massey, Ms. Stiglitz agreed to provide sample legislation regarding this issue.

In response to a question from Senator Schickel, Ms. Stiglitz reported that she had discussed this issue with the Kentucky Chamber of Commerce and noted that the U.S. Chamber is supportive of the INFORM Act at a national level.

In response to a question from Representative Bratcher, Ms. Toyloy stated that she was unsure if the presence of organized retail crime was affecting the opening of new businesses in areas where thefts might be a problem; but the impacts of organized retail theft would be considered when deciding to close a business which is a significant decision.

In response to the question from Representative Bratcher, Mr. Rosteet stated that the level of theft in a particular area is a consideration when determining whether to open a store.

Representative Nemes discussed the fact that organized retail theft is not a victimless crime, noting it is a big problem for retailers. He noted that it is the responsibility of the judges and prosecutors to enforce the laws that have already been enacted by the General Assembly. Representative Nemes discussed current statutes and the punishment attached to those statutes, stating that while this is a problem that the government needs to obtain control over, in many cases this is already a Class C felony which could result in someone convicted of this conduct going to prison today for about for 10 years.

In response to a question from Representative Flannery, Ms. Stiglitz stated that if the INFORM Act was enacted, the reporting data would be accessible to law enforcement and prosecutors. In response to an additional question from Representative Flannery regarding the threshold amount of the transaction and the number of transactions, Ms. Stiglitz stated that Arkansas, which was enacted the INFORM Act, does not have the "and" requirement of \$5,000 or more and 200 transactions. Arkansas has an "or" requirement. Many states are working with marketplaces and national organizations to get language that is easy for all to administer and still serve the purpose of the Act.

## Security and Civil Unrest

Representative Massey stated that many states, including Kentucky, have become more mindful of security in state capitols. Martin Brock, Chief of the North Carolina General Assembly Police Department, provided video clips of several protests that occurred on the grounds of capitols in various states. Chief Brock stated that while the right to protest must be protected and while the security of those involved in the protest must be protected, the security of legislators, legislative staff, and law enforcement must also be protected. Chief Brock reported that several states are considering legislation that would not only protect legislators in state capitols but would also protect legislators from protestors at their homes.

Chief Brock discussed protest management tools and explained the various methods of protests that are being utilized across the country.

In response to a question from Senator Wheeler, Chief Brock stated that 97 percent of protestors advocate peacefully for their positions. Chief Brock further reported, however, that approximately 3 percent of protestors act as agitators designed to cause chaos. Many of these protestors are from locations other than where the protest is occurring.

Senator Carroll commented on the need for security and on the need to structure a response on a non-partisan basis. He complimented Representative Massey for offering this topic for discussion.

Chief Brock recommended that all states have a plan in place to respond to various circumstances that can arise during a protest before being faced with those circumstances to ensure the safety and security of all.

There being no further business the meeting adjourned at 12:39 P.M.

## INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS Minutes of the 3rd Meeting of the 2022 Interim August 24, 2022

### Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Wednesday, August 24, 2022, at 10:00 AM, in Room 154 of the Capitol Annex.



Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

**Present were:**

**Members:** Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Donald Douglas, Jimmy Higdon, Jason Howell, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Tom Burch, Patrick Flannery, Al Gentry, Keturah Herron, Thomas Huff, Matthew Koch, Chad McCoy, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Phillip Pratt, Sal Santoro, and Susan Westrom.

**Guests:** Senate Majority Whip Mike Wilson; Derrick Huff, Vice President, Don Davis, Secretary, John Brian Young, Treasurer, Kentucky Wineries Association; Senate Minority Leader Morgan McGarvey; Representative Lisa Willner; Kenny and Nick Clark, Training Advocates; John-Mark Hack, Chief Strategy Officer, Jerry Kissick, Director of Surveying, Thoroughbred Engineering; Jennifer Hawkins, Kentucky Birth Coalition; Christy Peterson, APRN, Certified Nurse Midwife (CNM), Renee Basham, Executive Director, Hope's Embrace; and Kazia Bryant, Executive Director, Mama to Mama.

**LRC Staff:** Bryce Amburgey, Jasmine Williams, Wendy Craig, Carabell Preece, and Lisa W. Moore.

**Approval of Minutes from July 21, 2022, meeting**

Chairman Koenig motioned to approve the minutes and Senator Douglas seconded the motion. Motion was approved by voice vote and minutes were adopted.

**Small Farm Wineries**

Senator Wilson discussed the significance and value of small farm wineries in his district. The popularity of the establishments is evidenced by the high attendance numbers.

Derrick Huff, Vice President, Kentucky Wineries Association (KWA), said the KWA represents 75 small farm wineries across 42 counties in Kentucky. The largest challenge to the industry, and all small farm license holders, is being represented in local restaurants and retail stores. Most owners are farmers first, and therefore the majority of the wineries are located in rural areas. As a result, it is very difficult to find a wholesaler willing to travel to rural farms in order to purchase the products. Self-distribution would allow small farm wineries to sell a portion of their products directly to retailers and restaurants in their home towns.

Mr. Huff said the legislature recognized the wholesale issue within the small farm and craft section of the beverage industry in 2021, with the enactment of Senate Bill 15, which granted microbrewers the ability to self-distribute a percentage of their total production. The legislation allowed microbrewers to sell their products directly to retailers and lifted an undue hardship in their industry. The proposed legislation in members' folders will provide small farm wineries the same opportunity to sell its products directly to retailers.

Charles George, Executive Director, Wine and Spirits Wholesalers in Kentucky, deferred his comments on this measure until the committee's November 2022 meeting.

In response to a question from Representative McCoy, Mr. Huff said if a small farm winery already has an existing relationship with a wholesaler or distributor, it would be expected to continue. If there is no established relationship between the small farm winery and wholesaler, they would report directly to the Alcoholic Beverage Control Board. Representative McCoy does not see a need to involve distributors in the process and would like to specify what information would be reported and when. Senator Wilson said that his concerns and comments are noted and is amicable to amending the proposed bill language.

**Birthing Centers**

Representative Nemes said the new bill draft in members' folders will make it easier to establish freestanding birthing centers in the Commonwealth of Kentucky. He noted birthing centers are established in most states and provide mothers a safe middle option to have their babies.

Christy Peterson, APRN, Certified Nurse Midwife (CNM), Chair of the standards committee of the American Association of Birth Centers, which develops national safety standards for free birthing centers, explained that birth centers are healthcare facilities for child birth. They offer a more at-home birthing experience for families and provide options for families who do not want to give birth at home or in a hospital. Birthing centers provide maternity, prenatal, postpartum, and newborn care with appropriate levels of intervention. The facilities are not hospitals and do not provide cesarean sections (C-sections) or anesthesia.

Ms. Peterson said the philosophy of birthing centers is providing family-centered care, in which mothers and other family members can interact during the labor process. Birthing centers are safe, cost effective, and some studies have shown better outcomes including lower C-section rates, and less preterm birth and low birthweight newborns when comparing low-risk patients cared for in hospitals. A higher rate of breastfeeding occurs in mothers who give birth in birthing centers than those in a hospital, and there are more opportunities for skin-to-skin bonding between mother and infant. Additionally, with approximately 50 percent of the births in Kentucky from mothers who are covered by Medicaid, the availability of freestanding birth centers could have financial benefits to the state, while affording more choices for safe, high-quality births. It is estimated that birthing centers save Medicaid \$19 million dollars per 10,000 births, just from the facility payment for C-sections prevented.

Jennifer Hawkins, Kentucky Birth Coalition, testified that she will be delivering in Jeffersonville, Indiana, at the nearest birthing center to her residence in Meade County, Kentucky. She chose this center because it is a natural and comfortable environment and she is more at ease there than in a hospital. However, she is fortunate that she has the transportation and family support to travel across state lines. Her health insurance is accepted at the center and her hope is that one day more Kentucky women will have more birthing options.

Kazia Bryant, Executive Director, Mama to Mama, said black women need to be included in

initiatives to make birthing equity more accessible. She said rising infant mortality rates have black women searching for alternative birthing options. She said black women face many barriers to home birth, and the birthing center in Indiana does not accept Kentucky Medicaid, making it unaffordable for many. Home settings may not be ideal for fostering new life, but choosing where to give birth should be a fundamental human right.

Renee Basham, Executive Director, Hope's Embrace, discussed barriers to opening birthing centers in Kentucky. Hope's Embrace is a non-profit community doula program that provides comprehensive maternal healthcare mentoring for under-served families during pregnancy and the critical first year after birth. There was a map provided in members' folders showing counties that have low or no access to birth centers.

Chairman Schickel asked if representatives from the Kentucky Medical or Kentucky Hospital Association wanted to testify before the committee. Cory Meadows, Deputy Executive Vice President, Director of Advocacy, Kentucky Medical Association (KMA), said obstetrician-gynecologists support women having birthing options, while maintaining appropriate accreditation standards. He would like to discuss eligibility requirements for the medical directors of the birthing centers with the sponsor of the bill. The KMA's preference is that it would be a person who is a certified obstetrician-gynecologist.

Responding to a question from Representative Miller, Ms. Peterson said that the Center for Medicaid and Medicare conducted a four-year study showing that birth centers did reduce costs. The initial cost evaluation was around the reduction in facility fees, specifically in reduction to the C-section rate. She also noted additional reduction in costs in low-risk birthing centers because of early discharges as opposed to a several day stay in a hospital.

Responding to a question from Senator Adams, Ms. Peterson said that a person with a substance abuse disorder that is in recovery would be a good candidate to use a birthing center, however an actively using person would not. There is an extensive entry screening to be accepted as a new patient, and birthing centers do not offer any narcotics during the birthing process. Senator Adams said she hopes the birthing centers may be an option to address Kentucky's critical shortage of obstetrician-gynecologists.

Responding to a question from Representative Flannery regarding midwives, Ms. Peterson stated that nurses, midwives, and obstetrician-gynecologists all may provide care at the birthing centers. She said the model of care at the centers does not exclude options if hospital staff want to be involved, but it can also be exclusively staffed by midwives. Representative Flannery wants to ensure that there is adequate medical specialists within the center to protect patient needs. Representative Nemes said many states offer a variety of staffing models at the birthing centers and have very safe birth outcomes. In regards to the liability language in the bill draft, Representative Nemes said they could discuss the details at a later time.

In response to a question from Representative Moser regarding transfer agreements, Ms. Peterson said safety is part of the standards for birthing

centers. This includes national transfer agreement requirements that are established in the accreditation standards, as well as procedures for emergency services and transferring patients to hospitals. Representative Moser said safety and unforeseen problems can arise during child birth and she is an advocate for the birthing centers to have a strong connection to the hospitals. She said it is harder for women in rural areas than in urban areas to get to the hospital but this can be discussed further in the future.

Senator Schickel suggested the group schedule an interim meeting hearing with the Interim Joint Committee on Health, Welfare, and Family Services moving forward. Representative Nemes said the birthing centers adhere to the national accreditation standards regarding safety, and are statistically safer than home births.

Responding to a question from Representative Burch regarding data on morbidity rates, Ms. Peterson said Kentucky has recently licensed certified professional midwives and is gathering birth statistics for licensure. Kentucky has had issues in the past tracking morbidity rates through Kentucky birth certificate data, which is less helpful if people give birth at home. Also, because the tracking of data is so new for midwife licensure, a data record is just now being established.

Responding to a question from Representative McCoy, Representative Nemes said the proposed legislation makes it easier for a facility to become a birthing center. There has only been one application in the past, and the laws were unclear and cumbersome for opening new establishments. He said current law deters new applicants because of confusion and red tape.

Representative Westrom said she supports the bill and is encouraged by the alliance the group has formed with the KMA. The KMA has had much success with growing many positions in the health care field such as nurse practitioners and midwives.

### **Land Surveyors**

Representative Koch said Kentucky faces a critical shortage of professional land surveyors. Many counties have no surveyors, resulting in surveys being more expensive and taking much longer to complete. His proposed legislation allows an option for the State Board of Licensure for Professional Engineers and Land Surveyors to develop a program that would be two years of formal post-secondary education combined with six years' experience in on-the-job training.

John Mark Hack, Chief Strategy Officer, Thoroughbred Engineering, said the land surveyor pipeline has become empty during the last five years. He said land surveyors are needed and critical to any land development purpose, such as a homeowner wanting to fence in a yard, or a residential real estate developer who wants to increase affordable housing opportunities. He also said it is needed for industrial development, and economic developers across the state who are seeking to take advantage of the project development initiative passed in the General Assembly 2022 Regular Session. The shortage of surveyors is causing extreme delays, higher costs, and hardships on all parties, and this proposed

legislation allows the State Board to create a viable two-year program, in combination with six years of apprenticeship, to enable more young Kentuckians to have a land surveying career.

In response to Senator Schickel, Representative Koch said the bill did not pass the House of Representatives last session.

In response to a question from Representative Huff, Jerry Kissick, Director of Surveying, Thoroughbred Engineering, said the land surveyor workers are bonded and insured. Representative Huff supports the legislation and would like to see the workers stay bonded or insured after completing the two-year program. Mr. Kissick said they will be required to have an errors and omissions insurance policy.

Representative Meredith said the land surveyor shortage is a real problem within the banking business. It is common for a 60 to 90 day wait to get a piece of land surveyed, which delays important banking decisions.

### **Christopher's Law**

Senate Minority Leader McGarvey explained the proposed legislation, House Bill 207 and Senate Bill 367 from the 2022 Regular Session, were filed based on a tragic murder of a bouncer, Christopher McKinney, in Louisville, Kentucky, in January 2020. He said the bill is a bipartisan supported effort and much needed for the safety of citizens and bouncers across the nation.

Nick Clark, Training Advocate, said Christopher's Law would require bouncers who work security at nightclubs or bars to be trained in de-escalation tactics, interpersonal communication, threat mitigation, etc. Unlike the military, police force, or firefighters, no training requirements currently exist for this professional field. Bouncers and security officers are usually hired by word of mouth and physical stature to keep the public safe in an alcohol-driven environment. He said the proposed legislation has vast support from members of the Kentucky General Assembly and said many other states have implemented similar legislation. The legislation is supported by the Kentucky Association of Chiefs of Police.

Minority Leader McGarvey urged the committee to review the proposed legislation and help to make responsible changes. He said the profession needs oversight in the future to prevent more innocent lives being lost.

Responding to a question from Chairman Koenig, Mr. Clark said the Kentucky Restaurant Association, the Kentucky Retail Federation, Craft Brewers Association, ACLU of Kentucky, and Kentucky Trial Lawyers Association, all support the changes in the proposed legislation.

With no further business before the committee, the committee adjourned at 11:00 a.m.

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

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

**of the 2022 Interim**

**August 25, 2022**

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

Pursuant to the approval of the President of the Senate and Speaker of the House, the Senate Standing Committee on State and Local Government, and the House Standing Committee on Local Government, met jointly during the 2022 Special Session at the Kentucky State Fair on Thursday, August 25, 2022, at 1:00 PM, in South Wing C, Rooms 101 & 104 of the Kentucky Fair and Exposition Center, in Louisville, Kentucky. Senator Robby Mills, Chair, and Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll for each committee.

### **Present were:**

**Members:** Senator Robby Mills, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Christian McDaniel, Michael J. Nemes, Wil Schroder, Adrienne Southworth, Damon Thayer, and Phillip Wheeler; Representatives Danny Bentley, Josh Bray, George Brown Jr., Jonathan Dixon, Ken Fleming, Deanna Frazier Gordon, Keturah Herron, Mary Beth Imes, DJ Johnson, Matt Lockett, Jerry T. Miller, and Walker Thomas.

**Guests:** Sarah Davasher-Wisdom and Shelby Williams Somervell, Greater Louisville Inc.; J.D. Chaney, Brianna Carroll, and Michele Hill, Kentucky League of Cities; Jim Henderson and Shellie Hampton, Kentucky Association of Counties; and Andi Johnson, Commerce Lexington.

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

### **Welcome Remarks**

Ms. Sarah Davasher-Wisdom, President and CEO of Greater Louisville Inc., welcomed the committees to Louisville.

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

Representative Meredith told the committees that the issue of local taxation is not new. Last year a bill on the issue passed the House but time ran out before it could pass the Senate. In addition, there was focus on state tax reform efforts.

Representative Meredith stated that Mr. Carter Hendricks, Co-Chair of "You Decide Kentucky", a statewide organization dedicated to tax reform, was unable to be at the meeting. Representative Meredith informed members that previous testimony from Mr. Hendricks included discussion about competition among businesses at the Kentucky/Tennessee line. Kentucky businesses near the line compete with Tennessee. Bowling Green and Simpson County have been successful in recruiting businesses over the years, but that is not what has been seen across the state. Hopkinsville has been hampered. The Clarksville region in Tennessee today has around 130,000 people, while the City of Hopkinsville and Christian County

has roughly 35,000 to 50,000 people. Thirty years ago, those cities were the same size. The lack of an income tax at the state and local level has allowed growth in Tennessee.

Two or three years ago, the General Assembly lowered the overall income tax rate by a percentage point. This year the General Assembly passed legislation that places Kentucky on a path to reduce or eventually eliminate the income tax as certain revenue triggers are tripped. This will be without raising the property tax or the sales tax while maintaining necessary revenue.

Only 17 states allow a local income tax. Thirty-eight states have local sales taxes. Kentucky is one of the states that is most reliant on local income tax. Local governments rely heavily upon business and payroll taxes. Section 181 of Kentucky's Constitution needs to be amended to get the flexibility to help local governments transition away from those types of taxes. The constitutional amendment will not be the only policy passed, and talks continue to begin to develop the framework of post-constitutional amendment local tax legislation.

Mr. Jim Henderson, Executive Director, Kentucky Association of Counties (KACo), stated that tax reform has been discussed over the 25 years of his service to counties. Most county officials would like to see a sales tax as an alternative source of revenue. Every county is different. What works for one county may not work for another. Everything is academic until the Constitution is amended. As a rule, what is taxed at the county level is limited, and does not always necessarily reflect the sectors of the economy that are growing. The tax reform conversation should continue.

Mr. J.D. Chaney, Executive Director/CEO, Kentucky League of Cities (KLC), said this present issue is not about a handout or about home rule for cities. Property taxes, occupational taxes, and franchise fees are the only three forms of revenue that the General Assembly can authorize. Amending Section 181 of the Constitution would allow the General Assembly to authorize taxes consistent with the other provisions of the Constitution. Nothing can happen until the General Assembly sets the policy and the resultant conditions arising from the policy. Cities will trust the General Assembly to enact policies that help local governments. Cities are extremely reliant on occupational license taxes. Opening up the possibility to shift the tax burden exclusively from residents is a worthwhile policy discussion.

Ms. Andi Johnson, Chief Policy Officer, Commerce Lexington, told the committees that Commerce Lexington is the Lexington area chamber of commerce and works with leaders in a nine-county region in Central Kentucky to attract and retain jobs in the region.

The regional leaders have been working with a national economic development consultant to develop a plan to improve regional competitiveness. Through this process, Commerce Lexington has looked at how the region compares to competitor regions. Kentucky's local tax policy structure stood out in comparison to the competitor regions as a barrier and impediment, not just to business creation, but also in attracting people to Kentucky. Commerce

Lexington encourages the modernization of the local tax code and the resultant flexibility while including appropriate guardrails. Commerce Lexington would like to see local tax codes mirror more closely what has been done at the state level through lowering or eliminating taxes on personal income and net profits taxes on business.

Ms. Shelby Williams Somervell, Vice President of Governmental Affairs and Communications, Greater Louisville Inc. (GLI), pointed out that GLI's membership covers 15 counties in Kentucky and Indiana and has over 1,800 members.

Kentucky needs to build more competitive local tax structures to support economic growth, promote business development, and attract and retain talent. Kentucky made great strides by passing statewide tax reform last session, but the impact of those needed changes will never be fully realized if local tax reform is not addressed as well. Section 181 of the Constitution needs to be changed to start.

"You Decide Kentucky" has been started to educate the public on this issue, and among the panel testifying at this meeting, she and Mr. Chaney serve on the group's board.

Representative Meredith noted that the Appropriations and Revenue Committee will discuss this issue in October. Research is being conducted to secure tax data. The working class and property owners are overtaxed. The local governments need more revenue coming in to offset those sources of tax revenue for those citizens who feel overburdened. In regards to remote working, some communities gain occupational tax revenue while other communities lose that revenue.

In response to a question from Representative Miller, Representative Meredith replied that this present initiative is not envisioned to be anything like the local option sales tax legislation proposed a few years ago which included the requirement of an affirmative result from a public question in order to levy the sales tax. That effort was a specific project add-on tax, and not meant to shift the overall local tax code in any meaningful way.

Representative Meredith announced that the next meeting would be held on September 27th.

There being no further business, the meeting was adjourned at 1:45 p.m.

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

### **Minutes of the 3rd Meeting of the 2022 Interim August 18, 2022**

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

The 3rd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, August 18, 2022, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Brandon Smith, Co-Chair;

Representative Jim Gooch Jr., Co-Chair; Senators Denise Harper Angel, John Schickel, Adrienne Southworth, Johnnie Turner, Robin L. Webb, and Phillip Wheeler; Representatives John Blanton, Randy Bridges, Tom Burch, Myron Dossett, Ryan Dotson, Jim DuPlessis, Patrick Flannery, Chris Fugate, DJ Johnson, Norma Kirk-McCormick, Suzanne Miles, Melinda Gibbons Prunty, Bill Wesley, and Richard White.

Guests: David McGowan, SE Regional Director, American Petroleum Institute; Dean Foreman, Chief Economist, American Petroleum Institute; Rusty Cress, Dinsmore and Shohl, LLP; Brian Clark, Executive Director, Kentucky Petroleum Marketers Association; Scott Kiser, Executive VP and Chair, Kentucky Petroleum Marketers Association; Tom Kloza, Global Head of Energy Analysis, Oil Price Information Service; and Leah Taylor, President/CEO, Cumberland Lake Shell, Inc.

LRC Staff: Stefan Kasacavage, Kayla Carroway, Tanya Monsanto, and Rachel Hartley.

The minutes from the meeting of July 7, 2022, were approved by voice vote.

Pursuant to KRS 13A.320, the following administration regulation was approved by voice vote as amended: 301 KAR 004:001 Selection of Fish and Wildlife Resources Commission nominees.

Senator Smith briefly addressed the impact of the flooding in eastern Kentucky and commended the first responders.

#### **Discussion of the Factors that Determine Gasoline Prices**

David McGowan stated the American Petroleum Institute (API) is the oldest and largest national trade association and has 600 member companies.

Dr. Dean Foreman stated crude oil is a commodity that is traded globally. The increase in crude oil acquisition costs contributed to the 85 percent rise in gasoline prices in the first half of 2022. In Kentucky, gasoline prices averaged 29 cents per gallon below the national average in 2021 and the first half of 2022.

Domestic crude oil production has remained one million barrels a day below the highest levels in late 2019 and early 2020. Crude oil production is currently at 12 million barrels a day. The Energy Information Administration has stated the United States needs to produce 1.4 million barrels more a day to balance global markets. The Strategic Petroleum Reserve has been making up the difference.

As of August 2022, commercial crude oil inventories were at their lowest level since 2014. The combination of demand outpacing supply and low inventories will continue to result in increased gasoline prices.

In response to Senator Wheeler, Dr. Foreman stated API has an open dialogue with the Biden administration, but legislative actions are difficult to predict. The Inflation Reduction Act recently passed by the United States Congress should have invested more in infrastructure, permitting reform, and pipelines to decrease gasoline prices.

In response to Representative DuPlessis, Dr. Foreman stated local conditions that impact how retailers set their prices for gasoline can vary greatly.

Retailers maintain competitive gasoline prices to attract consumers into their stores to buy products.

Leah Taylor stated retailers have no control over credit card fees. Because credit card fees are a percentage of the gasoline cost, fees will increase if gasoline prices increase. Retailers must be able to cover their overhead while also staying competitive. When gasoline prices increase, retailers will make less profit.

Tom Kloza stated the Oil Price Information Service is an independent agency that provides pricing and analysis that is used for commercial contracts and trade. Oil demand has recovered from depressed levels, but production has not kept up. In the past two decades there has been a decline of investment in oil and gas futures.

Senator Smith and Representative Gooch expressed frustration with current federal energy policy.

Scott Kiser briefly discussed how the wholesale margins of gasoline were impacted by fluctuations in the retail market.

In response to Senator Smith, Brian Clark stated in the last decade approximately 200 fuel retailers have closed in Kentucky.

There being no further business, the meeting was adjourned.

## **CHFS ORGANIZATIONAL STRUCTURE, OPERATIONS & ADMINISTRATION TF**

### **Minutes of the 3rd Meeting of the 2022 Interim**

August 17, 2022

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

The 3rd meeting of the CHFS Organizational Structure, Operations & Administration TF was held on Wednesday, August 17, 2022, at 3:00 PM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

**Members:** Senator Stephen Meredith, Co-Chair; Senators Julie Raque Adams and Ralph Alvarado; Representatives Danny Bentley, Keturah Herron, and Kimberly Poore Moser.

**Guests:** Eric Friedlander, Secretary, Cabinet for Health and Family Services; Marta Miranda-Straub, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Lesa Dennis, Deputy Commissioner, Department for Community Based Services (DCBS), Cabinet for Health and Family Services (CHFS).

**LRC Staff:** Samir Nasir and Mariah Derringer-Lackey.

#### **Approval of the July 19, 2022, meeting minutes**

With a motion from Representative Moser and a second from Representative Bentley, the minutes from the July 19, 2022, meeting were approved.

## **Overview of the budget, staffing, functions, and programs of the Kentucky Department for Community Based Services**

Eric Friedlander, Secretary, Cabinet for Health and Family Services; Marta Miranda-Straub, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; and Lesa Dennis, Deputy Commissioner, Department for Community Based Services (DCBS), Cabinet for Health and Family Services (CHFS), provided testimony and a presentation regarding the organizational structure, budget, division overviews, data, uses of the American Rescue Plan Act (ARPA) funds, personnel, and challenges for the department.

A general overview of DCBS was given by Commissioner Miranda-Straub. While DCBS is currently comprised of 4,000 employees across the state, DCBS has the capacity for 4,500 employees. A map was provided to show the nine DCBS service regions. The commissioner presented the organizational structure noting the addition of the Division of Prevention.

Secretary Friedlander provided a breakdown of the funding and expenditures of DCBS. A majority of the funding is federal grants which are usually specific to the program, such as a child care grants. Personnel is a large expenditure for the department.

Deputy Commissioner Dennis gave a snapshot of some programs and services administered by DCBS. Not yet listed was the employee child care assistance partnership program (2022 RS HB 499) as the department is still working on its implementation.

The Division of Protection and Permanency focuses on child and adult protection, and foster and adoptive services. The department has focused on incorporating the voice of those with lived experience within the foster and adoptive system. To do so, DCBS has created a trusted advisory council, birth parent advisory council, and the voice of fathers, and is continuing to work with the Voices of the Commonwealth Council.

Deputy Commissioner Dennis provided statistics, graphs, and testimony about the number of children in the custody of or committed to the cabinet, reports that met acceptance or criteria for child abuse/neglect assessment, and child protective services (CPS) intakes. Deputy Commissioner Dennis discussed a change that occurred in 2019 with how the department counted children who were with relatives or fictive kin caregivers. The intensity or severity of child abuse or neglect has increased. The majority of referrals to the cabinet do not meet the statutory requirement for intervention, which the department believes to be missed opportunities to provide prevention services.

The Division of Prevention Services contains three branches: primary prevention, prevention evidence based practices, and community response and well-being. Secretary Friedlander discussed the prevention funding provided in the budget. A large portion of the funding used was to increase rates for child caring facilities.

An overview of the Division of Family Support was given. The division administers programs to support families and individuals in need. Statistics regarding the following programs within the division were supplied: Supplemental Nutrition Assistance

Program (SNAP), Kentucky Transitional Assistance Program (TANF), and Low Income Home Energy Assistance Program (LIHEAP). An update was given on the implementation of HB 7 (2022 Regular Session).

Information was presented regarding the Community Services Block Grant (CSBG). Funds flow to the community action agency, and it is decided locally on how the funding is spent.

A summary of the Division of Child Care was provided. The Child Care Assistance Program (CCAP) was discussed including the two recent reimbursement rate increases. Highlighted was the use of ARPA funds. The department has concerns when ARPA funds are eliminated and how it will sustain the programs created or grown with the funds. ARPA funds were also used to address the benefits cliff by creating a transitional period for households exiting CCAP; and provided an increase in CCAP eligibility thresholds.

An update was given regarding the implementation of the Employee Child Care Assistance Partnership (ECCAP) established in HB 499 (2022 Regular Session).

Commissioner Miranda-Straub discussed the vision, goals, and challenges of DCBS. The plan to build a 21st century DCBS contains three phases: stabilization, innovation, and thriving. Testimony was given about the challenges of DCBS, including staff turnover and high acuity youth.

Senator Meredith made several comments regarding the goal of the task force and how this knowledge can aid the General Assembly with their legislative work.

In response to questions from Senator Meredith, Secretary Friedlander believed the nine DCBS service regions were created when the cabinet was split. During that time, the secretary attempted to balance the workload relative to the number of people being served within DCBS. Deputy Commissioner Dennis referenced a reorganization that occurred in 2006 which reduced the service regions from 16 to 9.

In response to questions from Senator Meredith, Deputy Commissioner Dennis explained an interim employee and the interim hiring process. The interim hiring process allows DCBS to hire employees quickly and then begin the process of making that employee permanent. Commissioner Miranda-Straub testified about the challenges with the hiring process and needing to hire staff quickly.

In response to comments from Senator Meredith, Secretary Friedlander discussed the state wide telecommute policy and the need to be consistent across cabinets. With the state wide telework policy, employees will be in the office three days a week.

In response to questions from Representative Moser, Commissioner Miranda-Straub thought it was vital to review the exit reasons given by employees, the two most common being trauma and caseloads. To manage the caseloads, DCBS needs more employees. Commissioner Miranda Straub believed Kentucky to be comparable to other states in terms of requirements needed to be a social worker. Deputy Commissioner Dennis also thought it was a good idea to look at the credentials of social workers and interstate compacts; however to implement something similar to that



would limit the already limited hiring pool.

In response to questions from Representative Moser, Secretary Friedlander spoke on the benefits cliff tool being developed in the Education and Workforce Development Cabinet. He believed it to be a nice and comprehensive tool but it may need to be simplified. Secretary Friedlander also hoped at one point the tool would be able to be used within the CHFS' integrated benefits programs.

In response to comments from Senator Alvarado, Secretary Friedlander gave his opinion on merit and non-merit employees and believes there are challenges to any system. Secretary Friedlander also referenced his time when the cabinet split and spoke about the challenges. He believes it costs more to split because of the cost allocation system and that splitting the cabinet would not more effective, due to staff not wanting to work across the system with one another.

Senator Meredith announced the next meeting on September 21, 2022, at 3 p.m.

With no further business, the meeting adjourned at 4:48 p.m.

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

### **Minutes of the 3rd Meeting of the 2022 Interim**

August 25, 2022

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

Pursuant to the approval of the President of the Senate and the Speaker of the House, the Senate Standing Committee on State and Local Government, the House Standing Committee on State Government, and the House Standing Committee on Elections, Constitutional Amendments & Intergovernmental Affairs met jointly at the Kentucky State Fair at 11:00 a.m. on August 25, 2022, during the 2022 Special Session. Senator Robby Mills, Chair, Representative Kevin Bratcher, Chair, and Representative Jerry Miller, Chair, called the meeting to order, and the secretary called the roll for each committee. Representative Bratcher served as chair for the meeting. Later in the meeting he recognized staff of the State Board of Elections who were in attendance.

#### **Present were:**

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

**Guests:** John Steffen, Kentucky Registry of Election Finance; Tabatha Clemons, Grant County Clerk; Chris Cockrell, Montgomery County Clerk; and Jason Denny, Anderson County Clerk.

**LRC Staff:** Alisha Miller, Shannon Tubbs, Daniel

Carter, and Peggy Sciantarelli.

#### **Welcome from Greater Louisville Inc.**

Ms. Shelby Somervell, Vice President of Governmental Affairs & Communications, Greater Louisville Inc., gave welcoming remarks to the committee.

#### **Moment of Silence**

At the request of Representative Bratcher, the committee observed a moment of silence in memory of former Representative Ron Crimm.

#### **Overview of Kentucky Registry of Election Finance Software and Systems**

John Steffen, Executive Director, Kentucky Registry of Election Finance, discussed the software and systems used by the Registry. He stated that when he joined the Registry in 2016, the filing system was outdated. Funding was received in the 2016-2018 budget for a project to replace it with an electronic filing system. In September 2017, the Registry entered into an agreement to develop and maintain a new system with Kentucky Interactive, LLC, which had been operating with the Department of Corrections and the Finance and Administration Cabinet under a master agreement with the Commonwealth since 2005. Electronic filing was slated to begin with the 2020 primary election, based on legislation enacted during the 2019 Regular Session. Mr. Steffen said the new system has not been a total failure and has improved since the 2020 primary election, but there have been problems. The public database is not as user friendly as intended. The Registry continues to work daily with the contractor to resolve the problems, and the system seems to be improving slowly but surely. However, he thinks it was built on a bad foundation, and he does not envision it as a long-term system for the Commonwealth.

Mr. Steffen said the Registry has made \$314,000 in payments to Kentucky Interactive but has put further payments on hold until there is progress in correcting the problems. It may be time to consider other options or to replace the system. There have been many successful filings, but the system has also been a source of frustration to the users. Reports that are timely filed sometimes cannot be found in the database. It is an embarrassment to the Registry and the Commonwealth that the system is not 100 percent reliable.

Senator Thayer stated that he sponsored the 2019 legislation that requires electronic submission of campaign finance reports, beginning with the elections scheduled in 2020. Mandatory electronic filing was already a requirement for statewide candidates, but the 2019 legislation required it for all candidates. It is embarrassing to him, as sponsor of the legislation, that its implementation has been botched. The Registry is ultimately responsible, but the vendor, Kentucky Interactive, is mostly at fault. Both novice and experienced users agree that the system is not user friendly and that the accuracy of the information gleaned from it cannot be trusted. Campaign treasurers are having to reach out to the Registry and to the vendor regarding basic functionality concerns. A report cannot be printed before it is filed to double-

check it for accuracy, and the search function is practically useless. In his view, Kentucky Interactive has completely failed candidates and the people of Kentucky in fulfilling its charge to provide accurate campaign finance disclosure in a transparent manner.

Senator Thayer said there are no legislative elections in 2023, and perhaps an emergency bill should be passed in January 2023 to pause the 2019 law and revert to paper filing for one year in order to give the Registry an opportunity to rebid the contract with another vendor. Mr. Steffen replied that the old system is gone and that switching back to paper filing would be even more harmful to disclosure and more burdensome to everyone involved. He thinks the Registry should continue to work with Kentucky Interactive until there is an upgrade or another system can be put in place. He believes developing an RFP for proposals to the private sector for a new system would be a viable option.

In response to a question Senator Thayer on whether the Registry was allowed to bid the project to other vendors, Mr. Steffen stated that, because of the master agreement, Kentucky Interactive had been the preferred choice. Senator Thayer questioned whether the master agreement would need to be overridden in law in order for the Registry to accept bids from private sector companies. Mr. Steffen responded that, under current procurement law, he believes Kentucky Interactive could be prohibited from bidding on a future project.

Responding to Representative Bratcher, Mr. Steffen acknowledged that he had previously assured that the current system was doable within the agreed upon timeframe; but he was basing that on assurance from the vendor that they could produce what was needed. He is no longer hopeful for that.

Senator McDaniel stated there is no longer confidence in the current system, and there is no other system to go back to. Within the next 60-90 days, it is incumbent upon the Registry to have a remediation plan, which will probably involve removal of the current vendor. In the meantime, Kentucky Interactive needs to provide support for the system. Otherwise, nonperformance under their contract and the potential recoupment of monies will need to be considered. Mr. Steffen responded that the Registry staff suffer the same frustrations. They confer with the vendor frequently and attempt to address all complaints and issues with the system.

Representative Koch stated that he worked with the Registry staff when he sponsored HB 740 (2022 RS). Although there is a lot of frustration with the vendor, he believes members of the General Assembly have high regard for the Registry staff.

Representative Nemes said he had not read the contract, but the problem with the vendor appears to be a breach of contract. Promises that were made were not kept, and significant issues are not being addressed. He believes it is time to move on, to mitigate the damages, and to charge the vendor for what has to be spent to correct the problems.

Representative Gooch discussed his frustrations with the system. He said it is not user-friendly and that first-time candidates running for office would find it especially difficult to navigate.

In response to a question from a member

concerning which technical and user requirements in the master agreement have been met. Mr. Steffen said that the Registry tracks that information and can provide a report.

Senator Southworth stated that the Registry has her support and the support of other members of the General Assembly to move forward in obtaining a contract with qualified IT people who can perform the needed services to political candidates, their constituents, and members of the public.

Representative Miller expressed misgivings about the quality and performance of state government price contracts. In order to find a good electronic filing system, he suggested that Mr. Steffen look at the systems used by his peers in other states. As committee co-chair, he said he would gladly ask the committee to look at this issue in the future.

## 2022 Primary Election Review

Tabatha Clemons, Grant County Clerk and Treasurer of the Kentucky County Clerk's Association (KCCA); Chris Cockrell, Montgomery County Clerk and past president of KCCA; and Jason Denny, Anderson County Clerk and KCCA President, presented an overview of the 2022 primary election.

Ms. Clemons said that from county clerks' perspective, the 2022 primary election ran smoothly. There were a few minor issues, such as poll workers failing to show up and complaints about electioneering. The May 2022 primary was the first election featuring many of the changes enacted in HB 574 (2021 RS). Those changes included the permanent online portal to apply for an absentee ballot by mail; three days of in-person no-excuse early voting; the use of drop boxes; a ban on ballot harvesting; and the opportunity to have vote centers. In general, the reforms worked very well. Some counties, like Grant, used vote centers; some consolidated their precinct locations; and others used their traditional precincts. County clerks and county boards of elections are now working with the State Board of Elections (SBE) to develop county-specific plans for voting. It is expected that many counties will continue to tweak their election plans.

Statewide, 83 percent of voters voted on election day, and 13 percent voted during the 3-days of no-excuse early voting. Voters have not had an opportunity to be educated about the three days of early voting, and many did not realize it was available. Early voting should increase over time, especially the opportunity to vote on Saturday. Three percent of voters voted absentee by mail or by using a drop box location. One percent voted absentee in person, essentially the same percentage as in the past. Statewide turnout was about 19 percent, which is lower than recent county primary elections. That percentage varied by county, depending on the races that appeared on the ballot.

Mr. Denny spoke about the options available to counties and the flexibility and advantages provided to voters through enactment of HB 564 (2022 RS) and HB 574 (2021 RS). He noted that bipartisan county boards of elections are required to submit their vote plans to the SBE for approval. Vote plans are decided by the bipartisan boards and not by individual county clerks.

Mr. Cockrell said that there are some things that county clerks hope to see addressed in the

upcoming legislative session. The provisions relating to electioneering need to be applied also to the 3-day early voting sites. After the 2022 primary election, some candidates requested a recount even though the vote margins were not close and there was no evidence of voter fraud or equipment issues. Even though a candidate must post bond, the amount of additional work that a recount requires of the clerk's office is enormous. Clerks would like to see minimum limits specified for the vote margin in order to qualify for a recount. Current law requires that absentee ballots be sent to a voter's residence. This is an issue that calls for discussion, because the recent flooding in eastern Kentucky has caused many citizens/voters to lose or be temporarily displaced from their homes.

Ms. Clemons testified that funding that was set aside for election equipment during the 2021 Regular Session will be a huge asset to Kentucky counties. Without that funding, all of the legislative changes might not be possible. Clerks especially appreciate the electronic poll book option and the security provided by paper ballot backup. Clerks do not foresee the need for major legislative changes. With the help of the General Assembly, clerks want to continue conversations about how to better educate voters and ways to share county election plans with constituents. Ms. Clemons stated that Kentuckians should feel confident in the election system. Clerks have worked hard to help ensure that elections are safe, secure, and fair. They want to continue doing that, and they appreciate their partnership with the legislature.

In response to comments from Representative Bratcher, there was discussion of how vote recounts cause staffing problems for county clerks and interfere with their preparation for upcoming elections. Mr. Cockrell stated that he believes some of the recounts are frivolous in nature.

Representative Tipton said he is concerned about having ballots for the November general election available for voters who were displaced by the recent eastern Kentucky flooding. He is hopeful that this issue can be remedied legislatively or otherwise. Mr. Cockrell expressed hope that this can be addressed on a short term basis for the affected counties.

Representative DuPlessis spoke in support of having three days of early voting, but he cautioned against extending the number of days. He said candidates spend the majority of campaign advertising funds close to election time.

In response to questions from Representative Nemes, Mr. Denny stated that rules and regulations are currently being set for a pilot program to conduct risk-limiting audits. His county is one of several that have signed up to participate, and the program should be available for the November general election. Mr. Cockrell said that HB 574 provided flexibility to the counties regarding voting at the precinct-level or at vote centers. For a smaller county like his, it was advantageous to conduct voting at a couple of central locations. Using vote centers also saves money for counties. Reporting, however, is still done at the precinct level. Ms. Clemons stated that county clerks face obstacles in finding enough election officers to serve at precincts. Vote centers provide flexibility to the counties and makes it easier to find election officers who are willing to serve. Her county has four

vote centers, and she would like to see the option of using vote centers continue for at least two more election cycles.

In response to a question from Senator Southworth concerning whether SBE's approval process considers the cost, staff time, and resources involved in 3-day early voting, Mr. Denny said he does not think there is provision for the state board to make decisions based on cost in individual counties. Fiscal courts are charged with paying the cost, and it is up to the county to decide whether the cost was worthwhile. In Anderson County early voting was greater than 13 percent, and 68 percent voted on election day. He believes that approximately 50 percent of the voters in Anderson County will eventually take advantage of the flexibility and convenience offered by the no-excuse early voting days.

Senator Southworth spoke in support of candidates' right to request a recount. She also expressed disapproval of the inefficiency and inevitable delays involved in the current recount process.

Senator Thayer stated that having three days of early voting seems to be working well. He is glad, however, that county clerks do not plan to request an increase in the number of days. He believes some of the recount requests from the primary election are frivolous and ill intended. Electioneering caused a problem in a Lexington Senate race, and he believes electioneering law needs to be tightened. He would like county clerks to meet with Senator Mills and Representatives Bratcher, Tipton, Decker, and Branscum to develop language to amend the statutes relating to recounts and electioneering so that those issues can be addressed early during the upcoming legislative session.

Representative Wheatley said that having three days of early voting is great, and he believes the early voting percentage will likely increase over time. He would also like to see polling places stay open until 7:00 p.m., like they are in some other states. He stated that Kentucky lags behind almost all the states with respect to voter registration. He is in favor of allowing registration closer to election day and, eventually, allowing same-day voter registration. His greatest concern is getting as many people to vote as possible.

Mr. Denny testified that Anderson County had 74 percent turnout in 2020, and he finds it disheartening when turnout is low. He is able to send out reminder cards to voters in his county, but some fiscal courts and county clerks are not able to do that. Mr. Cockrell said it is his personal opinion that low turnout statistics somewhat reflect the national "motor voter" law, because many of those who registered after its passage did not intend to vote.

Representative Decker commended the guest speakers for their hard work and dedication to excellence. She said it has been a privilege to work with them, SBE, and the Secretary of State. Kentucky has a safe and secure election system, and it disturbs her to hear allegations of election fraud. That is demeaning to democracy, and disparagement of the election system also negatively affects voter turnout. For the benefit of the public, she suggested that county clerks do more to advertise the outcome of recounts.

Representative Heavrin stated she is interested in

reforming the recount process. It took three months to complete one of the recent election recounts, and she has concern about the cost involved. The general public does not recognize all that is involved, and recounts can be a waste of taxpayer dollars. She asked whether the committee could be provided with information about the cost of staff time and state resources required in the recent recount lawsuits, some of which have been deemed frivolous. Ms. Clemons stated she, Mr. Denny, and Mr. Cockrell can work on getting the information. She pointed out that the recount process includes many variables, depending on the number of candidates in the race, whether straight party voting is involved, and the number of counties included. Mr. Denny said an additional variable is that the cost would be five or six-fold in countywide races that take place during a presidential election cycle. Also, different judges set different rules on how a recount takes place.

Responding to Representative Bratcher, Ms. Clemons gave details about a recent recount for the Senate District 24 Republican primary race that included Bracken, Campbell, and Pendleton counties, and a small portion of Kenton County. The recount was held in early August under the supervision of Circuit Judge Dan Zalla. Despite no reported evidence of fraud or irregularity, losing candidate Jessica Neal sought the hand recount, and her campaign posted the bond of approximately \$58,000 to cover the potential cost of the recount. There was no change in the results except for a single vote that was deemed to be an “overvote.”

Senator Wheeler said he is comfortable with allowing three days for early voting. He also spoke about the importance of providing voters with all relevant information about candidates so that they are fully informed when casting their ballot on election day.

Representative Graham said it is the responsibility of elected officials, as leaders within their communities and within the Commonwealth, to ensure that people understand they have a right to participate and vote in elections. It is of utmost importance for them to know that their vote will count. He also commended county clerks across the Commonwealth for working to facilitate the election process.

Representative Bratcher thanked the speakers and announced that the next meeting of the interim joint committee would be on September 27. Discussion concluded, and the meeting was adjourned at 12:52 p.m.

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

### **Minutes of the 3rd Meeting of the 2022 Interim**

August 25, 2022

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

Pursuant to the approval of the President of the Senate and Speaker of the House, the Senate Standing Committee on Economic Development,

Tourism, and Labor; House Standing Committee on Economic Development and Workforce Investment; House Standing Committee on Small Business and Information Technology; and House Standing Committee on Tourism and Outdoor Recreation met jointly at the Kentucky State Fair in the ULA Ballroom of Freedom Hall located at 937 Phillips Lane, Louisville, Kentucky on August 25, 2022, at 2:00 P.M. during the 2022 Extraordinary Session. Senator Wil Schroder, Chair; Representative Russell Webber, Chair; Representative Phillip Pratt, Chair; and Representative Kim King, Chair called the meeting to order, and the secretary called the roll for each committee.

#### **Present were:**

Members: Senator Wil Schroder, Co-Chair; Representative Russell Webber, Co-Chair; Representative Kim King, Co-Chair; and Representative Phillip Pratt, Co-Chair; Senators Robby Mills, Adrienne Southworth, Brandon J. Storm, Reginald Thomas, and Phillip Wheeler; Representatives Shane Baker, Josh Branscum, Josh Bray, George Brown Jr., Josh Calloway, Ryan Dotson, Daniel Elliott, Daniel Fister, Deanna Frazier Gordon, Chris Freeland, Al Gentry, David Hale, Thomas Huff, William Lawrence, Matt Lockett, Michael Sarge Pollock, Josie Raymond, Scott Sharp, Steve Sheldon, Nancy Tate, and Timmy Truett.

Guests: Sarah Davasher-Wisdom, President and CEO, Greater Louisville Incorporated; Chris Girdler, President and CEO, Somerset-Pulaski Economic Development Authority; Robert Lawson, Mayor, Burnside; Steve Robertson, Government Relations Principal, Frost Brown Todd; David Beck, President and CEO, Kentucky Venues; Mark Lynn, Chair, Kentucky State Fair Board; and H. David Wallace, Vice Chair, Kentucky State Fair Board.

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

#### **Welcome**

Sarah Davasher-Wisdom, the President and CEO of Greater Louisville Incorporated, gave a brief welcome and thanked members for visiting Louisville.

#### **Dream BIG Burnside**

Chris Girdler, the President and CEO of Somerset-Pulaski Economic Development Authority, Robert Lawson, Mayor of Burnside, and Steve Robertson, Government Relations Principal with Frost Brown Todd, detailed the Dream BIG Burnside project. The tourism initiative is planned to be a public private partnership on General Burnside Island that will offer lodging, restaurants, and other tourism amenities.

#### **Kentucky Exposition Center, Kentucky International Convention Center, and Fair Grounds- Facility Improvements, Tourism and Economic Development Impacts**

David Beck, the President and CEO of Kentucky Venues, Mark Lynn, Chairman of the Kentucky State Fair Board, and H. David Wallace, Vice Chairman of the Kentucky State Fair Board, discussed the Kentucky Venues properties, infrastructure improvement needs, plans for event hosting opportunities, ideas for additional tourism amenities, and the potential return

on investment for future projects.

There being no further business before the committees, the meeting adjourned at 2:27 p.m.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

### **Minutes of the 3rd Meeting of the 2022 Interim**

August 16, 2022

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

The 3rd meeting of the Interim Joint Committee on Transportation was held on Tuesday, August 16, 2022, at 1:00 PM, 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 July 5, 2022 were approved.

#### **Present were:**

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Brandon J. Storm, Johnnie Turner, Max Wise, and David Yates; Representatives Josh Branscum, Kevin D. Bratcher, Randy Bridges, Jonathan Dixon, Ken Fleming, David Hale, Samara Heavrin, Thomas Huff, Derek Lewis, Bobby McCool, Shawn McPherson, Charles Miller, Ruth Ann Palumbo, Sal Santoro, Tom Smith, Cherlynn Stevenson, Ashley Tackett Laferty, Walker Thomas, and Buddy Wheatley.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Kenny Bishop, Legislative Director, KYTC; Corbett Caudill, Chief District Engineer, District 10, KYTC; Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC; Mike Sewell, President, Bike Walk Kentucky; Jennifer Kirchner, Executive Director, Kentuckians for Better Transportation (KBT); and Captain Marshall Johnson, Driver Testing Branch, Kentucky State Police (KSP).

LRC Staff: John Snyder, Dana Fugazzi, Ashley Nash, and Christina Williams.

#### **KYTC Flood Response**

Jim Gray, Secretary, KYTC, gave a brief overview of the cabinet’s response to the recent tragic flooding in Eastern Kentucky. Secretary Gray recognized key staff and departments that assisted in the disaster relief. Aiding in the relief were KYTC Departments of Highways, Vehicle Regulation, Rural and Municipal Aid, and Department of Aviation; the State Highway Engineer’s Office; and the Secretary’s Office of Highway Safety. At least 180 employees from the Department of Highways, as well as dozens of pieces of equipment, have deployed from the other nine highway districts to aid districts 10 through 12. The personnel included engineers, equipment operators, maintenance crews, and bridge specialists and mechanics.

KYTC was instrumental in transporting critical goods into the area such as water, meals ready to eat (MREs), cots, travel trailers for shelter, and work trailers. Pop-up licensing services were provided in six locations within five counties. Routine licensing services were offered as well as free replacement of driver’s licenses and ID cards. As of August 15, there were 1,599 licenses or IDs issued to people in

the flooded counties. KYTC crews worked not just on clearing state routes, but also helped overwhelmed counties clear local roads. The crews executed debris removal and had oversight and inspection capabilities of contracts. Cities and counties were offered the opportunity to “piggyback” on state contracts through a mutual aid agreement. By doing this, debris removal was able to occur more quickly.

Several pictures were shown to the committee that showcased the indescribable damage done to the Eastern Kentucky area. Secretary Gray stated in 16 days, KYTC had inventoried 1,098 bridges in the disaster zone. As of August 14, 56 bridges had been identified for replacement and 52 others identified as needing repair. The process has already begun to replace an initial group of 11 bridges in need of replacement in Knott, Letcher, Perry, and Pike counties using existing and emergency contracts. In 9 of the 11 cases, residents lost motor vehicle access to their homes when those bridges were deemed unusable. In those cases, temporary crossings are being built. Crews have cleared at least 153 land and mudslides and unclogged dozens of culverts and drain structures.

Nine companies bid on the debris removal contract. The low bidder was AshBritt, an experienced national company based in Florida. Through Sunday, August 14, AshBritt trucks had moved almost 1,000 truckloads of debris in Breathitt, Floyd, Knott, Letcher, Perry, and Pike counties. ER Assist Disaster Funding Solutions is monitoring the work of AshBritt to ensure everything is done and documented properly so reimbursement funds will be granted from the Federal Emergency Management Agency (FEMA.)

Corbett Caudill, Chief District Engineer, District 10, gave an overview of events that occurred on the night of the flooding, as well as the events that followed. He described the events as nothing short of catastrophic. He stated in his 27 years of working for KYTC in that area, he had never seen water over certain roads and landmarks before.

Representative Tackett Laferty thanked all who have been involved in cleanup and disaster relief. She thanked Governor Beshear, representatives who have been involved, all first responders, and other groups that have come together to uplift the community. She also thanked the state parks (specifically Jenny Willey State Park in her district.) Lastly, she thanked the school boards that have been instrumental during this time.

Senator Turner thanked Senator McConnell and Congressman Paul for their help with disaster relief, as well as other supporting groups that contributed to the cause.

Representative Stevenson thanked all parties who have contributed to the restoration of the devastated area. She encouraged people to visit the area and help as they are able.

In response to a question asked by Representative Santoro, Mr. Corbett stated most electricity has been restored to the area. He stated internet and telephone services in Jackson have been restored. He added that the restoration of water services will be a longer process. Some water lines have been washed out and areas that are farther away from the water plant are still without water.

In response to a question asked by Representative Smith, Secretary Gray stated that the damage in the area from the intense rain was probably worse than it would have been in a different region, and the goal of everyone is to identify damage and get it repaired as quickly as possible.

### **Fiscal Year (FY) 2022 Road Fund Report**

Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC gave a brief update on the FY 2022 closeout of the Road Fund. Ms. Brewer stated on December 17, 2021, the Consensus Forecasting Group (CFG) revised the current year revenue estimate for FY 2022, as well as approved the official revenue estimates for FY 2023 and FY 2024. During that meeting the CFG revised the revenue estimate up to \$1,680.1 million from \$1,609.2 million. Actual Road Fund revenues for FY 2022 totaled \$1,675.4 million, an increase of two percent from FY 2021, but a shortfall of \$4.7 million below the revised official estimate. However, this did not result in any spending reductions. The Motor Fuel Tax revenue collected was approximately \$13.7 million less than the enacted revenue estimate, as high pump prices discouraged consumption. The Motor Vehicle Usage Tax revenue collected reached an all-time high of \$629.1 million, \$9.4 million more than the estimate. All the other revenue accounts collected close to \$500,000 less than the estimate.

In comparing the actual Road Fund Revenues for FY 2022 to 2021, total 2022 receipts were approximately \$33 million more than 2021 levels, an increase of about 2 percent. The gains in the Road Fund from FY 2021 to FY 2022 were concentrated in the Motor Fuel and Motor Vehicle Usage Taxes, which grew 3.5 percent and 1.3 percent, respectively. Motor Fuel Tax receipts grew despite higher gas prices and were robust in each of the first three quarters before declining in the final quarter in response to the faster rise in gas prices.

In response to a question asked by Chairman Higdon, Ms. Brewer stated the “other” category includes everything outside of the Motor Fuels Tax and the Motor Vehicle Usage Tax, such as motor vehicle operator and licensing fees, investment income, permit fees, as well as weight distance tax.

The Official Road Fund estimate from CFG for FY 2023 is \$1,719.9 million. According to the Quarterly Economic and Revenue Report for the fourth quarter of FY 2022, which is published by the Office of the State Budget Director, Road Fund revenues are forecasted to grow at a slightly more robust pace over the first three quarters of FY 2023, with collections increasing 3.7 percent. Growth rates ranging from 0.9 percent to 13.7 percent are expected in most of the accounts, with the exception of Motor Fuels Tax which is forecasted to decline. Motor Fuel receipts are expected to decrease approximately 0.4 percent over the next three quarters as gasoline consumption declines over the forecast period due to continued high prices at the pump, and the subsequent freeze in the average wholesale price of fuel that occurred via an emergency regulation.

Motor Vehicle Usage Tax is expected to increase 7 percent over the first three quarters of FY 2023. In addition, Motor Vehicle Licensing fees are expected

to increase 2.8 percent in the first three quarters of FY 2023. Weight distance taxes are expected to grow 2.3 percent, motor vehicle operator license tax is forecasted to rise 13.7 percent, and investment income collections are expected to be approximately negative \$1 million.

The official enacted Road Fund revenue estimates for FY 2023 include \$833.8 million in Motor Fuels Tax, \$603.7 million in Motor Vehicle Usage Tax, \$119.1 million in Motor Vehicle Licensing fees, \$94.6 in Weight Distance Tax, \$41.6 million in other categories, and \$27.1 million in Motor Vehicle Operators fees, for a total expected FY 2023 Road Fund Revenue of \$1.72 billion.

### **Bike Walk Kentucky**

Mike Sewell, President, Bike Walk Kentucky gave a brief presentation on the mission of Bike Walk Kentucky. Bike Walk Kentucky envisions a healthy and active Kentucky in which cycling and walking are safe, accessible, and welcoming to all, without regard to ability or income through development of bicycle facilities, multi-use paths and trails. Bike Walk Kentucky believes it is important to advocate for this due to aggressive driving, speeding, risk-taking, distracted driving, and impaired driving. According to the National Highway Traffic Safety Administration (NHTSA), 94 percent of crashes are influenced by human error, and errors like aggressive driving are made worse by ignoring the user experience.

Mr. Sewell stated the transportation structure truly is the lifeblood of communities even beyond the moving of goods and services. Mr. Sewell is an engineer and stated when the engineer’s creed is taken, it is taken for the protection of lives. He added the previous presentation showcasing the flood responses show that Kentucky is doing a fantastic job in trying to keep people safe and completing tasks correctly. He added that is exactly what Bike Walk’s goal is for the biking and pedestrian community across Kentucky.

The objectives of Bike Walk are to advocate for and assist communities in developing bike-walk plans across Kentucky, unite and be a voice for all cyclists and walkers with an emphasis on access and safety, promote healthy activities and lifestyles both on and off the road, and lastly to encourage economic growth and vitality utilizing Kentucky’s beauty, historic, and natural resources.

Bike Walk works with government officials and other organizations to make cycling and walking more accessible and safer for all. They assist communities and businesses on achieving their bike friendly status. Bike Walk engages Kentuckians of all abilities, interests, and skills to increase knowledge, acceptance, and understanding of cycling and walking, whether for transportation, recreation, or both. By working with government officials and through educational programming, Bike Walk is working to create an environment and promote individual behaviors that promote safety. Because of Kentucky’s natural beauty, easy access to safe cycling and walking activities will increase visitors to Kentucky and grow Kentucky’s economy. The presentation Mr. Sewell provided to the committee listed several valuable resources for walking, hiking and cycling, as well as how to get involved with Bike Walk Kentucky.



Jennifer Kirchner, Executive Director, KBT stated KBT is a unified voice for all modes of transportation, which works at the local, state, and federal levels. She added one way those goals can be accomplished is through the committee structure. With the introduction of the bi-partisan infrastructure law and subsequent funding, discussions with the Public Transit and Safety Committee, and conversations with KYTC, KBT saw that it was in the best interest to reorganize that committee and it is now the Public Transit Access and Safety Committee. The committee will focus on the individual user in the transportation system. Ms. Kirchner stated walkers, riders, and car drivers all must be compatible in the shared environment. She added there are a lot of proven methodologies that are very successful in doing this. One method is called Complete Streets. The Complete Streets concept encompasses many approaches to planning, designing, and operating roadways and right-of-ways, with all users in mind, to create a transportation network that is safer and more efficient. Because of a 16 year high in traffic fatalities in 2021, addressing safety is a substantial cause for increased funding in the bipartisan infrastructure law.

Chairman Higdon commented that there is an increased number of sidewalks being added into the Road Plan, whereas sidewalks used to be primarily a city issue. He added there has been some pushback because of that. Chairman Higdon also commended the federal Transportation Alternatives Program (TAP), which helps fund multi-modal infrastructure.

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

Captain Marshall Johnson, Driver Testing Branch, KSP briefly spoke on the administrative regulations that were referred to the committee. The administrative regulations that were referred were 502 KAR 010:120, 502 KAR 010:110, 502 KAR 010:090, 502 KAR 010:080, 502 KAR 010:070, 502 KAR 010:060, 502 KAR 010:050, 502 KAR 010:040, 502 KAR 010:035, 502 KAR 010:030, 502 KAR 010:020, and 502 KAR 010:010. No objections were raised, and these regulations were not found to be deficient or deferred.

### **Study Report**

The July Report for the Interim Staff Study on Electric Vehicles and Transportation Funding was provided to members. In the 2022 regular session of the General Assembly, House Bill 8, Section 56 required staff to report to LRC monthly during the interim on these topics for referral to the Interim Joint Committees on Appropriations and Revenue and Transportation. The study is being done over five months, and the study report provided the second round of ten states reviewed. Studies will be issued each month, with a compilation of all 50 states produced at the end of the interim. This report was produced by the staff of the Appropriations and Revenue Committee and was reviewed by the staff of the Transportation Committee prior to publication.

Chairman Higdon introduced and welcomed Ashley Nash, a new analyst for the Transportation Committee, who is a graduate of Transylvania University and the Chase Law School at Northern

Kentucky University.

With no further business to come before the committee, Chairman Higdon adjourned the meeting at 2:17 PM.

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

### **Minutes of the 3rd Meeting of the 2022 Interim**

August 23, 2022

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

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Tuesday, August 23, 2022, at 9:00 AM, in Room 154 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Representative Walker Thomas, Co-Chair; Senators Jimmy Higdon, Stephen Meredith, and Wil Schroder; Representatives Kevin D. Bratcher, Chris Freeland, Al Gentry, Jim Gooch Jr., Mark Hart, Scott Lewis, Bobby McCool, Bill Wesley, and Buddy Wheatley.

Guests: Major General Haldane (Hal) B. Lamberton, The Adjutant General; Brigadier General (Ret.) Charles Jones, Executive Director, Kentucky Department of Military Affairs; Corey Ann Howard Jackson, Legislative and Congressional Liaison, Policy Specialist and Political Advisor, Kentucky Department of Military Affairs.

LRC Staff: Mark Mitchell, Jessica Zeh, and Logan Schaaf.

#### **Kentucky National Guard Update**

Major General Haldane (Hal) B. Lamberton, The Adjutant General; Brigadier General (Ret.) Charles Jones, Executive Director of the Kentucky Department of Military Affairs (KDMA); and Corey Ann Howard Jackson, Legislative and Congressional Liaison for the KDMA, provided an overview of the recent activities of the Kentucky National Guard.

General Lamberton discussed the flood response efforts of the National Guard in Eastern Kentucky. Service members conducted search and rescue operations, swift water rescues, wide area searches, bridge assessments, and law enforcement augmentation. Points of Distribution were established in Breathitt, Clay, Johnson, Knott, Leslie, Letcher, Magoffin, Martin, and Perry counties, with warehouse operations in Floyd. As of August 12th, 50,000 cases of water and 65,000 meals were distributed to these communities.

Senator Higdon and Representative Wesley praised the work of the National Guard in response to the flooding.

Responding to questions from Senator Meredith, General Lamberton said that units currently deployed and scheduled to be deployed have not been needed for the flood response. As part of the Emergency Management Assistance Compact, the Kentucky National Guard can rely on neighboring states for

the sharing of assets if it becomes overtaxed. General Lamberton also highlighted recruitment and retention efforts in the wake of the COVID-19 pandemic.

Responding to a question from Senator Meredith, General Lamberton discussed the ongoing COVID-19 vaccination efforts in the National Guard. Temporary medical exemptions and religious exemptions are available. Vaccinations are a medical readiness issue. In some historical conflicts, more American soldiers were hospitalized with illnesses than were wounded in combat.

Representative Gooch commented on the changing guidance from the Centers for Disease Control relating to COVID-19 and its variants. Responding to these comments by Representative Gooch, General Lamberton emphasized the importance of adapting to changing circumstances and using new information to improve efficiency and effectiveness.

With no further business before the committee, the meeting was adjourned at 10:00 AM. The next meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection will be September 28, 2022, at 10:00 AM in Room 154 of the Capitol Annex.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the September Meeting**

September 13, 2022

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

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 13, 2022, 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 Gordon, and Mary Lou Marzian.

Guests: Cassie Trueblood, Education Professional Standards Board; Cary Bishop and Ashley Dailey, Finance and Administration Cabinet; Chris Harlow, Board of Pharmacy; Jeff Allen, Board of Dentistry; Julie Campbell, Board of Cosmetology; Eddie Sloan and John Wood, Board of Emergency Medical Services; Steven Fields and Jenny Gilbert, Department of Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Bradley Arterburn and Amy Baker, Department of State Police; Kyle Ray and Ricky Sizemore, Department of Highways; Bruce Roberts, Jeremy Rodgers, and John Wood, Kentucky Fire Commission; Oran "Scotty" McFarlan, Education and Labor Cabinet; Misty Edwards, Kentucky Commission on Proprietary Education; Dale Hamblin and Scott Wilhoit, Department of Workers' Claims; Abigail Gall and Shawn Orme, Department of Insurance; Jonathan "Max" Fuller and Rick Rand, Department of Housing, Buildings and Construction; Julie Brooks, Department for Public Health; and Jonathan Scott, Department for Medicaid Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, September 13, 2022, and submits this report:

Administrative Regulations Reviewed by this Subcommittee:

**EDUCATION AND LABOR CABINET: Education Professional Standards Board: Alternative Routes to Certification**

016 KAR 009:110E. Expedited route to certification. Cassie Trueblood, counsel, represented the board.

**FINANCE AND ADMINISTRATION CABINET: Commonwealth Office of Technology: General Administration**

200 KAR 001:016. Data Breach Notification Forms. Cary Bishop, assistant general counsel, and Ashley Daily, staff attorney, represented the office.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs, Sections 1 and 2, and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**BOARDS AND COMMISSIONS: Board of Pharmacy**

201 KAR 002:015. Continuing education. Christopher Harlow, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 5, 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.

201 KAR 002:413E. Ordering and administering vaccinations.

In response to questions by Senator Alvarado, Mr. Harlow stated that this administrative regulation allowed pharmacists to administer childhood vaccinations; such as vaccinations against measles, mumps, and rubella; to children three years of age and older. Patients provided the pharmacists with pediatric care provider information, which may result in notification to the provider regarding the vaccination in order to prevent duplication of vaccination.

**Board of Dentistry**

201 KAR 008:550. Anesthesia and sedation related to dentistry. Jeff Allen, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 3 through 6, and 16 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Board of Cosmetology**

201 KAR 012:030E. Licensing and examinations. Julie Campbell, executive director, represented the board.

201 KAR 012:060E. Inspections.

201 KAR 012:082E. Education requirements and school administration.

201 KAR 012:230E. Code of ethics.

201 KAR 012:260E. Fees.

201 KAR 012:290E. Permits.

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services**

202 KAR 007:701E. Scope of practice matters. Eddie Sloan, interim executive director, and John Wood, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend Section 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game**

301 KAR 002:090. Means by which migratory game birds may be taken. Steven Fields, staff attorney, and Jenny Gilbert, legislative liaison, represented the department.

In response to a question by Co-Chair Hale, Ms. Gilbert stated that there were not many hunters who used archery to hunt migratory birds.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph 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.

301 KAR 002:095. Importation, possession, and

transportation of wildlife meat carcasses, and parts.

In response to a question by Co-Chair West, Ms. Gilbert stated that surveillance for Chronic Wasting Disease (CWD) had been performed in five western Kentucky counties, and there had not been any specimen that tested positive for CWD. The department was continuing to monitor other areas and considering other ways to track CWD.

In response to a question by Representative Frazier Gordon, Mr. Fields stated that requirements pertained to carcasses in sealed containers. There were Commerce Clause concerns if the requirements were stricter. Ms. Gilbert stated that container requirements were very specific, and the department was working to make the public aware of the requirements. Because sportsmen were equally concerned about CWD, the department had experienced good compliance.

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 002:300. Black bear seasons and requirements.

In response to questions by Representative Marzian, Ms. Gilbert stated that the bear seasons varied and were posted on the department's Web site. Mr. Fields stated that, previously, a bear season ended when the quota had been reached. This change provided a more traditional season that would not end based on a quota and would allow hunters to better plan for hunting trip durations. Co-Chair Hale stated that, in the past, there had been sportsmen who did not know to call to determine if the quota had been met.

**GENERAL GOVERNMENT CABINET: Department of Agriculture: Pesticides**

302 KAR 026:010. Definitions. Clint Quarles, counsel, represented the department.

302 KAR 026:020. Pesticide certification and licensing.

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

302 KAR 026:030. Recordkeeping.

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

302 KAR 026:040. Storage and handling of pesticides.

302 KAR 026:050. Trainee registration and supervision requirements.

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

302 KAR 026:060. Identification of service vehicles.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 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.

302 KAR 026: 070. Non-certified applicator training and supervision.

A motion was made and seconded to approve the following amendments: (1) to add a definition section; and (2) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 2 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 026:080. Lawn, turf, ornamental and interior plantscape notice posting.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1, 2, 4, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 026:090. Wood destroying organism treatments an integrated pest management in schools.

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

302 KAR 026:100. Structural pest control settlement proceedings.

302 KAR 026:150. Penalties.

A motion was made and seconded to approve

the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 3 and 6 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### **Regulation and Inspection; Motor Fuel**

302 KAR 079:009. Repeal of 302 KAR 079:010.

JUSTICE AND PUBLIC SAFETY CABINET:  
Department of State Police: Concealed Deadly Weapons

502 KAR 011:010. Application for license to carry concealed deadly weapon. Bradley Arterburn, commander, and Amy Barker, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 6, 8, 10, and 13 and the license application to include additional statutory requirements; and (2) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 4, 6, 8, 10, 12, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

502 KAR 011:060. License denial and reconsideration process.

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

502 KAR 011:070. License revocation and suspension notice and reinstatement process.

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

#### **Kentucky Law Enforcement Council**

503 KAR 001:140E. Peace officer, telecommunicator, and court security officer professional standards.

#### **TRANSPORTATION CABINET: Department of Highways: Traffic**

603 KAR 005:155. Vegetation management. Kyle Ray, assistant general counsel, and Ricky Sizemore,

branch manager, represented the department.

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

739 KAR 002:070. Volunteer fire department loan fund. Bruce Roberts, deputy executive director; Jeremy Rodgers, director of operations; and John Wood, counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 4 through 7, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Sections 5 through 7 to delete references to “or seventy-five (75) percent”, for consistency with the change of the maximum loan amount to \$125,000; and (3) to amend Section 10 to revise incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

#### **EDUCATION AND LABOR CABINET: Department of Workforce Investment: Employment Services**

787 KAR 002:040. Local workforce development area governance. Oran McFarlan, deputy general counsel, represented the department.

In response to a question by Co-Chair West, Mr. McFarlan stated that the department had developed this agency amendment in conjunction with Senator Jimmy Higdon, to address his concerns from the July 2022 meeting of this subcommittee.

At the July 14, 2022, meeting of this subcommittee, a motion was made and seconded to approve the following amendments: (1) to add a definition section; and (2) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 through 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.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 8 to clarify that this administrative regulation shall not prohibit coordination between the Kentucky Workforce Innovation Board and the Kentucky Education Workforce Collaborative. Without objection, and with agreement of the agency, the amendments were approved.

#### **Kentucky Commission on Proprietary Education**

791 KAR 001:010. Applications, permits, and renewals. Misty Edwards, executive director, and Adrian Jacob, staff attorney, represented the

commission.

A motion was made and seconded to approve the following amendments: to amend Sections 11 and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:020. Standards for licensure.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, and CONFORMITY paragraph and Sections 1, 2, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:025. Fees.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2 and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:027. School record keeping requirements.

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

791 KAR 001:030. Procedures for hearings.

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

791 KAR 001:035. Student protection fund.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:040. Commercial driver license training school curriculum and refresher course.

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

791 KAR 001:050. Application for license for commercial driver license training school.

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

791 KAR 001:060. Application for renewal of license for commercial driver license training school.

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

791 KAR 001:070. Commercial driver license training school instructor and agency application and renewal procedures.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 6 to comply with drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:080. Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver license training schools.

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 Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:100. Standards for Kentucky resident commercial driver training school facilities.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to delete Section 4. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:150. Bond requirements for agents and schools.

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

791 KAR 001:155. School closing process.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 001:160. Transfer of ownership, change of location, change of name, revision of existing programs.

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

### **Department of Workers' Claims**

803 KAR 025:089E. Workers' compensation medical fee schedule for physicians. Dale Hamblin, assistant general counsel, and Scott Wilhoit, commissioner, represented the department.

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

803 KAR 025:195. Utilization review, appeal of utilization review decisions and medical bill audit.

In response to questions by Co-Chair West, Mr. Hamblin stated that a preauthorization request went through the utilization review process. An initial reviewer, if not a physician, could approve a request; however, only a physician could deny a preauthorization request. If the preauthorization request was denied, the requesting physician could ask for reconsideration. A second reviewer would then consider the request. The second reviewer was required to be of the same qualifications as the requesting physician. The requesting physician could also request a peer-to-peer conference to take place at a specific date and time. If the peer-to-peer conference failed to result in an agreement, the petitioner could then have a judge consider a medical fee dispute. The process prior to this administrative regulation, as established in 803 KAR 15:190; which was found null, void, and unenforceable; included some decisions being made by a medical director. The peer-to-peer conference in this administrative regulation was an alternative option for the second review. Mr. Wilhoit stated that the purpose of the peer-to-peer option was to foster communication and hopefully expedite a resolution.

In response to a question by Senator Yates, Mr. Hamblin stated that, if the peer-to-peer conference was scheduled and not completed on the part of the reviewer, except in cases of good cause, the request

was automatically approved.

Co-Chair Hale thanked the department for developing an agency amendment to address concerns.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3 through 5, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 7 to clarify that written notice of denial requirements apply to preauthorization requests. Without objection, and with agreement of the agency, the amendments were approved.

#### **PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors and Adjusters**

806 KAR 009:025. Licensing process. Abigail Gall, executive advisor, and Shawn Orme, executive advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 and 9 to comply with the drafting and format-ting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### **Health Insurance Contracts**

806 KAR 017:585. Annual report mental health parity nonquantitative treatment limitation compliance.

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

#### **Department of Housing, Buildings and Construction: Kentucky Building Code**

815 KAR 007:120. Kentucky Building Code. Max Fuller, deputy commissioner, and Rick Rand, commissioner, represented the department.

#### **Heating, Ventilation, and Air Conditioning Licensing Requirements**

815 KAR 008:010. Licensing requirements for master HVAC contractors and journeyman HVAC mechanics.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were

approved.

#### **Standards of Safety**

815 KAR 010:060. Kentucky standards of safety.

#### **CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Local Health Departments**

902 KAR 008:120. Leave provisions applicable to employees of local health departments. Julie Brooks, regulation coordinator, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4 through 6, 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.

#### **Department for Medicaid Services**

907 KAR 001:065E. Payments for price based nursing facility services. Jonathan Scott, regulatory and legislative advisor, represented the department.

In response to questions by Co-Chair West, Mr. Scott stated that the \$29 fee would be added into the annual rate paid to nursing homes on an ongoing basis, based on the 2021 budget.

#### **Outpatient Pharmacy Program**

907 KAR 023:020. Reimbursement for outpatient drugs.

In response to questions by Senator Alvarado, Mr. Scott stated that reimbursement for medically assisted treatment medications that met the standard of care would be the same, whether billed as a professional service fee or professional dispensing fee.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 6, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### **Department for Community Based Services: Child Support**

921 KAR 001:380. Child support enforcement program application and intergovernmental process. Jonathan Scott, regulatory and legislative advisor, represented the department.

The following administrative regulations were deferred or removed from the September 13, 2022, subcommittee agenda:

#### **STATE BOARD OF ELECTIONS: Statewide Voter Registration**

031 KAR 003:031E. Voting precinct and address

of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address.

031 KAR 003:031. Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address.

#### **Forms and Procedures**

031 KAR 004:071E. Recanvas procedures.

031 KAR 004:071. Recanvas procedures.

031 KAR 004:131E. Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically.

031 KAR 004:131. Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically.

031 KAR 004:141E. Submission of the federal postcard application via electronic mail.

031 KAR 004:141. Submission of the federal postcard application via electronic mail.

031 KAR 004:170. Exceptions to prohibition on electioneering.

031 KAR 004:196E. Consolidation of precincts and precinct election officers.

031 KAR 004:196. Consolidation of precincts and precinct election officers.

031 KAR 004:201E. Chain of custody for records during an election contest.

031 KAR 004:201. Chain of custody for records during an election contest.

031 KAR 004:210E. Establishment of risk-limiting audit pilot program.

031 KAR 004:210. Establishment of risk-limiting audit pilot program.

#### **Voting**

031 KAR 005:011E. Use of the federal writ-in absentee ballot.

031 KAR 005:011. Use of the federal writ-in absentee ballot.

031 KAR 005:026E. Ballot standards and election security.

031 KAR 005:026. Ballot standards and election security.



**FINANCE AND ADMINISTRATION CABINET:  
Kentucky Retirement Systems: General Rules**

105 KAR 001:415E. Reimbursement of hospital and medical insurance premiums for Medicare eligible retired members reemployed with a participating employer.

**GENERAL GOVERNMENT CABINET:  
Department of Military Affairs: Disaster and Emergency Services**

106 KAR 001:141. Emergency management funding.

106 KAR 001:171. Local emergency management agency program quarterly report.

106 KAR 001:181. Project application.

106 KAR 001:191. Project application reimbursement.

106 KAR 001:201. Local plan.

106 KAR 001:211. Local emergency management training.

106 KAR 001:221. Local exercise.

106 KAR 001:231. Local emergency management agency ordinance requirement.

106 KAR 001:241. Local emergency management director appointment process.

106 KAR 001:251. Workers' Compensation Enrollment Form.

106 KAR 001:261. Supplementary state fund expense reimbursement eligibility list.

106 KAR 001:291. Specialized rescue squad alternative affiliation agreement process.

106 KAR 001:341. Rescue aid fund allocation.

106 KAR 001:371. Rescue aid fund expenditure documentation.

**Military Assistance Trust Funds**

106 KAR 002:021. Military Family Assistance Trust Fund.

106 KAR 002:031. National Guard Adoption Benefits Program.

**FINANCE AND ADMINISTRATION CABINET:  
Commonwealth Office of Technology: Kentucky Infrastructure Authority**

200 KAR 017:111E. Guidelines for Kentucky Infrastructure Authority drinking water and wastewater grant program.

**BOARDS AND COMMISSIONS:** Board of Licensure for Long-Term Care Administrators

201 KAR 006:060. Fees.

**Board of Dentistry**

201 KAR 008:520. Fees and fines.

**Real Estate Commission**

201 KAR 011:121. Standards of professional conduct.

**Board of Cosmetology**

201 KAR 012:190E. Complaint and disciplinary process.

**TOURISM, ARTS AND HERITAGE CABINET:  
Heritage Council**

300 KAR 006:011. Historic rehabilitation tax credit certifications.

**Department of Fish and Wildlife Resources: Game**

301 KAR 002:142. Spring turkey hunting.

**JUSTICE AND PUBLIC SAFETY CABINET:  
Department of State Police: Law Enforcement Officers Safety Act of 2004**

502 KAR 013:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 013:030. Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 013:040. Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 013:050. Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 013:060. Change of personal information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 013:080. Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act

of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

**EDUCATION AND LABOR CABINET:  
Department of Education: Office of Instruction**

704 KAR 003:305. Minimum requirements for high school graduation.

**Department of Workplace Standards: Labor Standards; Wages and Hours**

803 KAR 001:090. Workers with disabilities and work activity centers' employee's wages.

**PUBLIC PROTECTION CABINET: Department of Insurance: Insurance Holding Company Systems**

806 KAR 037:010. Insurance holding company systems.

**Department of Charitable Gaming: PUBLIC PROTECTION CABINET: Charitable Gaming**

820 KAR 001:001. Definitions.

820 KAR 001:032. Pulltabs.

**CABINET FOR HEALTH AND FAMILY SERVICES: Office of Human Resource Management: Administration**

900 KAR 001:050. Child and adult protection employees subject to state and national criminal background checks.

Office of Health Data and Analytics: Kentucky Health Benefit Exchange

900 KAR 010:120. KHBE eligibility and enrollment in qualified health plan, SHOP, and SHOP formal resolution process.

**Department for Public Health: Vital Statistics**

901 KAR 005:120E. Abortion reporting.

Communicable Diseases

902 KAR 002:020. Reportable disease surveillance.

**Department for Medicaid Services**

907 KAR 001:008. Ambulatory surgical center services and reimbursement.

907 KAR 001:044. Coverage provisions and requirements regarding community mental health center behavioral health services.

907 KAR 001:082. Coverage provisions and requirements regarding rural health clinic services.

907 KAR 001:104. Reimbursement for advanced practice registered nurse services.

#### **Department for Community Based Services: Child Welfare**

922 KAR 001:290. Background checks for private child-caring or child-placing staff members.

922 KAR 001:300. Standards for child-caring facilities.

#### **Daycare**

922 KAR 002:160E. Child Care Assistance Program.

The subcommittee adjourned at 1:55 p.m. The next meeting of this subcommittee was tentatively scheduled for October 11, 2022, at 1 p.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes September 13, 2022**

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

The Government Contract Review Committee met on Tuesday, September 13, 2022, at 9:00 AM, in Room 131 of the Capitol Annex. Representative Matthew Koch, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Stephen Meredith, Co-Chair; Representative Matthew Koch, Co-Chair; and Senator Southworth; Representatives Mark Hart and Adam Bowling.

Guests: Jennifer Peters, Aaron Jones, Gabe Nickell, Mark Williams, Mary Elizabeth Bailey, Chris Lewis, Stacy Woodrum, Blake Christopher, Leslie Brown, Lilly Massa-McKinley, Kim Welch, Lisa Cox, Scott Porter, Rob Lewis, Oran McFarlan, Dondra Meredith, James Van Buren, Jamhal Wooldridge, Amy Scarborough, Micah Hunsucker, Mark Howard, Darryl Thompson, Angela Sanchez Vega, Katie Smith, Bart Hardin, Barry Swanson, Jennifer Smith, Daniel Boamah, Les Forsythe, Karen Sellers, Taylor Brown, Vivian Lasley-Bibbs, Tricia Okeson, Andrew Yunt, Jamie Rice, Jeremy Ratliff, Toby Smith, Dave Gutierrez, and Bob James.

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

A motion was made by Representative Bowling to approve Minutes of the August 2022, meeting of the committee. Senator Meredith seconded the motion, which passed without objection.

#### **AUGUST DEFERRED ITEM:**

#### **PERSONNEL - OFFICE OF THE SECRETARY**

Korn Ferry (US), Inc., 2200002760. Mary Elizabeth Bailey discussed the contract with the committee. A motion was made by Senator Southworth to defer the contract to the October 2022 committee meeting. Senator Meredith seconded the

motion, which passed.

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

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

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

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

A motion was made by Senator Meredith to consider as reviewed the Kentucky Entertainment Incentive Program Agreements 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 Senator Meredith to consider as reviewed the Correction List. Representative Bowling seconded the motion, which passed without objection.

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

DEPARTMENT FOR WORKFORCE INVESTMENT  
Brandi Collins, 23000000262.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING  
Julie Parker Communications, LLC, 23000000681.

DEPARTMENT OF EDUCATION  
Jerri Lafavers, 23000000309.

DEPARTMENT OF HIGHWAYS  
Burgess and Niple, Inc., 23000000347.

DEPARTMENT OF INSURANCE  
Axams, LLC, 23000000109; Vjie, LLC, 23000000110; C & L Black Enterprises, LLC, 23000000111.

DEPARTMENT OF JUVENILE JUSTICE  
Barry Glick, 2200003270.

DEPARTMENT OF MILITARY AFFAIRS  
Christopher Beau Jones, 2200004621; Dayspring Counseling Services, LLC, 23000000188.

DEPARTMENT OF VETERANS AFFAIRS

Multi, 22000000113; Symphony Diagnostics Services, No. 1, LLC, 2200004570.

#### **EASTERN KENTUCKY UNIVERSITY**

K. Norman Berry Associates Architects, PLLC, 1499-2022; Elite Mobility Training, 1599-2023.

#### **FACILITIES & SUPPORT SERVICES**

Clotfelter/Samokar PSC, 23000000166; Omni Architects, 23000000392; Brown and Kubican, PSC, 23000000669; EOP Architects PSC, 23000000724.

#### **KENTUCKY EDUCATIONAL TELEVISION**

Robert Newman, 23000000379.

#### **KENTUCKY FISH AND WILDLIFE RESOURCES**

Stantec Consulting Services, Inc., 15FW002859; Third Rock Consultants, LLC, 18FW000968; Stantec Consulting Services, Inc., 18FW001103; Sustainable Streams, LLC, 18FW001506; Res Kentucky, LLC d/b/a Redwing Ecological Services, 18FW002056; Quality Deer Management Association, 2200002066; Ducks Unlimited, Inc., 2200003280; Respec Consulting and Services, LLC, 22FW000462; Office of Kentucky Nature Preserves, 23000000580; Sturgill, Turner, Barker & Moloney, PLLC, 23000000589; Quality Deer Management Association, 23000000676.

#### **KENTUCKY STATE POLICE**

Rn Expertise, Inc., 23000000038; Ronald David Peppi, 23000000264; Shaun Douglas Little, 23000000267.

#### **KY COMMUNITY TECHNICAL COLLEGE SYSTEM**

Sutherland & Associates, 895.

#### **KY HOUSING CORPORATION**

Value Tech Realty Services, Inc., 2023-47.

#### **LEGISLATIVE RESEARCH COMMISSION**

Hanna Resource Group LLC, 22/23-44.

#### **MOREHEAD STATE UNIVERSITY**

Ross Tarrant Architects, 23-017.

#### **UNIVERSITY OF KENTUCKY**

JRA Architects, A231090; JRA Architects, A231100; Barnett, Benevenuti & Butler, PLLC, K23-177; Stantec Consulting Services, Inc., K23-178; FTI Consulting, Inc., K23-179; CAP Financial Partners, LLC d/b/a CAPTRUST Financial Advisors, K23-180; FORVIS, LLP, K23-181; Trifecta Media, LLC, K23-182; Danny B. Corales MD, Inc., K23-183.

#### **WESTERN KENTUCKY UNIVERSITY**

Multi, 222432.

### **THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

#### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Reach of Louisville, Inc., 2200002926.

DEPARTMENT OF CRIMINAL JUSTICE  
TRAINING

Ricks International Consulting, Inc., 2200003349.

DEPARTMENT OF HIGHWAYS

Burgess and Niple, Inc., 0700003887; QK4, 1400001951; HDR Engineering, Inc., 1900002815; Leslie M. Haney and Albert W. Gross Partners, 1900002866; Gresham Smith, 1900002881; American Engineers, Inc., 1900004404; H. W. Lochner, Inc., 2000000384; Integrated Engineering, 2000000388; HMB, Inc., 2000000389; H. W. Lochner, Inc., 2000000469; Aecom Technical Services, Inc., 2000000571; WSP USA, Inc., 2000000852; Bacon Farmer Workman Engineering & Testing, Inc., 2000004387; Greenman-Pedersen, Inc., 2100000421; Stantec Consulting Services, Inc., 2100000780; Burgess and Niple, Inc., 2100000816; GRW Engineers, Inc., 2100001615; Burgess and Niple, Inc., 2200003830.

FACILITIES & SUPPORT SERVICES

Florence & Hutcheson, 1200001112; Third Rock Consultants, LLC, 1200003126; Biagi Chance Cummins London Titzer, Inc., 1300001446; GRW Engineers, Inc., 1800000445; Sustainable Streams, LLC, 1800001506; Riverine Systems, LLC, 2000000378; Facility Commissioning Group, Inc., 2000001736; Nomi, Inc., 2000002477; EOP Architects, PSC, 2000003040; EOP Architects PSC, 2100002073; THP Limited, Inc., 2100002719; Frasca & Associates, LLC, 2200000849.

KENTUCKY STATE FAIR BOARD

MCM CPAs & Advisors, LLP, 2200001831.

KY HOUSING CORPORATION

KPMG, LLP, 2021-50.

OFFICE OF THE CONTROLLER

Diamond Drugs, Inc., 2200000005.

UNIVERSITY OF KENTUCKY

Sanger & Eby, 23-004.

WESTERN KENTUCKY UNIVERSITY

codelab303, 222330.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Community Action Kentucky, Inc., 2300000327.

COUNCIL ON POSTSECONDARY EDUCATION

National Association of System Heads, 2300000185; University of Kentucky Research Foundation, 2300000283; University of Louisville Research Foundation, 2300000285; University of the Cumberlands, 2300000540.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Education & Workforce Development Cabinet,

2200002907; Northern Kentucky Community Action, 2300000386.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Horse Cave, 2100003247; City of Pikeville, 2200004558; City of Bowling Green, 2200004599; City of Bowling Green, 2200004605; City of Middletown, 2200004676; City of North Middletown, 2200004694; Hickman County Fiscal Court, 2200004748; Larue County Fiscal Court, 2200004765; McLean County Fiscal Court, 2300000004; Webster County Fiscal Court, 2300000012; Bracken County Fiscal Court, 2300000013; Pike County Fiscal Court, 2300000022; Pike County Fiscal Court, 2300000023; Ohio County Fiscal Court, 2300000024; Ohio County Fiscal Court, 2300000025; Henderson County Fiscal Court, 2300000027; City of Morgantown, 2300000066; Lincoln County Fiscal Court, 2300000077; Todd County, 2300000082; Webster County Fiscal Court, 2300000126; Pike County Fiscal Court, 2300000169; Kentucky Pilots Association Education Foundation, Inc., 2300000170; Old Bardstown Village, Inc., 2300000189; Barren County Family YMCA, 2300000197; Livingston County Fiscal Court, 2300000204; Metcalfe County Fiscal Court, 2300000219; Crittenden County Fiscal Court, 2300000263; Paintsville Independent School District, 2300000266; Ohio County Fiscal Court, 2300000270; Russell County Industrial Development Authority, 2300000281; Union County Fiscal Court, 2300000319; Union County Fiscal Court, 2300000320; Union County Fiscal Court, 2300000322; Union County Fiscal Court, 2300000323; Union County Fiscal Court, 2300000325; Union County Fiscal Court, 2300000330; Union County Fiscal Court, 2300000331; Union County Fiscal Court, 2300000332; Louisville Orchestra, 2300000346; Housing Authority of Bowling Green, 2300000362; Floyd County Fiscal Court, 2300000382; Floyd County Fiscal Court, 2300000383; Amen House, Inc., 2300000384; Lawrence County Fiscal Court, 2300000397; Mountain Comprehensive Health Corporation, 2300000471; Martin County Fiscal Court, 2300000586; Knox County Fiscal Court, 2300000587; Magoffin County, 2300000656; Magoffin County, 2300000657; Magoffin County, 2300000658; Magoffin County, 2300000659; City of Morganfield, 2300000694.

DEPARTMENT FOR PUBLIC HEALTH

Family Health Centers, Inc., 2200003770; Kentucky Primary Care Association, Inc., 2200004776; Youth Golfers Outreach Program, Inc., 2300000008; Hometown Connect, Inc., 2300000064; University of Louisville Hospital, 2300000090.

DEPARTMENT FOR WORKFORCE INVESTMENT

Community Treatment and Re-Entry Solutions, LLC, 2300000032; Options Unlimited, Inc., 2300000374.

DEPARTMENT OF CORRECTIONS

Voices of Hope - Lexington, Inc., 2300000007.

DEPARTMENT OF EDUCATION

Boyle County Board of Education, 2200003603; Teach for America, 2200003645; Heuser Hearing & Language Academy, Inc., 2200003670; Board of Regents of the University of Wisconsin System, 2200003680; Lexington Hearing and Speech Center, 2200003685; Fairview Independent School District, 2200003853; Kenton County Board of Education, 2200003904; Visually Impaired Preschool Services, Inc., 2200003910; Monroe County Board of Education, 2200003923; Williamsburg Independent School District, 2200003929; Kentucky Science and Technology Corporation, 2200004237; Nelson County Board of Education, 2200004340; Kentucky Alliance of Boys & Girls Clubs, Inc., 2200004399; Whitley County Board of Education, 2200004476; Wayne County Board of Education, 2200004478; Jackson County Board of Education, 2200004479; Anderson County Board of Education, 2200004705; Spencer County Board of Education, 2200004709; Save the Children Federation, Inc., 2200004777; The Center for Education Leadership, 2300000034; Jefferson County Board of Education, 2300000054; Bourbon County Board of Education, 2300000060; Southeast/Southcentral Educational Cooperative, 2300000063; Bellevue Independent School District, 2300000068; Ballard County Board of Education, 2300000132; Bath County Board of Education, 2300000133; Carter County Board of Education, 2300000136; Covington Independent School District, 2300000139; Fleming County Board of Education, 2300000142; Franklin County Board of Education, 2300000143; Henderson County Board of Education, 2300000147; Jefferson County Board of Education, 2300000148; Jessamine County Board of Education, 2300000149; Johnson County Board of Education, 2300000150; Lawrence County Board of Education, 2300000152; Lewis County Board of Education, 2300000153; Livingston County Board of Education, 2300000154; Magoffin County Board of Education, 2300000155; Marshall County Board of Education, 2300000156; Powell County Board of Education, 2300000160; Scott County Board of Education, 2300000161; Trigg County Board of Education, 2300000164; Union County Board of Education, 2300000165; Jefferson County Board of Education, 2300000175; Boyle County Board of Education, 2300000183; Adair County Board of Education, 2300000210; Allen County Board of Education, 2300000211; Ashland Board of Education, 2300000213; Ballard County Board of Education, 2300000215; Barren County Board of Education, 2300000218; Berea Independent Board of Education, 2300000220; Bourbon County Board of Education, 2300000221; Boyd County Board of Education, 2300000222; Bracken County Board of Education, 2300000223; Bullitt County Board of Education, 2300000225; Campbell County Board of Education, 2300000226; Casey County Board of Education, 2300000227; Clinton County Board of Education, 2300000228; Corbin Independent School District, 2300000229; Covington Independent School District, 2300000230; Crittenden County Board of Education, 2300000231; Cumberland County Board of Education, 2300000232; Fulton Independent Board of Education, 2300000233; Glasgow Independent School District, 2300000234; Greenup County Board of Education, 2300000237; Hardin County Board of

Education, 2300000238; Harlan Independent School District, 2300000239; Harrison County Board of Education, 2300000240; Hart County Board of Education, 2300000241; Henderson County Board of Education, 2300000242; Johnson County Board of Education, 2300000243; Leslie County Board of Education, 2300000244; Lincoln County Board of Education, 2300000245; Livingston County Board of Education, 2300000246; Logan County Board of Education, 2300000247; Ludlow Independent School District, 2300000248; Martin County Board of Education, 2300000249; Mayfield Independent School District, 2300000250; McCracken County Board of Education, 2300000251; Menifee County Board of Education, 2300000252; Metcalfe County Board of Education, 2300000253; Middlesboro Independent School District, 2300000254; Monroe County Board of Education, 2300000255; Nelson County Board of Education, 2300000256; Newport Independent School District, 2300000257; Berea Independent Board of Education, 2300000280; Anderson County Board of Education, 2300000404; Ashland Board of Education, 2300000405; Barbourville Independent School District, 2300000407; Bardstown Independent School District, 2300000408; Beechwood Board of Education, 2300000411; Paris Independent School District, 2300000414; Taylor County Board of Education, 2300000423; Washington County Board of Education, 2300000424; Wayne County Board of Education, 2300000425; Webster County Board of Education, 2300000426; Carter County Board of Education, 2300000427; Christian County Board of Education, 2300000432; Ohio Valley Educational Cooperative, 2300000434; Williamstown Board of Education, 2300000435; Whitley County Board of Education, 2300000436; Covington Independent School District, 2300000437; Bracken County Board of Education, 2300000446; Breckinridge County Board of Education, 2300000448; Campbellsville Independent School District, 2300000460; Eminence Independent Board of Education, 2300000461; Fayette County Board of Education, 2300000465; Greenup County Board of Education, 2300000467; Mayfield Independent School District, 2300000468; Pike County Board of Education, 2300000469; Robertson County Board of Education, 2300000474; Carlisle County Board of Education, 2300000477; Clinton County Board of Education, 2300000488; Casey County Board of Education, 2300000508; Christian County Board of Education, 2300000511; Garrard County Board of Education, 2300000519; Crittenden County Board of Education, 2300000525; Cumberland County Board of Education, 2300000526; Green County Board of Education, 2300000527; Glasgow Independent School District, 2300000529; Hart County Board of Education, 2300000531; Hardin County Board of Education, 2300000533; Menifee County Board of Education, 2300000534; Harlan County Board of Education, 2300000535; Hazard Independent School District, 2300000538; Pikeville Independent School District, 2300000547; Metcalfe County Board of Education, 2300000553; Paris Independent School District, 2300000554; Washington County Board of Education, 2300000562; Wayne County Board of Education, 2300000563; Whitley County Board of Education, 2300000566;

Williamstown Board of Education, 2300000567; Letcher County Board of Education, 2300000615; Lyon County Board of Education, 2300000620; Madison County Board of Education, 2300000621; Marion County Board of Education, 2300000622.

#### DEPARTMENT OF MILITARY AFFAIRS

Multi, 2200000070; Energy & Environment Cabinet, 2200004329; University of Kentucky Research Foundation, 2200004592.

#### DEPARTMENT OF REVENUE

Multistate Tax Commission, 2300000275.

#### ECON DEV - OFFICE OF THE SECRETARY

Knox County Fiscal Court, 2300000689.

#### EDUCATION AND LABOR CABINET

Foundation for Appalachian Kentucky, Inc., 2200003875; Hickman County Board of Education, 2200003877; Mason County Public Library, 2200003882; Muhlenberg County Board of Education, 2200003888; Northeast Kentucky Community Action Agency, 2200003889; Oldham County Health Department, 2200003890; Ohio Valley Educational Cooperative, 2200003891; Taylor County Board of Education, 2200003894; Trigg County Board of Education, 2200003895; United Way of the Ohio Valley, 2200004296.

#### KENTUCKY STATE POLICE

NW3C, Inc., 2200004439.

#### OFFICE OF ENERGY POLICY

National Energy Education Development Project, 2200004415; Kentucky Rural Water Finance Corporation, 2200004426.

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

#### CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 2200000035; Multi, 2200000036.

#### COUNCIL ON POSTSECONDARY EDUCATION

Kentucky Community and Technical College System, 2200000920.

#### DEPARTMENT FOR COMMUNITY BASED SERVICES

Community Action of Southern Kentucky, Inc., 2200001859; Big Sandy Area Cap, Inc., 2200001863; Bell Whitley Community Action Agency, Inc., 2200001864; Gateway Community Action, 2200001983; Harlan County Community, 2200002007; KCEOC Community Action Partnership, 2200002089; Kentucky Association of Sexual Assault Programs, 2200002195; Community Action Lexington Fayette, 2200003124.

#### DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Bullitt County Board of Education, 2100002925;

Laurel County Board of Education, 2100002968; Wayne County Board of Education, 2100002993.

#### DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 2200003170; Norton Healthcare Foundation, 2200003793.

#### DEPARTMENT OF AGRICULTURE

Multi, 2100001484.

#### DEPARTMENT OF EDUCATION

Ohio Valley Educational Cooperative, 2200003296; Ohio Valley Educational Cooperative, 2200003299; Nelson County Board of Education, 2200003757; Franklin County Board of Education, 2200003861; Ohio Valley Educational Cooperative, 2200004069; Laurel County Board of Education, 2200004306; Kentucky School Board Association Educational Foundation, Inc., 2200004432.

#### TRANSPORTATION - OFFICE OF THE SECRETARY

Dry Stone Conservancy, 2200002739.

#### **THE FOLLOWING KENTUCKY ENTERTAINMENT INCENTIVE PROGRAM AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

#### ECON DEV - OFFICE OF THE SECRETARY

Post Time Audiovisual Services, Inc., 2300000632; Leading To Love, LLC, 2300000637; BBBfilm, LLC, 2300000638; Warm Springs Productions, LLC, 2300000639; Unsung Hero Movie, LLC, 2300000642; Sunshine Films Florida, LLC, 2300000665; Unff Production, LLC, 2300000667; A Soul To Squeeze, LLC, 2300000668; Finding Love In Sisters Or, LLC, 2300000670; Flannery Film, LLC, 2300000671; Road D, LLC, 2300000686.

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

#### ATTORNEY GENERAL

Jones Ward, PLC, 2300000675. Chris Lewis, Stacy Woodrum, and Blake Christopher discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

#### COUNCIL ON POSTSECONDARY EDUCATION

Sova Solutions, LLC, 2200004412. Leslie Brown and Lilly Massa-McKinley discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

#### COUNCIL ON POSTSECONDARY EDUCATION

Student Success Academy, LLC, 2300000284. Lilly Massa-McKinley and Kim Welch discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as

reviewed. Representative Hart seconded the motion, which passed.

DEPARTMENT FOR WORKFORCE INVESTMENT  
Cell Staff, LLC, 2300000361; Cell Staff, LLC, 2300000687. Oran McFarlan and Dondra Meredith discussed the contracts with the committee. A motion was made by Representative Bowling to consider the contracts as reviewed. Senator Meredith seconded the motion, which passed.

DEPARTMENT OF JUVENILE JUSTICE  
Health Advocates Network, Inc., 2300000122; Worldwide Travel Staffing Limited, 2300000123. James Van Buren and Jamhal Wooldridge discussed the contracts with the committee. A motion was made by Representative Koch to consider the contracts as reviewed. Senator Meredith seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY  
Lexar Laboratories & Analysis, LLC, 1606-2023. Amy Scarborough, Micah Hunsucker, and Mark Howard discussed the contract with the committee. A motion was made by Senator Southworth to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

KENTUCKY FISH AND WILDLIFE RESOURCES  
Riverine Systems, LLC, 22FW000324. Lisa Cox, Scott Porter, and Rob Lewis discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

KENTUCKY STATE UNIVERSITY  
McCarthy Strategic Solutions, Inc., 23-10. Darryl Thompson discussed the contract with the committee. A motion was made by Representative Koch to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

UNIVERSITY OF KENTUCKY  
Born, LLC, K23-184. Bart Hardin and Barry Swanson discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY  
Launchvox, Inc., 222334. Jennifer Smith and Daniel Boamah discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY  
Multi, 222336; K. Norman Berry Associates, 222338. Jennifer Smith and Les Forsythe discussed the contracts with the committee. A motion was made by Representative Koch to consider the contracts as reviewed. Senator Meredith seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10K AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

KENTUCKY FISH AND WILDLIFE RESOURCES  
Caldwell & Feltner Law Offices, 2300000597. Lisa Cox, Scott Porter, and Rob Lewis discussed the contract with the committee. A motion was made by Senator Southworth to consider the contract as reviewed. Senator Meredith seconded the motion, which passed.

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

BOARD OF ELECTIONS  
Warren County Treasurer, 2200002660; Louisville Jefferson County Treasurer, 2200002680; Bullitt County Treasurer, 2200002685; Pulaski County Treasurer, 2200003311; Perry County Fiscal Court, 2300000375; Pike County Fiscal Court, 2300000433. Karen Sellers and Taylor Brown discussed the contracts with the committee. A motion was made by Representative Bowling to consider the contracts as reviewed. Representative Hart seconded the motion, which passed with Senator Southworth and Senator Meredith voting no.

DEPARTMENT FOR LOCAL GOVERNMENT  
Webster County Fiscal Court, 2300000124; Webster County Fiscal Court, 2300000125; Pathways, Inc., 2300000198; City of Elkton, 2300000273; City of Hazard, 2300000452. Jennifer Peters, Aaron Jones, Gabe Nickell, and Mark Williams discussed the contracts with the committee. A motion was made by Senator Southworth to consider the contracts as reviewed. Senator Meredith seconded the motion, which passed.

DEPARTMENT FOR PUBLIC HEALTH  
Shaping Our Appalachian Region, Inc., 2200004713. Vivian Lasley-Bibbs, Tricia Okeson, and Andrew Yunt discussed the contract with the committee. A motion was made by Representative Bowling to consider the contract as reviewed. Senator Southworth seconded the motion, which passed.

DEPARTMENT FOR WORKFORCE INVESTMENT  
Multi, 2300000001; Jefferson County Board of Education, 2300000673. Oran McFarlan and Dondra Meredith discussed the contracts with the committee. A motion was made by Senator Southworth to consider the contracts as reviewed. Senator Meredith seconded the motion, which passed.

ECON DEV - OFFICE OF THE SECRETARY  
Inter-Modal Transportation Authority, Inc., 2300000341. Katie Smith and Angela Sanchez Vega discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

KY HOUSING CORPORATION  
Public Protection Cabinet, 4. Jamie Rice and

Jeremy Ratliff discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

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

DEPARTMENT FOR COMMUNITY BASED SERVICES  
Children's Advocacy Centers of Kentucky, 2200002886. Toby Smith and Dave Gutierrez discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Bowling seconded the motion, which passed.

DEPARTMENT FOR PUBLIC HEALTH  
Kentucky Department of Corrections, 2200003696. Bob James, Tricia Okeson, and Andrew Yunt discussed the contract with the committee. No motion was made. Contract moves forward approved as reviewed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS FOR \$50K AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

BOARD OF ELECTIONS  
Breckinridge County Fiscal Court, 2200002580; Caldwell County Treasurer, 2200002582; McCreary County Treasurer, 2200002627; Montgomery County Treasurer, 2200002639; Todd County Treasurer, 2200002653; Mason County Treasurer, 2200002911; Monroe County Treasurer, 2200004751; Owen County Treasurer, 2200004774; Henry County, 2300000261; Cumberland County Fiscal Court, 2300000366; McLean County Fiscal Court, 2300000370; Bourbon County Treasurer, 2300000371; Lincoln County Fiscal Court, 2300000430; Lawrence County Fiscal Court, 2300000522. Karen Sellers and Taylor Brown discussed the contracts with the committee. A motion was made by Representative Bowling to consider the contracts as reviewed. Representative Hart seconded the motion, which passed with Senator Southworth and Senator Meredith voting no.

There being no further business, the meeting adjourned at 11:16 AM.

**LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE  
Minutes of the 3rd Meeting  
of the 2022 Interim  
August 11, 2022**

**Call to Order and Roll Call**

The 3rd meeting of the Legislative Oversight & Investigations Committee was held on Thursday, August 11, 2022, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.



**Present were:**

**Members:** Representative Jason Nemes, Co-Chair; Senator Danny Carroll, Co-Chair; Representatives Lynn Bechler, John Blanton, Ken Fleming, Angie Hatton, Joni L. Jenkins, Steve Riley, and Scott Sharp; Senators Jason Howell, Morgan McGarvey, Michael J. Nemes, Wil Schroder, Brandon J. Storm, Reginald Thomas, and Max Wise.

**Guests:** John Ard, Executive Director, Office of Fleet Management and Pete McDonald, Division Director, Office of Fleet Management.

**LRC Staff:** Gerald W. Hoppmann, Committee Staff Administrator; Committee Analysts William Spears, Jacob Blevins, Joel Thomas, Jeremy Skinner, Shane Stevens, Chris Hall, Ryan Brown, Taylor Johnston, McKenzie Ballard; and Ashley Taylor, Committee Assistant.

**Minutes for July 14, 2022**

Upon motion by Senator Storm and second by Senator Howell, the July 14, 2022, meeting minutes were approved without objection. Representative Nemes noted that testimony on the unemployment insurance contracts is deferred until the September meeting.

**Finance and Administration Cabinet Follow-Up to State-Owned Vehicles**

John Ard introduced himself as the Executive Director of the Office of Fleet Management (Fleet) and Pete McDonald as his director of operations and administration. Mr. Ard stated he will be updating the committee on some of the improvements Fleet has made based on the findings and recommendations of both committee staff's report and the internal audit conducted by the Finance Cabinet's Office of Policy and Audits.

Mr. Ard noted that Fleet is responsible for providing safe, reasonably priced, necessary, and essential transportation to Kentucky state agencies and entities. This includes procuring, maintaining, and repairing vehicles in the fleet, as well as reserving, assigning, and distributing vehicles and reporting fleet mileage. He shared FY2022 data on the fleet specifically related to the number of vehicles used, maintained, insured, and retired.

He thanked the primary sponsors, including Senator Nemes, of SB 158 (RS 2022), which approved a new organizational structure for Fleet that elevated it from a division to an office with two new divisions. These changes allowed Fleet to improve its ability to meet statutory responsibilities of service and support.

Mr. Ard outlined some of the changes that have occurred since the passage of SB 158, including new leadership under Secretary Johnson, the creation of a new policy and compliance officer position, and the development of an automotive technician program that helps recruit and retain highly qualified technicians. He also noted that Fleet has developed a more accurate method of calculating vehicle rate projections that incorporate historical data and will analyze those outcomes for setting rates for the next biennium. Improvements in budget and accounting practices to review and create new accounting templates will also assist Fleet with tracking expenditures, according to Mr. Ard.

He said that Fleet is also working on statutory and regulatory proposals to eliminate conflicting language identified in both reports. The proposals will be submitted for review during the legislative session. Mr. Ard also noted that Fleet fully complied with reporting requirements for 2022 and is committed to continuing to do so moving forward. He specifically discussed the alternative fuel report, which indicated compliance with the 50 percent threshold for alternative fuel vehicles, and life cycle cost comparisons. It also included the 6-year strategic plan designed to meet the statutorily mandated decreased reliance on petroleum-based fuel in favor of alternative-fuel vehicles.

Mr. Ard stated that, in accordance with their 6-year strategic plan, Fleet ordered 38 electric vehicles in FY 2022, consisting of 32 Hybrids and 6 Plug-in Hybrids. However, due to manufacturer production shortages, Fleet only received 4 Ford Escapes and 8 Toyota Camrys. He stated that Fleet continues to establish the infrastructure needed to support an increased reliance on alternative-fuel vehicles, including the installation of charging stations at Fleet garages and state office buildings. Mr. Ard noted that additional funds will be required to build a sufficient infrastructure to meet future needs.

Mr. Ard noted that Fleet is also addressing the issue of vehicle utilization, which has resulted in reducing the motor pool inventory by 18 percent. He discussed how Fleet's new management software, called AssetWorks, improves the ability to effectively manage Kentucky's state vehicles. The new software provides robust reporting capability and will significantly improve data integrity and logistical checks. It also will allow for the automation of online vehicle reservations, pick-up, and returns.

Mr. Ard noted that unexpected inflation and increased fuel prices are real concerns for Fleet because these figures must be estimated for biennium price projections. He said that underestimating these figures can impact Fleet's ability to purchase new vehicles in the future. Vehicle manufacturing constraints will likely negate the manufacturer incentives normally associated with traditional fleet pricing, which could dramatically increase average vehicle cost. Mr. Ard said the biggest challenge will likely be the lack of dealer inventory, which over the past 2 years has significantly limited dealers' abilities to fulfill many of the vehicle purchase orders.

In response to a question from Representative Sharp regarding the cost difference between an alternative-fuel vehicle and a gasoline vehicle over time, Mr. Ard stated that the cost varies but there was a cost comparison done in the alternative fuels report. There is an average or anticipated number of years to reach a break-even point, the number of years for that to occur depends on the type of vehicle, with fully electric vehicles being the most expensive. However, he noted that it typically takes 7-8 years to reach this point. Mr. Ard confirmed Representative Sharp's statement that costs such as maintenance are figured into the equation when considering total vehicle cost. He also stated he would provide the committee with additional information regarding the cost differences.

In response to Representative Sharp's questions about whether manufacturers' data on vehicles allow

for more accurate cost projections for Fleet vehicles, Mr. Ard said they have not had the electric vehicles long enough to determine the accuracy of their cost projections. However, he noted that he is confident the manufacturers' data will get them close to the real cost. In regards to Representative Sharp's question about the cost difference in procurement, Mr. Ard noted that it depends on the vehicles. He explained that moving from a gas to a hybrid vehicle is about \$2,000 - \$3,000; moving from gas to a plug-in hybrid is a couple thousand dollars more; then the fully electric vehicles are the most expensive. Fleet has not yet purchased any full-electric vehicles, so he was unable to provide an estimate for those. Representative Sharp questioned what happens when the state experiences long-term power outages. Mr. Ard noted that not being able to charge a full electric vehicle during a disaster is a valid concern and is shared with Fleet.

Mr. Ard confirmed Representative Nemes clarifying question that on average there was a 7-8 year period before Fleet breaks even on a purchase of an alternative-fuel vehicle. However, the Ford Lightning is much more expensive and the decision to purchase one is for test purposes. Their break-even number is beyond the useful life of the vehicle.

In response to Representative Blanton's question regarding how much increased gas prices are costing the state per month due to fuel usage, Mr. Ard stated he could do fuel comparisons and provide that information to the committee. Regarding Representative Blanton's question about how Fleet tracks vehicle usage and gas purchasing, Mr. Ard stated they use WexFuel cards that allow vehicle users to purchase fuel. The bills come automatically to Fleet for payment. In regards to mileage tracking, Mr. Ard noted that most agency vehicles have GPS trackers on them where they can monitor mileage. There are some agencies that do not have GPS, but those agencies are required to provide beginning, middle, and end of month mileage data. Mr. Ard prefers however, that all agencies would use the GPS trackers, because it is very reliable for billing purposes.

In response to a question from Representative Nemes about Fleet's replacement schedule, Mr. Ard stated that KRS recommends considering vehicles for replacement at 7 years or when vehicles reach 140,000 miles. Fleet tends to use a vehicle's mileage as a more accurate measure for needed replacement. He stated that lack of funding kept them from being able to replace all vehicles with 140,000 plus miles.

In response to a question from Senator Howell, Mr. Ard explained that missing some of the inflation and fuel projections would probably affect the projected number of vehicles they can purchase and proportionately affect the number of alternative fuel vehicles purchased. Senator Howell noted that it typically costs more to maintain light and heavy duty utility vehicles rather than regular passenger vehicles. He asked if Fleet expects to see any greater savings in maintenance with the newly acquired vehicles. Mr. Ard clarified that Fleet had not yet received the Ford Lightning but that they have been ordered and that there is a significant predicted savings on maintenance.

In response to Representative Fleming's question about whether Fleet had conducted a cost-benefit analysis for outsourcing the state's procurement,

management, or maintenance of vehicles, Mr. Ard said that such an analysis has not been done during his tenure, but that he would look to see what he can find. He noted that previous analyses had determined that it was a better option to keep things in-house as opposed to entering into a lease option model. Representative Fleming asked what criteria Fleet uses during the procurement process when it uses rental companies to meet vehicle needs. Mr. Ard stated that they use a Master Agreement with those companies, but would provide the committee with additional information.

Mr. Ard confirmed Senator Howell's statement that Fleet's mechanics and technicians are state employees. He also added that Fleet is working to hire and train new technicians and to cover costs related to certifications. However, he mentioned that Fleet does outsource most of its maintenance, since its main garage is located in Frankfort and vehicles are spread across the state.

Senator Howell asked if there are any other factors, besides fuel and maintenance that we should expect to see decreased as Fleet moves closer to alternative vehicles as opposed to traditional vehicles. Mr. Ard said that other than maintenance and fuel he is not aware of any other factors. The federal Department of Energy site is the source that Fleet uses for comparatives for various costs.

In response to a question from Senator Howell regarding why more state vehicles do not have GPS tracking on them, Mr. Ard explained that there are valid reasons for not having GPS tracking on some of the vehicles. Some vehicles it is due to age, but more often it is that some vehicles are used for investigatory purposes; there is a concern about the vehicle being tracked if they are undercover or in surveillance of businesses or entities. Representative Nemes commented it is important to have accurate tracking on vehicles, since there have been instances in the past where state workers improperly reported mileage. He added that GPS tracking is a way to protect not only state employees, but also the taxpayer.

In response to a question from Senator Carroll regarding whether resale data on alternative-fuel vehicles were used with figuring projected costs, Mr. Ard stated it is factored in and they typically use 15 percent of the purchase price as the estimated resale value. Senator Carroll noted that there seems to be a lot more that needs to be considered long-term when making cost-projections. This is because issues with electric vehicles are different from issues with traditional fuel vehicles. Replacement batteries are an example, which could sway some from purchasing an electric vehicle. Mr. Ard concurred and stated he would try to provide some additional information to the committee.

Co-Chair Nemes adjourned the meeting.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 5th Meeting of the 2022 Interim July 19, 2022**

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

The 5th meeting of the Public Pension Oversight Board was held on Tuesday, July 19, 2022, at 3:00 PM, in Room 149 of the Capitol Annex. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Jimmy Higdon, Co-Chair; Representative James Tipton, Co-Chair; Senators Robby Mills, Gerald A. Neal, Michael J. Nemes, Damon Thayer, and Mike Wilson; Representatives Ken Fleming, Derrick Graham, Jerry T. Miller, Jason Petrie, Phillip Pratt, Russell Webber, and Buddy Wheatley; Mike Harmon, John Hicks, and Victor Maddox.

Guests: Jim Carroll, President, Kentucky Government Retirees, Larry Totten, President, Kentucky Public Retirees; David Eager, Executive Director, Erin Surratt, Executive Director of Benefits, Kentucky Public Pensions Authority.

LRC Staff: Brad Gross, Jennifer Black Hans, and Angela Rhodes.

#### **Approval of Minutes**

Representative Pratt moved that the minutes of the May 23, 2022, meeting be approved. Senator Neal seconded the motion, and the minutes were approved without objection.

Representative Tipton informed the members that a memorandum confirming the approval of a contract for the actuarial audit of all the systems was in their folders. Milliman Solutions, LLC, will be conducting a Level 1, full-scope audit of the actuarial work performed by the plan actuaries for the fiscal year 2021 valuation for each of the systems, over a six-month term at a total fixed rate of \$190,000.

#### **Kentucky Public Pensions Authority Cost of Living Adjustments Discussion**

Jim Carroll, President, Kentucky Government Retirees (KGR), an organization representing nearly 16,000 members of the Kentucky Public Pensions Authority (KPPA) discussed retiree cost of living adjustments (COLA). KPPA retirees are facing sky-high costs for essential goods and services, and the most recent COLA adjustment was granted a decade ago on July 1, 2011.

Mr. Carroll read messages from retirees who are struggling without any COLAs.

Mr. Carroll stated that as the Public Pension Oversight Board (PPOB or Board) reviews recommendations for the 2023 legislative session, KGR hopes that it will recommend a prefunded COLA for KPPA retirees with a goal to provide an amount that would help defray some portion of the loss of real income over the past decade. KGR calls this a "catch-up COLA."

KGR believes that the most impactful way of

providing this benefit would be a one-time lump sum amount to each retiree, which KGR believes is the simpler, less expensive, and more impactful approach. A couple of ideas that have been discussed are one extra monthly or "13th" pension check or a lump sum payment determined or stratified by benefit level.

Mr. Carroll closed by stating that a General Fund investment in a COLA is an investment in Kentucky's economy and hopes the Board will consider this critical need.

Larry Totten, President, Kentucky Public Retirees, discussed that the retiree COLA should be the number one recommendation by the PPOB to the 2023 General Assembly. Two-thirds of KPPA pension recipients receive less than \$20,000 a year and need relief from the consumer price index and the effects of inflation over the past decade.

Mr. Totten mentioned two possible benefit increase scenarios that were presented at a PPOB meeting in October 2021, for which the costs ranged from \$171 million to just over \$6 billion. Included were a one-time permanent 1.5 percent increase with an estimated cost of \$352 million and a single lump sum payment of a retiree's current monthly benefit or so-called "13th check" with an estimated cost of \$188 million.

Mr. Totten closed by stating retirees are relying on the realization of the General Assembly that a decade is far too long and that the time is right to help mitigate this situation.

Representative Tipton wanted to remind everyone that the Teachers' Retirement System has an automatic COLA that is prefunded in the contributions, which is not the case in the KPPA system.

Representative Miller commented that Mr. Carroll's statement regarding prefunding a COLA is exactly right and that the General Assembly cannot afford to be generous without prefunding a COLA in order to maintain the funding improvement it has been achieving with Kentucky Employers Retirement System (KERS) and County Employee Retirement System (CERS).

Representative Wheatley recommended that the General Assembly find a way to increase the opportunities for COLAs without putting the retirement system at risk.

In response to a question from Senator Higdon, Mr. Totten stated that the \$188 million estimated cost for the single lump sum payment to retirees is for all five KPPA systems.

Representative Graham indicated his support for the single lump sum payment for retirees in the short-term and continuing bi-partisan efforts going forward to build a system capable of future consistent COLAs. He commented on the struggles that retirees face.

Senator Thayer commented that thanks to SB 2 (2013), which he sponsored, the retirement systems are going down the correct path with the new hybrid cash balance plan and the General Assembly paying the ARC every year. The COLAs have to be considered in the broad spectrum of the overall financial stability of the fund.

David Eager, Executive Director, KPPA, began by providing the National Association of State Retirement Administrators' definition of the COLA issue as one of competing elements: benefit adequacy

versus plan sustainability and cost. The topic is complex and, nationally, there are many different approaches.

Mr. Eager explained that there are different types of COLAs: ad hoc, automatic, and then simple or compounded. Next, he discussed the Kentucky Statutes, KRS 61.691 and 78.5518, that pertain to COLAs, that provide COLAs will only be granted in the future if: (1) assets of the system(s) are greater than 100 percent of the actuarial liabilities and legislation authorizes the use of surplus funds for the COLA; or (2) the General Assembly fully prefunds the COLA for KERS or State Police Retirement System (SPRS); or (3) in the case of CERS directs payment of employer contributions in the year the COLA is provided. Mr. Eager noted that new COLAs are not a part of the inviolable contract.

Mr. Eager provided a summary of the plan funding status from the actuarial valuation results as of June 30, 2021, for each of the retirement systems under KPPA. The summary included actuarially determined contribution rates and funded status as of the valuation date. Mr. Eager discussed each of the funding ratios on actuarial value of assets for each of the systems.

Mr. Eager provided estimates of the appropriation necessary to fully prefund a 1.5 percent COLA for current retirees of the following systems as of July 1, 2023: \$116 million for CERS nonhazardous; \$50 million for CERS hazardous; \$162 million for KERS nonhazardous; \$12 million for KERS hazardous; and \$12 million for SPRS.

In response to a question from Representative Tipton, Mr. Eager stated that typically CERS COLAs would come from employer contribution rate increases. For example, the \$116 million cost for the CERS nonhazardous COLA would be a 4.5 percent increase to the employer contribution rate and the \$50 million cost for CERS hazardous COLA would be an 8.5 percent increase.

Mr. Eager discussed costs to fully fund benefit increases for all systems. He listed five different increase scenarios with possible costs, including a one-time "13th check" option to all current retirees for all systems at a cost of \$188 million. Mr. Eager also provided an example of a one-time COLA costing a total of \$25 million for KERS and SPRS retirees adjusted based on the number of years retired.

In response to a question from Representative Tipton, Mr. Eager stated the one-time COLA example is based on number of years retired but could also be based on years of service earned. The scenarios could be run as an iterative process based on criteria submitted.

In response to a question from Auditor Harmon, Mr. Eager stated that the one time COLA example could also be based on benefit level.

In response to a question from Representative Tipton, Mr. Eager stated that it is prohibited by statute to spread a COLA across an amortization period and, if the statute were to change, he believes the actuary would find it an unhealthy financial approach.

#### **Overview of Statutory Pension Spiking Provisions**

Erin Surratt, Executive Director, Office of Benefits, KPPA, began her presentation by defining

pension spiking. Pension spiking occurs when there is an increase in creditable compensation of more than 10 percent in a fiscal year when compared to the previous fiscal year during the member's last five years of employment. However, exemptions apply.

Ms. Surratt discussed the pension spiking legislation, enacted as part of SB 2 during the 2013 Regular Session and codified as KRS 61.598. When created, it was effective for retirement dates beginning on or after January 1, 2014, and remained applicable for retirements through June 30, 2017, when new legislative amendments took effect. The member could use the full value of the spike in calculating creditable compensation, but the last participating employer was responsible for paying the actuarial cost of the pension spike. The employer has twelve months to pay the invoice without interest and may appeal a bona fide career advancement or promotional determination made by the KPPA.

Ms. Surratt also discussed SB 104 enacted during the 2017 General Assembly which made significant amendments to KRS 61.598, particularly shifting the cost of the spike from the employer to the member. Effective for retirement dates on or after January 1, 2018, a member's creditable compensation is reduced as a result of the pension spike and will not be used to determine the member's retirement benefit. Creditable compensation earned prior to July 1, 2017, is not considered for reduction. If the member's creditable compensation is reduced, the KPPA refunds the employee contributions and interest attributable to the reduction in compensation, but employer contributions are not refunded and are used to pay down the unfunded liability. Members may appeal the pension spiking determination. Pension spiking provisions do not apply to Tier 3 members.

Ms. Surratt then discussed the multiple exemptions from pension spiking and the year the exemption was enacted, including: a bona fide promotion or career advancement (2013); a lump-sum compensatory payment at termination (2013); a lump-sum payment for alternate sick leave at termination (2017); leave without pay (2017); overtime worked as a result of a state or federal grant (2017); overtime performed during and as a result of a state of emergency declared by the President of the United States or Governor of the Commonwealth of Kentucky (2017); increases in the monthly retirement benefit of less than \$25 (2021); the first 100 hours of mandatory overtime worked in a fiscal year (2022); overtime performed during and as a result of a state of emergency declared by a local government in which the Governor authorizes mobilization of the Kentucky National Guard during such time as the National Guard is mobilized (2022, retroactive to May 28, 2020); pay raises for public defender specified attorney and staff positions are exempt. (2022 – HB 1). Ms. Surratt also noted that the 2021 amendment that exempted spikes that increase the monthly benefit by less than \$25 reduced the number of spikes by 80 percent while only losing 20 percent of the savings to the retirement systems, and saved a great deal of administrative time.

In response to a question from Representative Tipton, Ms. Surratt agreed that the 2022 RS HB 1 budget provision will only be in effect for two years.

Ms. Surratt discussed how KPPA makes a

pension spiking determination. At retirement, the last five fiscal years of employment are evaluated for increases greater than 10 percent. If a spike occurs, notice and a form is sent to the last employer to verify any exemptions that may apply, and, after the form is returned, any applicable exemptions are keyed into the system. A post retirement audit is performed and the last five years are reevaluated to determine if a spike still exists after exemptions have been entered. A letter is sent to the member advising the final determination has been made and that the member has 30 days from the date the letter is mailed to appeal.

Lastly, Ms. Surratt provided member pension spiking statistics for fiscal years 2017 through 2022. Over that period, 3,210 retirees have spiked for an average of nine percent of retirees.

In response to questions from Representative Tipton, Ms. Surratt stated that the SPRS salary increases along with other lump sum salary payments in addition to across-the-board raises in the current budget are not exempted from the pension spiking provision. In response to a follow up question, she advised that the KPPA did not have a calculation of the cost to the systems were those salary increases to be exempted from spiking, but she would supply those figures to the Board once they were available.

In response to a question from Representative Graham, Ms. Surratt reviewed the steps of the appeal process.

In response to questions from Senator Higdon, Ms. Surratt stated that the many pension spiking exemptions has caused administrative issues with the staff, members, and legal staff. Possible legislative changes to satisfy the original intent of the pension spiking law to prevent egregious salary spikes without all of the exemptions is being discussed internally with KPPA staff and the actuaries. As a follow up, Senator Higdon commented that legislative changes that may have "no meaningful cost" concern him. Therefore, any legislation having to do with pensions should be reviewed by the PPOB around October and November.

In response to a question from Mr. Hicks, Ms. Surratt stated that the most common item that has resulted in pension spiking is overtime worked.

Representative Miller commented that he agrees with Senator Higdon that pension legislation should be reviewed by the Board before introduced during the Regular Session. Additionally, he wanted to assure the Board that the overtime subject to emergency National Guard mobilization was reviewed by the Board during the 4th quarter of last year.

In response to a question from Representative Wheatley regarding the cost to the system when there is perceived pension spike, Mr. Eager stated that the actuary could provide comment on the question.

Senator Higdon commented that spiking occurs anytime an employee retires with a higher than anticipated final salary. When spiking occurs, there is a cost to the system.

With no further business, the meeting was adjourned.

2022 Interim

## LEGISLATIVE RECORD

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2022 Interim

# LEGISLATIVE RECORD

KENTUCKY GENERAL ASSEMBLY

700 Capital Avenue  
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