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## Educators discuss teaching during COVID-19

by Jim Hannah  
*LRC Public Information*

FRANKFORT – A legislative panel was briefed June 2 on the challenges COVID-19 poses to reopening public schools across the state.

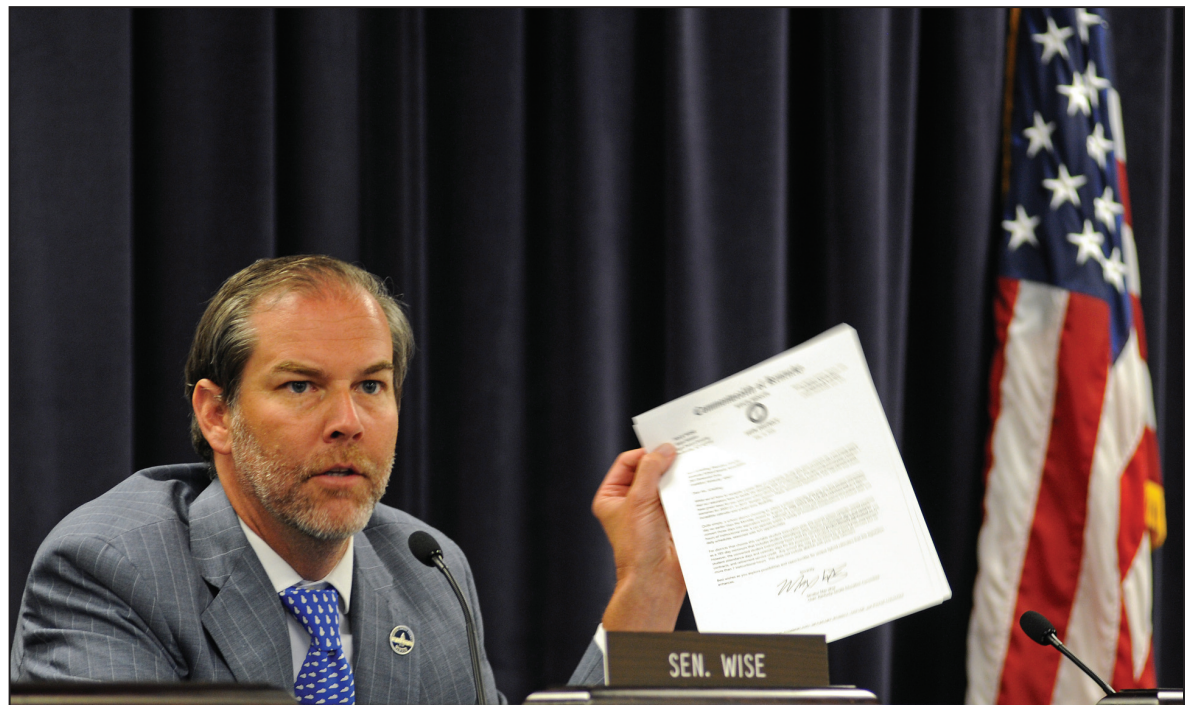
“Schools are a major part of the economy,” Oldham County Schools Superintendent Greg Schultz said while testifying before the Interim Joint Committee on Education. “We recognize that. We want to be open. We want to incorporate safe and healthy practices in regards to COVID, but to be able to do so, the requirements must be doable.”

Schultz gave a presentation on superintendents’ concerns related to the pandemic via video chat while committee members practiced social distancing by sitting at least six feet apart or also using video chat to participate in the meeting.

Schultz said policymakers needed to balance what could realistically be done with ideal public health protocols.

For example, Schultz said guidance that urged one student per seat in every other row of a school bus was unfeasible. “There is just no way most school districts will be able to get their students to school in a timely fashion or a cost-effective fashion under that guidance,” he said.

Social distancing would also be a problem in the school building. Schultz said the physical size



Sen. Max Wise, R-Campbellsville, speaks about a letter sent to superintendents concerning school calendar flexibility.

of classrooms would make it impossible to follow social distancing guidelines in some buildings. He said this would be a particular problem at high schools because of the larger class sizes in those grades.

For second-graders and younger, Schultz said it would be challenging to enforce the mask guidance. He added that even the most benign guidance, such as frequent hand washing, would take away from instructional hours in the lower grades.

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# Educators,

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“Sometimes we just need to keep in mind the responsibility of teachers in all of this as well,” Schultz said. “Teachers are being asked to play the role of lunch-room monitor as we eat in our classrooms, health coordinator as they check on the wellness of their students, and janitors as they are asked to clean their rooms.”

He said the added duties would be compounded by the teacher shortage and the aging teacher population.

Schultz said there is also the question of what to do with students who have or live with someone with a compromised immune system. He said with teachers back in the classrooms there would be fewer instructors available to provide distance learning to those students.

That’s all in addition to concerns regarding state funding models based on attendance and liability issues around COVID-19, Schultz added.

Kelly Foster of the Kentucky Department of Education testified that the reopening guidance was already being “refined” based on the feedback.

“We have heard those (concerns) loud and clear,” she said. “We want to recognize our partnership with public health. We are meeting with them at least once a week, sometimes more than that.”

Rep. Regina Huff, R-Williamsburg, said she wholeheartedly agreed with the concerns.

“The variables within the school day ... do make following the guidelines problematic,” said Huff, co-chair of the committee. “You brought up some good points. I think we do need to look at some of the points that you made and make some changes and suggestions.”

As school districts closed in-person classes earlier this year, teaching was done through take-home packets, the internet and telephone. Senate President Robert Stivers II, R-Manchester, asked what the academic performance has been of children during the non-traditional instruction.

Schultz said non-traditional instruction probably exasperated the equity issues. He said students who do not have a computer, reliable internet service and supportive family will likely fall behind.

“I think what we will see ... is that achievement gaps will widen because there is just not the same level of support,” Schultz said. “We have achievement gaps when students are in front of us. That tends not to get better when they are not in front of us.”

Sen. Alice Forgy Kerr, R-Lexington, asked Schultz when his district would intervene with students who fell behind during non-traditional instruction. He said that could be as soon as June 15.

Rep. Steve Riley, R-Glasgow, spoke about the mental wellbeing of students.

“The emotional and mental health of our students has deteriorated during this time,” Riley said. “Oftentimes I talk to parents who say their children are crying because they don’t get to see their friends.”

## State revenue shortfalls projected

### *Staff Report*

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FRANKFORT— The state has braced itself for a \$456.7 million – or four percent – General Fund revenue shortfall and a nearly \$162 million shortfall in the state Road Fund this fiscal year, based on revised estimates from the group responsible for revenue forecasts.

The Consensus Forecasting Group—a panel of independent economists whose forecasts are used in state budget decisions – presented revised estimates for both funds for Fiscal Year 2020 at the group’s May 22 meeting.

State Budget Director John Hicks requested the revised forecasts in an April 30 letter amid economic disruptions tied to the COVID-19 pandemic.

State budget officials told the CFG that the projected General Fund shortfall can be addressed through a budget reduction plan. That plan was included in the enacted FY 2020-21 Executive Branch budget found in 2020 House Bill 352, according to Office of the State Budget Director official Greg Harkenrider.

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# Revenue,

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Budget reduction plans can be used when an “actual or projected” General Fund or Road Fund shortfall is five percent or less below the official enacted estimate approved by the Kentucky General Assembly, said Harkenrider.

With the projected Road Fund shortfall for fiscal year 2020 expected to fall 10.4 percent below the official enacted estimate, that shortfall would not fall under the enacted budget reduction plan in HB 352. In early June, Gov. Andy Beshear announced he reached an agreement with legislative leaders on reducing transportation spending to deal with the shortfall and said a special legislative session would not be needed on the matter.

The revised estimates presented by the CFG were based on “pessimistic” scenarios that anticipate steep declines in consumer spending, real GDP, manufacturing employment, and other key economic indicators – a reflection of the current national recession, which OSBD official J. Michael Jones, PhD said began the third quarter of this fiscal year.

Although the recession is only expected to last for three quarters, Jones said overall recovery time is expected to be “significantly longer” than in more optimistic scenarios.

Kentucky’s General Fund collections were up 6.4 percent in the third quarter of Fiscal Year 2020 with year-to-date General Fund growth of 3.9 percent after March. That growth fell 1.2 percent after April, according to the OSBD. Total receipts fell 33.6 percent for April, a decline of \$432.9 million, the agency reports.

For the Road Fund, the revised estimate largely reflects April receipts in motor fuels, motor vehicle usage revenue, and motor vehicle license revenue. Motor fuels receipts fell \$7.5 million, or 11.8 percent, while motor vehicle usage receipts dropped \$29.9 million or 60.1 percent per the OSBD. Receipts for motor vehicle licenses fell 20.2 percent.

The revised revenue estimate for the state’s General Fund for FY 2020 is \$10.9 billion, down from the official enacted estimate of \$11.4 billion. The revised revenue estimate for the Road Fund for FY 2020 is \$1.39 billion, down from an estimated \$1.55 billion in the official enacted estimate.

## Legislative panel hears police reform proposals

by Jim Hannah  
*LRC Public Information*

FRANKFORT – Louisville Metro Council President David James asked lawmakers for help in rebuilding the community’s trust after days of protests following the fatal police shooting of Breonna Taylor.

“To help with the police issue, we have to build back credibility in our police department,” James said while testifying before the June 4 meeting of the Interim Joint Committee on Judiciary. “There has to be trust between the community and police for policing to ever work and be successful.”



Keturah Herron (left), a policy strategist for the American Civil Liberties Union of Kentucky and Black Lives Matter member, and Louisville Metro Council President David James testify at the June 4 meeting of the Interim Joint Committee on Judiciary.

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## LRC Publications 2020 Price List

Daily Record Pick up: \$165

Daily Record Mailed: \$165 (plus post-  
age)

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

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### Publications

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

### Administrative Regulations

Administrative Register (monthly):  
\$120.00

### Acts of the General Assembly (2018)

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)

# Committee Meetings

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## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 565th Meeting

May 13, 2020

#### Call to Order and Roll Call

The 565th meeting of the Legislative Research Commission was held on Wednesday, May 13, 2020, at 1:30 PM, in Room 171 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

#### Guests:

LRC Staff: Jay Hartz and Christy Glass.

President Stivers called the meeting to order and asked for a Motion to approve to the minutes of December 19, 2019, meeting; accept as indicated items A. through I. under Staff and Committee Reports; approve items A. and B. under New Business; accept and refer as indicated items 1. through 37. under Communications; and approve the appointment of Senator Jimmy Higdon as co-Chair of the Interim Joint Committee on Transportation, as communicated by memo dated April 22, 2020.

Representative Jenkins asked regarding the Interim Joint Meeting schedule under Item B., if any decision had been made as to whether members would be able to join those meetings remotely.

President Stivers advised that provisions were being worked on and discussions taking place with the Executive Branch for individuals who wish to appear before a committee in person and making sure that staff and members of the press are appropriately, socially distanced. Plans are being discussed with the Director of LRC how to Skype, Bluejean, or Zoom. Those plans will be set out as protocol through the interim.

Representative Jenkins asked if those plans included protocol for citizens to address the committees. President Stivers responded that they are looking at ways to Zoom, Skype, and stream committee meetings for those not able to attend in person. He went on to say that discussions are being held to look at some of the federal funds to update LRC's video equipment so that committee meetings can be more effectively communicated.

Speaker Osborne followed up saying that a memo would be coming out of his office today regarding protocol for House members, including reimbursement protocols.

Senator Turner gave an update on Representative Carney and asked for continued prayers for Representative Carney.

A motion was then made by Senator Thayer and seconded by Representative Osborne to approve the motion made by President Stivers.

There being no further discussion, a motion having been made, a roll call vote was taken, and the motion approved unanimously. The following items were approved, accepted or referred:

MINUTES OF THE December 19, 2019, MEETING

#### STAFF AND COMMITTEE REPORTS

Committee Activity Reports since December 19, 2019.

Report of the Administrative Regulations Review Subcommittee meetings on December 16, 2019, and January 13, February 10, and March 9, 2020, and a review of the Administrative Regulations Subcommittee in April 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations during its meeting on December 16, 2019.

Committee review of the administrative regulations by the Senate Standing Committee on Health and Welfare during its meetings on January 22, February 12, February 27, March 11, and March 19, 2020.

Committee review of the administrative regulations by the House Standing Committee on Health and Family Services during its meetings on January 23, and February 27, 2020.

Committee review of the administrative regulations by the Senate Standing Committee on Agriculture during its meeting February 11, 2020, and the House Standing Committee on Agriculture during its meeting on February 26, 2020.

Committee review of FY 2020 Small Cities Community Development Block Grant and Section 108 Loan Guarantee Program Application by the Senate Standing Committee on State and Local Government and the House Standing Committee on Local Government during its meeting on March 4, 2020.

Committee review of FY 2020 Social Services Block Grant Preliminary Plan by the House Standing Committee on Health and Family Services during its meeting on April 14, 2020.

Committee review of FY 2020 Social Services Block Grant Preliminary Plan by the Senate Standing Committee on Health and Welfare during its meeting on April 14, 2020.

#### NEW BUSINESS

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Keith Hale to the Local Superintendents Advisory Council.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving



the 2020 Interim Joint Committee Regular Meeting Schedule.

#### COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Reports for November and December 2019, and January and February 2020.

From the Finance and Administration Cabinet: Monthly Investment Income Report for December 2019, and January, February, March, and April 2020.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 6, 7, 8, and 9 and year-to-date activity for the period of July 1, 2019, through March 31, 2020.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarters ending December 31, 2019, and March 31, 2020.

From the Cabinet for Health and Family Services: 2019 Child Care Advisory Council's Annual Report.

From the Executive Branch Ethics Commission: 2017-2019 Biennial Report.

From the University of Kentucky: FY 19 Audited Financial Statements.

From the Energy and Environment Cabinet: FY 19 Waste Tire Program Annual Report.

From the Department of Revenue, Office of Property Valuation: 2016 Property Assessment Performance Audit Results.

From the Cabinet for Health and Family Services: 2019 Kentucky Elder Abuse Report.

From the Kentucky Board of Licensure for Marriage and Family Therapists: 2019 Annual Report.

From Northern Kentucky University: 2019 Financial Report.

From the Kentucky Board of Alcohol and Drug Counselors: 2019 Annual Report.

From the Kentucky Personnel Cabinet: Quarterly Reports as of December 31, 2019, and March 31, 2020, which lists the number of all full-time classified (merit) and unclassified (non-merit) employees.

From the Cabinet for Health and Family Services: 2019 Annual Report on Receipt and Expenditure of State and Federal Funds to Area Developmental Districts.

From the Cabinet for Health and Family Services: Annual Report detailing Family Resource or Youth Services Centers with staff salary over seventy percent (70%) of budget.

From the Cabinet for Health and Family Services: 4th Quarter 2019 and 1st Quarter 2020 Social Service Worker Caseload Averages.

From the Cabinet for Economic Development: 2019 Annual Report of the Linked Deposit Loan Investment Program.

From the Department of Education: 2019 Report on Local School District Administrative Expenditures.

From the Auditor of Public Accounts: Biennial Report on Kentucky Employers' Mutual Insurance Authority.

From the State Interagency Council: FY19

Adopted Recommendations.

From the Department of Education: FY18-19 Report on Efficient School Design.

From the Auditor of Public Accounts: FY19 Report of the Statewide Single Audit of the Commonwealth of Kentucky, Volumes I and II.

From the Administrative Office of the Courts: 2019 Citizen Foster Care Review Board Annual Report.

From the Auditor of Public Accounts: Report of the Audit of the Hardin County Fiscal Court.

From the Justice and Public Safety Cabinet: HB 463, Section 53, 2019 Evidence-Based Practices and Programs Annual Report.

From the Kentucky Employers' Mutual Insurance Authority: 2019 Annual Statement.

From the Cabinet for Health and Family Services, Department for Public Health: 2019 Neonatal Abstinence Syndrome Registry Report.

From the Auditor of Public Accounts: FY19 Report on Compliance with Civil Rights Laws Including Agency Title VI Implementation Plans, Updates, and Compliance Reports.

From the Auditor of Public Accounts: FY19 Report of the Audit of the Kentucky Health Benefit Exchange.

From the Auditor of Public Accounts: 2019 Audit Findings Report Commonwealth of Kentucky Health Benefit Exchange.

From the Kentucky Employers' Mutual Insurance: 2019 Kentucky Employers' Mutual Insurance Authority Management's Discussion and Analysis with Supplementary Schedules.

From the Auditor of Public Accounts: 2019 Report of the Audit of Motor Vehicle and Motorboat Taxes and Registration Fees Collected and Remitted to the Commonwealth of Kentucky By Each County Clerk.

From the Auditor of Public Accounts: 2019 Report of the Audit of the Kentucky Board of Nursing.

From the Kentucky Personnel Cabinet: 2019 Annual Turnover Report of 15% and Greater.

From the Kentucky Personnel Cabinet: March 2020 Semi-Annual Report listing all filled positions exempted from classified service.

From the Kentucky Council on Postsecondary Education: 2019 Report of Orientation and Education Program for CPE and campus board members.

President Stivers asked if there was any further business to be taken up.

Senator Thayer asked Director Hartz when the approved 2020 Interim Joint Committee Calendar would be posted to the LRC website.

Director Hartz replied that it would be posted very soon after adjournment for public viewing.

Senator Stivers asked for any further motions.

Representative Meade asked for a motion to go into Executive Session to discuss personnel matters. The motion was seconded by Senator Wilson.

After returning from Executive Session, Senator Stivers asked if there was any further discussion.

Senator Thayer offered condolences and asked for a moment of silence in memory of Senator Wilson's mother, who had recently passed away.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON TRANSPORTATION

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

June 2, 2020

#### Call to Order and Roll Call

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

#### Present were:

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

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

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

REAL ID and Operator's License Issuance Update

Sarah Jackson, REAL ID Project Manager, KYTC, updated the committee on the effect of Covid-19 on the rollout of REAL ID and operator's license issuance, and how REAL ID has progressed throughout the Covid-19 pandemic. At the time of the closing of in-person services in mid-March, there were REAL ID offices up and running in various stages in Bowling Green, Somerset, Paducah, Madisonville, Morehead, Frankfort, Owensboro, and Louisville. Efforts were made to open other offices in Catlettsburg, Elizabethtown, Northern Kentucky, and Lexington. There were just under 30,000 REAL IDs that had already been issued. During the first month of the pandemic, the Department of Homeland Security pushed the enforcement deadline for REAL ID back one year from October 1, 2020 to October 1, 2021.

Ms. Jackson stated that the Cabinet has continued to secure and finalize leases on future sites with the help of the Finance Cabinet. Computer networks and equipment continue to be installed, as well as furniture in some locations. Some initial offices have also been moved into their final regional office. Staffing issues have not been able to be addressed as quickly due to the close nature of

training and social distancing concerns, but that has now started to materialize as restrictions are being lifted. On May 18, 2020, the Frankfort Real ID office in the Transportation Cabinet building was one of the first in-person state government service offices to reopen on a limited basis, following the new “Healthy at Work” guidelines. With the Circuit Clerk’s offices not being open at that time for drivers’ licenses and credentials, the initial focus was on providing services such as driver’s license renewals, issuing IDs needed for employment, and handling renewals for lost and stolen IDs and drivers licenses. Because of the new sanitation protocols, social distance guidelines, and the operation of services at half-staff, this reopening was a challenge. Because of the new challenges, the Cabinet chose to reopen the Frankfort office first to use as a model to ensure that as REAL ID offices were opened throughout the state, that the guidelines for both the public and the staff could be followed.

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

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

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

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

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

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

process

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

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

Commissioner Cole stated that all division services remain in effect, and the commitment to continue to improve motor vehicle licensing functions remains a top priority. The Division has revised many business forms for the new processes and have continued to hold virtual meetings with the Circuit Clerks to ensure consistency and transparency. In closing, Commissioner Cole stated the Cabinet stands ready to provide all the services the citizens of the Commonwealth need and are grateful for the assistance that partners have provided throughout these trying times.

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

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

Jim Gray, Secretary, KYTC gave a brief

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

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

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

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

Robin Brewer, Budget Director, KYTC presented the committee with updated numbers on the Road Fund revenue. The Covid-19 pandemic has not only impacted lives, and the economy, but the Road Fund as well. The pandemic impacted all aspects of



Road Fund revenues from declining motor fuels tax revenues due to businesses closing temporarily and consumers practicing healthy at home directives, to declining motor vehicle usage tax revenues from auto dealerships closing to in-person business, exclusively doing business through online car sales. It has also caused declining collection of various fees and licenses due to Circuit Clerk's offices being closed as well as Circuit Clerk's offices and KYTC offices closed to in-person traffic, which were all necessary actions in an attempt to flatten the curve.

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

Director Brewer stated that with upcoming anticipated budget shortfalls for the General Fund and the Road Fund, the CFG met on May 22nd to discuss the economic impacts of COVID-19 to the state revenues for Fiscal Year 2020. From that meeting, the CFG adopted the pessimistic scenario for the Road Fund which resulted in a revision of the Enacted Road Fund revenue estimate for Fiscal Year 2020 of \$1.39 billion, which is an estimated shortfall of \$161.8 million, (-10.4%) from the \$1.551 billion originally estimated for FY 2020. The revised official revenue estimate is forecasting \$77 million less in motor fuels tax revenue, which is a 10% reduction. Since the motor fuels tax is used to statutorily formulate the amount of County Road Aid and Municipal Road Aid through the Revenue Sharing programs, a similar reduction would be anticipated in aid to the cities and counties for the year. In addition, the revised estimate calls for \$60.5 million less in motor vehicle usage tax revenue, which is an 11.7% reduction compared to the Enacted Road Fund revenue estimate in House Bill 353 from the 2020 Regular Session of the General Assembly. The revised official revenue estimate would be about 11.2% less in revenue compared to FY 2019 actual Road Fund revenue collections.

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

In response to a question asked by Senator

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

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

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

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

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

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

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

Commissioner Brewer stated that he does not think the revised process will reduce the number of

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

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

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

Commissioner Brewer stated the use of remote driver testing via go-pro has been considered, but ultimately will not be the path KSP chooses to take due to several small observations needed to pass the test, such as hand placement, mirror adjustments, etc. He added that applicants will not necessarily be limited to testing in their county of residence, but that would be left up to the Circuit Clerk's offices.

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

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

Chairman Upchurch informed the Committee that all meetings of the 2020 interim will provide the option to video or teleconference into the meeting via the Blue Jeans application. He encouraged members to inform staff of their intent on how they would like to participate in meetings going forward. With



no other business to come before the Committee Chairman Upchurch adjourned the Committee at 1:59 P.M.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection**

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

June 3, 2020

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

The 1st meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, June 3, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Lynn Bechler, Co-Chair; Senators Christian McDaniel, Morgan McGarvey, and Max Wise; Representatives Terri Branham Clark, David Hale, Savannah Maddox, Brandon Reed, Dean Schamore, Russell Webber, and Les Yates.

Guests: Mary C. Noble, Secretary, Justice and Public Safety Cabinet (JPSC); Rodney Brewer, Commissioner, Kentucky State Police, JPSC; Cookie Crews, Commissioner, Department of Corrections, JPSC; Wendy Morris, Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities; Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services; and Representative Jason Nemes.

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

Introduction of Member's Guests

Representative Schamore introduced his guest, Kim Luna of Radcliff, Kentucky.

Impact of COVID-19 on the Justice and Public Safety Cabinet

Mary C. Noble, Secretary, Justice and Public Safety Cabinet (JPSC) gave an overview of the JPSC and provided an update on the Cabinet's response to the COVID-19 pandemic. Secretary Noble noted that the Cabinet was in the process of determining the total cost of responding to the COVID-19 virus. Secretary Noble stated that due to Kentucky being awarded federal coronavirus relief funding, JPSC is looking back to determine what funds were spent on its COVID-19 response in order to obtain an accurate view of all coronavirus expenses. Secretary Noble said that she was not comfortable providing a cost estimate because she does not want to give a number without data to support it.

Cookie Crews, Commissioner, Department of Corrections provided an overview of the inmates that received conditional commutation of their sentences in response to the COVID-19 pandemic.

Rodney Brewer, Commissioner, Kentucky State Police (KSP) outlined the actions the KSP had taken in response to the COVID-19 pandemic, including

assisting in the planning and implementation of various COVID-19 testing sites throughout the Commonwealth.

In response to questions from Chair Bechler, Secretary Noble estimated that it would take the JPSC another two to three weeks to have an accurate and complete list of COVID-19 related expenses. Secretary Noble stated that the Green River Correctional Complex was the only state correctional institution to have had a COVID-19 outbreak, stating that only one inmate and very few correctional officers in any of the state's other facilities had tested positive for COVID-19.

In response to questions from Senator McDaniel, Commissioner Crews stated that she did not have the exact number of state inmates that had been released from county jails because of commutations, but that the department would find out and provide it to the subcommittee. Commissioner Brewer said that beginning on the evening of Friday, May 29, 2020, the KSP had placed between 90-100 troopers in Louisville to assist the Louisville Metro Police Department (LMPD) during protests and rioting in an effort to prevent violence and vandalism in the city. Commissioner Brewer stated that KSP has had to house some troopers in Louisville at the expense of the LMPD. Commissioner Brewer noted that KSP presence in Louisville usually begins around 4:00PM and continues until between 1:00-3:00AM. Commissioner Brewer said that KSP is providing investigators and oversight in the investigation of a fatal shooting that occurred early in the morning of Monday, June 1, 2020. Secretary Noble stated that inmates with pending criminal charges were not considered for conditional commutation.

In response to a question from Chair Bechler, Commissioner Crews noted that she did not know of any inmates who had been released on conditional commutation and then rearrested. Secretary Noble stated that if the cabinet finds any prisoners who had been rearrested after conditional commutation, it would provide that information.

In response to a question from Senator Wise, Commissioner Brewer stated that during protests on the Capitol grounds, KSP places officers in an over watch position. Commissioner Brewer noted that over watch refers to an elevated location either on top of the Capitol building or the Capitol annex building, but those officers are not equipped with sniper gear.

In response to questions from Chair Bechler, Commissioner Brewer stated that there had been no arrests during protests on the Capitol campus, but KSP was investigating an incident where the tires were flattened on a protester's vehicle. Commissioner Brewer noted there were some arrests made for threats against the Governor, but those did not take place during protests. Commissioner Brewer said that he did not have data readily available on which counties KSP made visits to on Easter weekend for reports of noncompliance with social distancing measures, but would provide the information to the subcommittee. Commissioner Brewer stated that most arrests that were made when KSP provided presence at various hospitals were not unusual or out of the ordinary.

In response to a question from Representative Nemes, Secretary Noble committed to a transparent

and proper request for proposal (RFP) for state prison healthcare.

Impact of COVID-19 on Substance Abuse and Mental Health

Wendy Morris, Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities (BHDID) provided an overview of the BHDID and outlined the steps the department is taking to ensure both mental health treatment and addiction recovery assistance remain available during the COVID-19 pandemic.

In response to questions from Chair Bechler, Commissioner Morris stated that although suicide reporting data typically has some lag time, the data that BHDID has does not indicate an increase in suicide rates in Kentucky during the COVID-19 pandemic. Commissioner Morris said that a recent spike in overdose deaths is not greater than some overdose death spikes that have occurred in the past. Commissioner Morris stated that she was not consulted concerning prisoner commutations, but that her team worked with the JPSC to ensure those who were released would have access to drug treatment.

In response to a question from Representative Schamore, Commissioner Morris noted that BHDID has had to increase outreach efforts in an attempt to not miss anyone who has need for assistance while utilizing social distancing practices.

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

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Minutes of the 1st Meeting of the 2020 Interim**

June 3, 2020

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

The 1st meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, June 3, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Steven Rudy, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: John Hicks, State Budget Director, Office of State Budget Director; and Greg Harkenrider, Deputy Executive Director for Economic Analysis, Governor's Office for Economic Analysis

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

Actions Taken by the Consensus Forecasting

#### Group--Executive Branch Response

John Hicks, State Budget Director, Office of State Budget Director (OSBD); and Greg Harkenrider, Deputy Executive Director for Economic Analysis, Governor's Office for Economic Analysis, reviewed actions taken by the Consensus Forecasting Group (CFG) and the Executive Branch response.

John Hicks testified that KRS 48.115(2) permits the Legislative Research Commission or the State Budget Director to determine that a revision to the enacted revenue estimates is needed. Based upon the inevitability of a reduction in state revenues, it was requested that the CFG convene and decide on a revision to the enacted forecast.

A budget reduction plan is included in Regular Session 2020 House Bill 352. The budget reduction plan calls for all three branches of state government to prepare a specific plan in the event of a revenue shortfall.

The delayed income tax filings made the forecast revision more difficult. Governor Beshear delayed the state personal and corporate income tax filing deadline until July 15. The Finance and Administration Cabinet's Department of Revenue (DOR) and Office of the Controller coordinated with OSBD to ensure that the delayed tax filing receipts would still be posted to Fiscal Year (FY) 2020. As a result, final general fund revenues will not be known until late July.

The General Assembly chose to use the CFG's pessimistic revenue estimate from December, 2019, as the enacted 2020-2021 budget. The May 2020 revised CFG revenue estimate is \$456 million lower or a four percent decline than the enacted estimate for FY 2020. Most of the revenue estimate reductions are in individual income and sales and use taxes. Reductions in corporate income and limited liability entity tax (LLET) make up roughly 20 percent of the shortfall. The FY 2020 estimate is a 3.5 percent decline from FY 2019. The CFG's revised fourth quarter estimate for FY 2020 projects a 22.5 percent reduction in receipts from the fourth quarter of FY 2019.

The revised FY 2020 CFG estimate for road fund receipts is \$161.8 million lower than the enacted estimate, or a 10.4 percent reduction. The bulk of the reduction in receipts comes from the motor fuels tax and the motor vehicle usage tax. The estimate for May and June FY 2020 tax receipts for motor fuels and motor vehicle usage are down 56.2 percent from the actual receipts from May and June FY 2019.

The CFG chose the pessimistic scenario for the purposes of the May and June revision. Real GDP contracted 16.4 percent in the fourth quarter of FY 2020. Kentucky non-farm employment growth was flat in January through March, and is expected to drop almost 11 percent in the fourth quarter of FY 2020. There is projected to be a 10.7 percent decline in Kentucky manufacturing employment in the fourth quarter of FY 2020. Kentucky wages and salaries are projected to be reduced by 24.3 percent in the fourth quarter.

Fund transfers, unexpended debt service, reduction in appropriations, and funds available in the budget reserve trust fund are all typically used to balance the budget. A fourth quarter revenue shortfall of four percent is unprecedented in recent times.

The Executive Branch has put in place hiring restrictions and imposed limits on discretionary spending unrelated to the COVID-19 response. The Executive Branch has also asked state agencies for preliminary spending reduction plans, with a target of 12.5 percent of remaining budgets. Statewide constitutional officers were also asked to provide spending reduction plans once the CFG revised the revenue estimate.

A road fund budget reduction plan is underway. Revenue sharing amounts with cities and counties is estimated to fall by \$37.1 million. This amount is reduced automatically based on motor fuels tax receipts.

In response to a question from Representative Rudy, Mr. Hicks stated that the CFG met when it did in order to have more time to trigger some of the budget reduction authorities that the Governor has for the Executive Branch. He continued to say that the intention was to give state agencies more information as early as possible.

In response to a question from Senator McDaniel, Greg Harkenrider stated that the affiliated expenses related to Paycheck Protection Program, administered by the United States' Small Business Administration would no longer be deducted on the 2020 tax return, which would make cost of goods sold go down, and this would have a positive impact on the corporate income and LLET receipts. Mr. Harkenrider continued to say that corporate income receipts are not currently behaving in a traditional fashion. Representative Rudy added that Kentucky state returns are not tied to the current federal definition of cost of goods sold, so there may not be any benefit seen.

In response to a question from Representative Tipton, Mr. Hicks testified that the estimated individual and corporate income receipts for May and June of FY 2020 take into account anticipated revenue from delayed July tax filings. In response to a follow up question from Representative Tipton, Mr. Hicks stated that Transportation Secretary Jim Gray hopes that the letting process can begin again in July.

#### CARES Act Funding Received--How Funding Will Be Spent

John Hicks, State Budget Director, Office of State Budget Director, reviewed the funding Kentucky received from the CARES Act and how the funds will be spent.

Mr. Hicks testified that congress increased the share that the federal government pays on Medicaid benefits by another 6.2 percent. Through May 20, that increase in share has amounted to \$204.2 million to the Kentucky Medicaid program. The Commonwealth has received almost \$1.6 billion from the coronavirus relief fund for state and local government COVID-19 expenses. These funds cannot be used for revenue shortfalls. The funds can only be used for expenses incurred that are related to preparing for, and responding to, COVID-19. The governor is allocating \$300 million from these funds to cities and counties. To date, Kentucky has spent over \$30 million. More than \$20 million has been spent on medical supplies, such as PPE and testing supplies. The Department of Education has allocated \$173 million to school districts to assist with expenses incurred in response

to COVID-19. Public postsecondary education in Kentucky has received \$109 million. Universities and the Kentucky Community & Technical College System must use half of that money to assist students. The other half of the funds are for the institutions themselves to react to COVID-19. The funds will help replace lost revenues and cover expenses. The Commonwealth has received \$113.5 million for testing and contact tracing.

In response to a question from Representative Rudy, Mr. Hicks testified that not much of the \$300 million for cities and counties has been distributed yet. He continued to say that the Department for Local Government (DLG) is still in the process of receiving applications. The federal government has imposed some complexity upon the use of those funds. DLG has been advising cities and counties on eligible expenses.

With no further business before the committee, the meeting was adjourned at 1:50 p.m.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

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

June 4, 2020

#### Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Agriculture was held on Thursday, June 4, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Richard Heath, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; Senators Matt Castlen, Robby Mills, Dennis Parrett, Damon Thayer, Stephen West, and Whitney Westerfield; Representatives George Brown Jr, Kelly Flood, Joe Graviss, Mark Hart, Kim King, Matthew Koch, Phillip Pratt, Rick Rand, Brandon Reed, Rachel Roberts, Rob Rothenburger, Steven Rudy, Dean Schamore, John Sims Jr, Wilson Stone, Nancy Tate, Walker Thomas, James Tipton, and Susan Westrom.

Guests: Jamie Guffey, Kentucky Poultry Association, Commissioner Ryan Quarles, Kentucky Department of Agriculture, and Dave Maples, Kentucky Cattlemen's Association.

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

#### How COVID-19 has Impacted the Meat Industry

Commissioner Ryan Quarles, Kentucky Department of Agriculture, discussed meat processing issues facing Kentucky and the United States. He said there is plenty of food in America and there are no food shortages, but there are some distribution issues. When employees at meat processing plants started testing positive for Covid-19, those plants shut down temporarily and it caused a shortage of processed meat going to distribution centers and then retail markets. Unfortunately, it also caused an immediate market reaction. Commissioner Quarles stated that over 138,000 Kentucky beef cattle farmers took an economic loss between 30 and 40 percent. The same thing happened for swine farmers, but the poultry



industry seems to have fared better. He stated that the Coronavirus Aid, Relief, and Economic Security (CARES) Act provided approximately \$19 billion in funding of which \$3 billion provided commodity buy-ups, and the remaining \$16 billion was for a first round of payments and financial incentives through the United States Department of Agriculture (USDA). He stated that, at this time, Kentucky is not back up to 100 percent in slaughter and processing capacity, but it is getting better.

Commissioner Quarles stated the Kentucky Department of Agriculture, along with the Meat Processors Union in Kentucky, requested of the Governor's Office additional personal protection equipment (PPE), additional testing for meat packing and processing plants, and additional child care benefits.

He also said that there had been an increase in local agriculture and Kentucky Proud sales, and farmers' market activity during the pandemic. There are 30 small USDA inspected meat processing plants in Kentucky, and farmers are utilizing the plants for processing their meat. Most of the plants are already booked until January, 2021. The Ag Development Board set aside \$1 million that will be dedicated to expanding meat processing plants in Kentucky.

Jamie Guffey, Kentucky Poultry Association, said that the Association's goal of feeding the world had not changed over the last three months. He stated that Kentucky farmers receive approximately \$1.2 billion in poultry sales annually. He said that there are over 900 poultry farms in Kentucky, including five broiler hatcheries, two primary breeder hatcheries, and four processing plants. He said that 20 percent of Kentucky's poultry products are sold overseas. The industry still needs more PPE, access to daycare for employees, and for restaurants to open back up.

Dave Maples, Kentucky Cattlemen's Association, said that the beef farmers are still going strong with planting crops, baling hay, and running cattle. The stockyards have been up and running, and the processing plants in Kentucky have really stepped up. The Association has been working with the KDA and Kentucky's congressional delegation. On the positive side, it is clear that consumers want beef; especially ground beef. He said beef producers would like to see more incentives offered to cow/calf producers. He said that an issue facing beef producers right now is how to sell cattle in the feed yard level. He stated that labeling is another issue since there are so many details to be ironed out. In the future, it might be important to look at developing a cow/calf program.

Chairman Heath presented, for review, a draft letter from the IJC on Agriculture members to Honorable William Barr, United States Attorney General, regarding a request for an investigation into potential anticompetitive practices by meat packers in the cattle industry. Members may sign electronically.

In response to Senator Thayer, Commissioner Quarles said that on April 22, 2020, and again in May, he, as the Commissioner of Agriculture, and the Meat Processors Union, Local 227, sent a letter to the Governor and his immediate staff, requesting more PPE, testing, and child care benefits. As of yet, there has been no response.

Senator Hornback said that the farming

community and its industries will feel the effects of COVID-19 until the end of the year. As an example, he said that beef farmers are losing around \$200 a head on every animal that they raise and sell, while the packers are profiting somewhere around \$600 a head. He said that the public needs to know if the packers are U.S. owned companies or foreign owned. He also encouraged farmers/producers who had been directly impacted by the pandemic to sign up for the Coronavirus Food Assistance Program (CFAP) through the Farm Service Agency for financial assistance.

In response to Senator Hornback's question regarding the decrease in ethanol prices, Commissioner Quarles stated that the trade war, unrelated to Covid, had already affected the ethanol market and then stay-at-home orders reduced the number of vehicles on the road. Commissioner Quarles stated that the ethanol plant in Hopkinsville managed to stay open because they started producing hand sanitizer on an industrial scale. He said that 85 percent of the beef processing plants in the United States are run by Cargill, Tyson Foods, JBS, and USA National Beef. Some are very large corporations with foreign-owned interests. Dave Maples stated that JBS and National Beef are Brazilian owned.

In response to Representative King, Commissioner Quarles stated that he and the Kentucky Attorney General sent a letter in May to Hon. William Barr, U.S. Attorney General, requesting an investigation into potential anticompetitive practices by meat packers in the cattle industry. To his knowledge, the investigation had started and there is no timeline for answers. The State Fair Board unanimously approved a draft proposal to hold the State Fair in August, but is waiting for approval from the Governor's Office.

Representative Kelly Flood said that she agreed that child care was an essential component of reopening Kentucky and hopes that it can be done safely.

Representative Mills stated that he recently toured the Tyson plant in Roberts that employed people of forty-one different nationalities. In northwest Kentucky, the Tyson plant has an economic impact of \$300 million with a payroll load of approximately \$75 million. The plant has a full sanitation crew as well as a mobile medical clinic on site. The plant operators are ready for restaurants and child care services to open back up.

In response to Representative Tipton, Commissioner Quarles said that KDA has agreed to reduce its budget and return money to the Treasury this fiscal year and are making plans for a 10 percent reduction for the next fiscal year.

Meeting adjourned.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Human Resources**

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

June 3, 2020

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

The 1st meeting of the Budget Review

Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, June 3, 2020, at 10:30 AM, in Room 149 of the Capitol Annex. Representative Danny Bentley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Matt Castlen, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Morgan McGarvey and Stephen Meredith; Representatives Adam Bowling, Deanna Frazier, Kimberly Poore Moser, Melinda Gibbons Prunty, Josie Raymond, Steve Sheldon, Cherlynn Stevenson, Susan Westrom, and Lisa Willner.

Guests: Eric Friedlander, Secretary, Cabinet for Health and Family Services (CHFS); Eric Lowery, Executive Director, Office of Finance and Budget, CHFS; and Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, CHFS.

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

#### **Funding for COVID-19 Related Services**

Eric Friedlander, Secretary, Cabinet for Health and Family Services (CHFS) provided an update on the cabinet's receipt and expenditure of federal coronavirus relief funds.

In response to questions from Senator Meredith, Secretary Friedlander stated that although no date was set, adult daycare facilities were likely to open at a reduced capacity in late June. Secretary Friedlander said that the date had not been set because plans were still being finalized. And, he wanted to be cautious because of the risk to the population most vulnerable to COVID-19.

In response to questions from Representative Gibbons Prunty, Mr. Lowery stated that beginning in March, Medicaid had averaged approximately eight thousand new enrollees per week. Secretary Friedlander noted that CHFS expects that individuals will leave Medicaid and obtain private insurance as the economy opens up and citizens regain employment. Secretary Friedlander stated that CHFS is trying to isolate the cost of insuring those who became Medicaid eligible due to the COVID-19 pandemic in case federal restrictions are loosened concerning the services for which the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding can be used. Secretary Friedlander noted that the cabinet chose the YMCA as the childcare provider for essential workers because it was an organization that had the ability to operate statewide in a short period of time.

In response to questions from Representative Frazier, Secretary Friedlander said CHFS was looking into ways to use CARES Act funding to help adult daycare providers who have seen a loss of revenue.

In response to questions from Representative Moser, Secretary Friedlander noted that enhanced Medicaid reimbursements can be used to increase rates for any provider in the Medicaid system. Secretary Friedlander stated that CHFS determined that increased funds would be needed for the increase in the number of Medicaid eligible people and decided not to provide an enhanced rate to any provider other than long term care facilities that were specifically caring for a COVID-19 positive patient.

In response to questions from Senator Meredith,



Secretary Friedlander stated that COVID-19 contact tracing needs to be joined with the testing component in a seamless manner in order for it to be successful. Secretary Friedlander noted that local health departments are vital to COVID-19 testing and contact tracing efforts.

In response to a question from Representative Willner, Secretary Friedlander said that CHFS would have to look at ways to provide support for medical providers using a stipend style approach.

In response to a question from Representative Raymond, Secretary Friedlander stated that restrictions for childcare centers would be loosened if there was no correlating increase in COVID-19 infection rates.

In response to a question from Representative Sheldon, Secretary Friedlander said that the goal of the cabinet was to help people become self-sufficient.

In response to a question from Representative Moser, Secretary Friedlander stated that the cabinet was fully committed to implementing 2020 Regular Session House Bill 129 regarding local health departments, but was not prepared to offer a timeline for full implementation.

In response to a question from Representative Gibbons Prunty, Secretary Friedlander said that he was willing to look at all data that was available regarding Medicaid dependence.

In response to a question from Senator Meredith, Secretary Friedlander confirmed that the Families First Coronavirus Response Act provided a 6.2 percent increase in Federal Medical Assistance Percentage (FMAP) funding. Secretary Friedlander noted that one requirement for accepting FMAP funding is to not remove people from Medicaid services. Secretary Friedlander stated that the cabinet believes the increased FMAP funding will be enough to cover the increase in Kentuckians who are presumed Medicaid eligible.

In response to a question from Chair Bentley, Secretary Friedlander stated that the cabinet was continuing to work toward implementing 2020 Regular Session Senate Bill 50 regarding the Medicaid Pharmacy Program.

There being no further business before the subcommittee, the meeting was adjourned at 11:56 AM.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

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

June 4, 2020

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

The 1st meeting of the Interim Joint Committee on Judiciary was held on Thursday, June 4, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Alice Forgry Kerr, Gerald A. Neal, Michael J. Nemes, John Schickel, Wil Schroder, Robert Stivers II, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Kim Banta,

John Blanton, Charles Booker, Kevin D. Bratcher, McKenzie Cantrell, Daniel Elliott, Joseph M. Fischer, Chris Harris, Samara Heavrin, Nima Kulkarni, Stan Lee, Derek Lewis, Savannah Maddox, C. Ed Massey, Chad McCoy, Reginald Meeks, Patti Minter, Kimberly Poore Moser, Jason Nemes, Brandon Reed, Maria Sorolis, and Rob Wiederstein.

Guests: David James, Keturah Herron, Chief Justice John D. Minton, Jr., Attorney General Daniel Cameron, Victor Maddox, Amy Burke, and Josh Crawford.

LRC Staff: Katie Comstock and Yvonne Beghtol. Presentation by David James and Keturah Herron

David James, President of the Louisville Metro Council, reviewed incidents pertaining to Breonna Taylor, Ahmaud Arbery, and George Floyd as references as to why public policies need to be reviewed. Mr. James stated that a peaceful protest on Jefferson Square resulted in seven people being shot, along with the use of tear gas and pepper balls. The following day another rally was held and officers were only allowed to arrest protestors who attacked them, and were not allowed to protect the property of others. There was over \$1,000,000 in damage. On May 31, 2020, officers were told to tear gas protestors before curfew due to some protestors having weapons, although Kentucky allows open and concealed carry. Mr. James stated that an individual was shot and killed. Credibility in the police departments, and trust between the community and the police needs to be improved. Mr. James asked for legislators to consider ways to give subpoena power to Civilian Review Boards. The Louisville Metro Council passed legislation to severely limit No Knock Warrants in Louisville and would like legislators to seriously consider this for the entire state. The council is also looking at equality and inclusion within policies, and asked that legislators do the same when making legislation.

Keturah Herron, Member of Black Lives Matter and a Policy Strategist with ACLU of Kentucky, stated it is up to white leadership to speak out against racism. Ms. Herron gave testimony as to protestors she saw who sat down in front of a tanker truck in Louisville during a protest on Friday, May 29, 2020, which released tear gas on the protestors. Louisville's investment in the property near 9th Street and not in the individuals is not helpful. Ms. Herron would like Churchill Downs to pay taxes to invest in the property where they make billions of dollars. Ms. Herron mentioned that money in Louisville needs to be invested in the youth. Race demographics need to be included in data points when making legislation, and that black senators' and representatives' bills need to be heard.

#### **Supreme Court's Reopening Task Forces**

Chief Justice John D. Minton, Jr. spoke in regards to the COVID-19 emergency and court room proceedings. The Supreme Court required telecommunication between attorneys and all necessary parties, eviction filings were put on hold, clerk office staffing was limited, parenting time orders were limited, continuing legal education deadlines were extended, appellate filing deadlines were extended, and emergency release of certain

individuals was limited. In mid-April, the Supreme Court extended the orders to be effective through May. Order 2020-44 suspends all jury trials until at least August 1, 2020. Chief Justice Minton stated that the grand opening for in-person court services began June 1, 2020. The pandemic has led to the need to focus on electronic filing as the standard, rather than the exception. One unintended beneficial consequence has been the decrease in pretrial populations incarcerated in county jails. Before the pandemic the pretrial population in county jails averaged 7,000 inmates. This number reached a low of 4,400 on May 5, 2020 and a high of 5,100 on May 25, 2020. The daily arrest rate averaged 500-700 before the pandemic; with April now showing an average of 193 arrests per day, statewide. The Family and Juvenile Services Department has been successful in linking youth to resources during this pandemic. Court Designated Workers have kept children out of detention during the pandemic by connecting youth and their families to housing benefits for food and shelter. Citizen Foster Care Review Boards completed almost 5,500 remote interviews. Group meetings and counseling attendance increased with the availability of tele-health resources. Urine drug screening has been switched to oral screenings. In regards to the Judiciary Branch Budget, a \$7,500,000 fund transfer combined with the requested 4% contribution from the Governor's budget reduction plan will be returning \$12,100,000 to the General Fund this fiscal year. A decrease in Restricted Funds is anticipated for the 2021 fiscal year due to the impact of the pandemic. A hiring freeze also went into effect on May 15, 2020. Chief Justice Minton hopes the decrease and hiring freeze will offset any deficit. Chief Justice Minton ended by commending those who work in the court system by adapting so quickly to the necessary procedures caused by the pandemic.

In response to Senator Webb, Chief Justice Minton stated that an attempt to set broad guidelines to allow in-person conferences with clients, as well as allowing a judge to determine on a case-by-case basis are being considered.

In response to Senator Schickel, Chief Justice Minton stated that courts are not a place where individuals have a choice as to whether or not they want to go there. Therefore, the health restrictions for appearing in court may be more detailed than businesses, where individuals have a choice as to whether or not they want to go inside.

In response to Representative McCoy, Chief Justice Minton stated that, because we are a unified court system all courts throughout Kentucky, need to observe all public health requirements.

In response to Chairman Westerfield, Chief Justice Minton stated that the delay in payments of fines and fees until November 2020 is to allow judges to prioritize more critical business.

#### **Executive Powers Under KRS Chapter 39A**

Attorney General Daniel Cameron reviewed KRS Chapter 39A, which spells out the governor's powers (and procedures to be followed) during a statewide emergency. Attorney General Cameron stated that KRS Chapter 39A became law in 1938 with the intent to establish and support a statewide comprehensive management program for the

Commonwealth. During the COVID-19 pandemic, Governor Beshear declared a state of emergency unprecedented in scope, suspended statutes and regulations without legislative oversight, closed “non-essential” businesses indefinitely without due process, banned faith-based gatherings, banned out-of-state travel, and limited public assembly at the Capitol. It is the duty of the elected General Assembly to see to it that the executive power is not granted that may be applied arbitrarily. Businesses were divided into essential and non-essential categories without their input or due process, being forced to close, laying off workers; leading the Commonwealth to have the highest unemployment rate in the nation. Churches were forced to close their doors while liquor stores remained open. Kentuckians were prohibited from traveling outside of the state. These actions were ruled unconstitutional in court. Attorney General Cameron showed a map of Kentucky with the number of COVID-19 cases per county. Regardless of the number of cases, each county was held to the same restrictions by the Governor. Attorney General Cameron listed topics of concern received from individual residents which included reopening Kentucky, liberty concerns, unemployment, masks, absentee voting, faith-based gatherings, and more. Attorney General Cameron suggested limiting principles on executive power during a state of emergency to include specifying exceptions and protections for constitutional rights, creating time limits on orders, limiting authority to suspend existing statutes, requiring comment and appeal process for emergency orders, provide for improved public notice, revise statutory scheme for public health emergencies, and establish effective oversight by the General Assembly.

In response to Senator Neal, Attorney General Cameron stated that the Attorney General’s Office reached out to the Governor’s Office to ask if there was any way they could be helpful in crafting these orders, but they did not receive a response. Since KRS Chapter 39A was passed by the legislative body, Attorney General Cameron sees it as their duty to differentiate between the immediate intense emergencies listed in 39A and a prolonged pandemic. Assistant Deputy Attorney General Victor Maddox added that the separation of powers issue is always one that should be at the forefront of any legislation that might limit executive power. Mr. Maddox gave an example of Kansas legislation that requires the governor to meet with the Financial Council for an affirmative vote when the governor’s orders last beyond a specific period of time.

In response to Representative Minter, Attorney General Cameron stated that his job is to maintain the public’s safety interest and lookout for the constitutional rights of the citizens.

In response to Representative Sorolis, Attorney General Cameron stated two district court judges in the Sixth Circuit found the ban on religious gatherings applied in Kentucky was unconstitutional.

In response to Representative Cantrell, Attorney General Cameron stated that the legislative body has the ability to change existing law or to put topics on ballots for voters to determine without constitutional harm to the separation of powers.

In response to Representative Nemes, Attorney

General Cameron agreed that the Kentucky Constitution does not grant the governor power to declare an emergency. Since it is a statutory right, the General Assembly can restrict that right without considering separation of powers.

**Declaring an Emergency: State Cross Comparisons and Recommendations for Reform**

Josh Crawford, Interim Executive Director of the Pegasus Institute, stated that the nature of the declaration of emergency was unprecedented across the nation. By mid-March 2020, 48 states had declared a state of emergency. The Pegasus Institute used this as a time to examine how states utilized those powers to deal with some of the separation of powers concerns and to deal with reform recommendations.

Dating back to the Fletcher administration, there have been 57 different declarations of emergency that dealt with part of Kentucky, and all but 11 dealt with weather. A 2019 Health Security article stated that 35 states have expressed authority to suspend or amend regulations during a time of emergency. Seven states allow for the suspension of regulations but not of statutes. Eight states were unclear whether a governor could suspend or amend statutes and regulations. Kentucky was included in the last category.

There are seven states in which, if an emergency lasts beyond a certain point, the legislature must ratify/extend that emergency. More than 20 states allow legislature the ability to end a declared emergency. This would be complicated since Kentucky is a part-time legislature with both a days limit and a date limit. The state of Georgia has a number of reserved days, so if they so choose to end an emergency they can convene and do so. The non-profit Ballotpedia maintains a database of all COVID-19 related lawsuits.

In response to Senator West, Mr. Crawford stated that seven states have emergency time limitations ranging from 15 to 60 days. At the end of that time period, the legislature must ratify the declaration of emergency for a set period of time. To the best of his knowledge, there is no state that has a part-time legislature where the governor is mandated to call them back into session during a state of emergency.

There being no further business, the meeting adjourned at 12:40 PM.

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

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

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

June 3, 2020

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

The first meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, June 3, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Sal Santoro, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Sal Santoro, Co-Chair; Senators Christian McDaniel, Robin Webb, and Max Wise;

Representatives Chris Fugate, Chris Harris, Samara Heavrin, Thomas Huff, Brandon Reed, and John Sims Jr.

Guests: Jim Gray, Secretary, Transportation Cabinet (KYTC); Deputy Secretary Mike Hancock, KYTC; and, Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC.

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

Secretary Gray, Deputy Secretary Hancock, and Robin Brewer provided an overview of budgetary concerns within the KYTC.

Chair Santoro commented that no contracts were cancelled, only suspended temporarily.

In response to a question from Senator McDaniel regarding traffic counts for new developments, Deputy Secretary Hancock said the traffic counts in question could be a local development count rather than a KYTC count for existing roadways. He added that he will look into it further.

In response to a question from Senator McDaniel regarding a REAL ID office in Boone County, Secretary Gray said they are currently working on that.

In response to a question from Co-Chair Higdon regarding the capability of online licensing, Secretary Gray said the subject is still being examined, and the selected vendors are in the process of updating their technology systems.

Co-Chair Higdon commented that the deadline for REAL ID being moved out a year has provided us a welcome reprieve.

Representative Heavrin commended Deputy Secretary Hancock for his quick response to a recent Grayson County bridge issue. She asked about Bridging Kentucky projects and when they are anticipated to start up again. Secretary Gray said it would be dangerous to the cash flow model to make commitments at this time. Deputy Secretary

Hancock added that a number of projects had been accelerated to 2019, and all bridge projects are continuing to move forward as planned, which is a continuation of the Pause 50 from 2016.

In response to a question from Representative Harris, Secretary Gray said contractors are willing to proceed without charging penalties for contract suspensions.

There being no further questions, the meeting was adjourned at 11:12 AM.

## **PUBLIC PENSION OVERSIGHT BOARD**

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

February 24, 2020

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

The 1st meeting of the Public Pension Oversight Board was held on Monday, February 24, 2020, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Gerald A. Neal, and Wil



Schroder; Representatives Joe Graviss, Jerry T. Miller, Phillip Pratt, Russell Webber, and Buddy Wheatley; John Chilton, Mike Harmon, John Hicks, James M. “Mac” Jefferson, Sharon Mattingly, and Stephen Pitt.

Guests: David Eager, Executive Director, and Richard Robben, Executive Director, Office of Investments, Kentucky Retirement Systems; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers’ Retirement System; and Donna Early, Executive Director, and AC Donahue, Trustee, Kentucky Judicial Form Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

#### Approval of Minutes

Representative Wheatley moved that the minutes of the December 16, 2019 meeting be approved. Representative Pratt seconded the motion, and the minutes were approved without objection.

#### Investment and Cash Flow Quarterly Update – Kentucky Retirement Systems

Richard Robben, Kentucky Retirement Systems (KRS), provided a summary of investment performance ending December 31, 2019. He provided information from Wilshire Consulting for asset class performance, asset allocation bucketing that included growth, liquidity, and diversifying allocations, asset allocation median plans, and peer group analysis for the 1-, 3-, 5-, and 10-year time frames. Mr. Eager added that Wilshire Consulting reported that KRS was in the 38th percentile under the 5-year returns, which means 62 percent of the funds did worse than KRS. Standard deviation for the 5-year as a measure of risk placed KRS in the 7th percentile, and for Sharpe ratio under the 5-year, KRS was in 3rd percentile. This places KRS close to the top of the peer group in terms of risk avoidance.

Senator Higdon assumed the Chair.

In response to a question from Representative Miller, Mr. Eager confirmed that the numbers discussed were total numbers for the system. Representative Miller commented that there had been concern expressed about sub-optimization of returns for the County Employees Retirement System (CERS).

In response to a question from Representative Graviss, Mr. Robben stated that he believes there are 177 plans in the Wilshire Consulting peer group analysis.

In response to a question from Senator Neal, Mr. Robben stated that 90 percent of the return from a portfolio is driven by asset allocation.

Mr. Eager provided information on all systems under KRS for net of fee rates of return for the 1-, 3-, 5-, 10-, 20-, and 30-years for December 31, 2019, for pension and insurance plans.

In response to questions from Senator Higdon regarding the differences between investing for the Kentucky Employees Retirement System (KERS) and the CERS, Mr. Eager stated that the key for driving performance is largely asset allocation, and the allocation for each system was meaningfully different. He noted that the allocation to public equity for KERS is about 5 percent less than the allocation for CERS.

Representative Miller commented that when looking at CERS nonhazardous and KERS nonhazardous, the difference in the returns show that

CERS is being invested more aggressively.

In response to questions from Senator McDaniel regarding selecting investments, Mr. Robben stated that KRS considers the funding ratio, cash flow, and the level of certainty of receiving the actuarially determined employer contribution (ADEC) each year as it evaluates the level of risk it may take. In response to a follow-up question regarding specific scenarios and estimates, Mr. Robben advised that KRS would know more after the end of its asset liability study, which is ongoing with Wilshire Consulting and should be available at the board of trustees’ meeting in May.

In response to a question from Mr. Jefferson regarding the process involved in determining the allocation of each particular fund, Mr. Robben stated that KRS works with Wilshire Consulting who prepares sets of capital market assumptions that take into account correlation of how assets act together.

In response to a question from Representative Wheatley, Mr. Robben stated that he was unsure of how many of the 177 Wilshire Consulting public pension plans were run by one board versus multiple boards. Mr. Eager added that the National Association of State Retirement Administrators (NASRA) does not have a list either, so any information is anecdotal only.

Representative Graviss requested all Kentucky Retirement Systems Administrative Subcommittee materials be provided to the Public Pension Oversight Board (PPOB). Representative Webber commented that the material will be made available to all PPOB members.

Mr. Eager discussed cash flow for December 31, 2019, compared to December 31, 2018. He began with the CERS’ FY 2020 contribution inflows and outflows. He stated that the CERS plan still has liquidity issues with more money going out than coming in. Mr. Eager noted the net cash flow before gains/(losses) in FY 2020 was -32.0 million.

In response to a question from Representative DuPlessis, Mr. Robben stated that, if CERS nonhazardous invested more aggressively than 6.25 percent, it would have been enough to overcome the -32.0 million negative cash flow for FY 2020, but added that the calendar year before would have made it worse. In a follow up question from Representative DuPlessis, Mr. Eager stated that the insurance fund, which is better funded, will be examined in May for a more aggressive rate.

In response to a question from Senator McDaniel with regards to if CERS should expect a slight negative cash flow as more employees’ begin participating in Tier 3, Mr. Eager stated that there would be an inflection point, where employer contributions would go down and investment returns would be expected to help offset any negative cash flow; however, he does not expect it anytime in the near future. Senator McDaniel commented that as the plan draws closer to that point, it is not necessarily a negative thing if net cash flow before gains/losses is relatively flat given the different risk profile for those new hybrid plan employees.

Mr. Eager continued with his cash flow discussion and stated that KERS and the State Police Retirement System funds are net positive. He noted

that the KERS plans made a jump in contributions from 49 to 83 percent with a benefit of positive cash flow.

In response to a question from Representative Graviss, Mr. Eager stated in regards to a SB 2 status update that KRS has hired an attorney and are no longer relying on outside counsel for evaluating and redacting, as necessary, investment contracts are up to date on their posting requirements.

Mr. Harmon stated in regards to SB 2 compliance, that there were more concerns of posting carried interest with the Teachers’ Retirement System (TRS). KRS had redacting issues, which are being addressed.

In response to a question from Representative Graviss, Mr. Eager stated that cash flow and liquidity are moving in the right direction for growth but added that the opportunity to earn is not available for the next 10 years.

#### Investment and Cash Flow Quarterly Update – Teachers’ Retirement System

Beau Barnes, TRS, began his presentation discussing the pension investment performance as of December 31, 2019. He discussed the benchmarks and gross and net returns for the quarter, fiscal-year-to-date, 1-, 3-, 5-, 10-, and 20-year trailing time periods. He stated that the 30-year compounded gross return is 8.15 percent. Mr. Barnes provided a slide that showed TRS’ investment performance above the average pension plan from 2008 to 2019, which resulted in an additional \$3.6 billion in excess returns.

In response to a question from Senator McDaniel, Mr. Barnes agreed that the average retiree is drawing benefits for about 27 years, of which approximately 5 years are paid by the employer and employee contributions, while the remaining 22 years are general covered by the interest and investment earnings generated over the member’s life. Mr. Barnes stated that is why investment performance is so important.

Mr. Barnes reviewed cash flow for the pension fund through December 31, 2019 compared to December 31, 2018. He pointed out cash inflows, outflows, and the total net plan assets across both time periods.

In response to a question from Senator Higdon, Mr. Barnes stated that the member contribution difference between FY 2020 and FY 2019 was attributable to one of its largest employers, which had a turnover in payroll personnel and had gotten behind in reporting contributions to the system. TRS has since met with the employer and have showed them how to correctly report contributions.

Mr. Barnes reviewed the cash flow for the health insurance fund through December 31, 2019, compared to December 31, 2018. He pointed out cash inflows, outflows, and the total net plan assets across both time periods.

In response to questions from Representative DuPlessis, Mr. Barnes stated that the increase in employer contributions/appropriations for FY 2020 was part of the \$70 million in surplus that the current budget provided. In response to a follow up question, Mr. Barnes stated administrative expenses are accounted for once a year, which is why the reported amount is zero for this reporting period. Mr. Barnes



offered to get administrative expense information to Representative DuPlessis for FY 2019.

In response to a question for Senator Higdon, Mr. Barnes stated that the funded percentage of the health insurance trust fund was 46 percent as of June 30, 2019. In response to a follow up question regarding the health insurance trust fund's actuarially required contribution (ARC) payment, Mr. Barnes stated that, as the funding percentage has improved with the "shared solution" payments, the contributions have exceeded the ARC, which is one of the reasons why the funding ratio has grown from 3.5 to 46 percent.

In response to a question from Mr. Jefferson, Mr. Barnes stated that it is his understanding that the capital gains distributions in investment income falls under cash inflows. In response to a follow up question regarding the remedy for the \$150 to \$250 million in negative cash flow per year on the retirement annuity trust, Mr. Barnes stated that, appreciatively, TRS is receiving full funding in the budget, causing their investment strategy to no longer be constrained. He stated that TRS does have negative cash flow, although it is manageable.

In response to a question from Mr. Chilton regarding whether cash inflows were being used exclusively to pay benefits requiring all growth to come from investment income, Mr. Barnes stated that investment income, the sale of assets, and the rebalancing of the portfolio were all drivers for growth of the funding for the annuity trust. In response to a follow up question as to how TRS would recover additional market value when it is in a negative cash flow position, Mr. Barnes said that it could recover because the negative cash flow is not big enough that TRS cannot overcome it with TRS' investment strategy and funding with the full ARC. Mr. Barnes agreed to Mr. Chilton's request for TRS to provide risk statistics as they relate to allocations in the portfolio in future presentations.

In response to a question from Representative DuPlessis regarding TRS' heavy investment in equity, Mr. Barnes stated that TRS is invested about 40 percent in domestic equity, 22 percent in international equity, 15 percent in basic traditional fixed income (bonds), some private equity, and real estate, all creating a diversified portfolio. In response to a follow up question, Mr. Barnes confirmed that TRS has more stock than KRS, and that the managing risk is very important, and TRS does a lot of due diligence to adjust to volatility.

In response to a question from Representative Miller, Mr. Barnes stated that TRS is due for an Experience Study for the period ending June 30, 2020, and as part of that study, TRS will consider a revision to payroll growth and longevity assumptions in mortality tables.

Investment and Cash Flow Quarterly Update – Judicial Form Retirement System

Donna Early, Judicial Form Retirement System (JFRS), joined by A.C. Donohue, Trustee, began her presentation with the performance overview for the defined benefit and hybrid cash balance plans for both the Judicial (JRP) and Legislators' (LRP) Retirement Plans. She also provided a chart for each plan on asset allocation.

In response to a question from Representative

Miller, Ms. Early stated that JFRS has two separate investment committees that report to one board.

Next, Ms. Early presented the cash flow for both JRP and LRP. She discussed the cash inflows, cash outflows, and net plan assets for FY 2020 and FY 2019.

In response to a question from Senator Higdon regarding how LRP did during the present budget with the absence of appropriations, Ms. Early stated that JFRS has been successful with the LRP due to having the money to invest, but this period is only a snapshot and a longer term should be considered. Mr. Donahue added that LRP did well, but wondered how much better it would have done with the ARC. Also, he added that when looking forward, where is the money lost in years to come. In response to a follow up question from Senator Higdon, Ms. Early stated that the current funded level of LRP is slightly less than 100 percent for the retirement fund and more than 100 percent for the insurance fund.

Mr. Chilton requested information on JFRS' asset allocations and risk profiles.

In response to a question from Representative DuPlessis, Ms. Early stated that if a legislator has a separation of service and then takes a job in another branch and participates in another system, such as KERS, the person would receive two separate pension checks, but the reciprocity that applies would enable the use of all salary to determine the benefit in each plan. Ms. Early explained that the reciprocity provision went into effect in 2005.

Senator Higdon commented that he was one of the few legislators that voted no on HB 299 in 2005.

#### Public Comment

Jim Carroll, President, Kentucky Government Retirees, appeared before the committee to comment on the reorganization presentation that was presented to the Kentucky Retirement Systems Administrative Subcommittee. Mr. Carroll stated the Kentucky Government Retirees had no involvement at any point within the last nine months with the idea that led to the bill draft presented. He stated that their concerns include that it looks to be a bureaucratic expansion bill that would increase annual costs for KRS from a range of \$3.6 million to \$6.7 million and would create a duplication of investment advisors, auditors, and actuaries. Mr. Carroll said that there is no tangible benefit for spending that money, and it increases the administrative burden to KRS, which is of great concern.

Representative Graviss requested a special meeting to review the information that Mr. Carroll has brought forth. Senator Higdon stated that the bill will go through the proper legislative process and that the PPOB will have plenty of time discuss any issues.

Mr. Carroll stated that he would like to hear KRS' concerns, and what it would take to implement this bill.

With no further business, the meeting was adjourned.

## PUBLIC PENSION OVERSIGHT BOARD

### Kentucky Retirement Systems Administrative Subcommittee Minutes

February 24, 2020

#### Call to Order and Roll Call

The 1st meeting of the Kentucky Retirement Systems Administrative Subcommittee of the Public Pension Oversight Board was held on Monday, February 24, 2020, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Russell Webber, Co-Chair; Senator Jimmy Higdon; Representative Phillip Pratt; John Chilton, and James M. "Mac" Jefferson.

Guests: Bryanna Carroll, Director of Governmental Affairs, Kentucky League of Cities; Tommy Turner, Judge/Executive, LaRue County; Eric Kennedy, Director of Governmental Relations, Kentucky School Board Association; Joe Baer, President, Kentucky Professional Fire Firefighters; David Livingston, Scott County Magistrate and First Vice President of Kentucky Magistrates and Commissioners Association; David Eager, Executive Director, Kentucky Retirement System; and Doug Price, Retiree.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

#### Approval of Minutes

Mr. Jefferson moved that the minutes of the October 28, 2019 meeting be approved. Senator Higdon seconded the motion, and the minutes were approved without objection.

#### Proposal for New KRS Governance Model

Bryanna Carroll, Tommy Turner, Eric Kennedy, Joe Baer, and David Livingston collectively presented a legislative proposal to separate the governance of the County Employees Retirement System (CERS) from Kentucky Retirement Systems (KRS) board of trustees, while maintaining joint administrative functions with the other systems.

Ms. Carroll began with a review of the current CERS status as it relates to the board of KRS. She noted that CERS accounted for 76 percent of total assets and 64 percent of total membership, however, only accounted for 35 percent of representation on the KRS Board of Trustees. She also stated that CERS trustees only represented 11 percent of the Investment Committee and 14 percent of the Actuarial Subcommittee. Ms. Carroll added that CERS membership had grown by an additional 6,000 members during 2019, while the Kentucky Employees Retirement Systems (KERS) had a drop of 4 percent in membership. She stated that the KRS board had moved towards low-risk and more conservative investments since 2017, which was a result of the poor funding level of KERS nonhazardous, which is 13.4 percent compared to the 49.1 percent funding for CERS nonhazardous. Prior to the change in investing, CERS had earned an average investment return of 8.68 percent per year since FY 2001 and a 30-year return of 8.9 percent, which was above the assumed

rate of 6.25 percent the board adopted in 2017. In FY 2019, CERS had a one-year investment return of 5.8 percent, which was below peer group returns of 6.4 to 6.8 percent.

As a result of these concerns, along with others, the proponents sought the drafting of a bill that would reorganize KRS. The bill would create a CERS Board of Trustees that is free of political influence, while protecting the state's pension system and avoiding the duplication of services. The bill maintains the KRS Board of Trustees and creates a joint Kentucky Public Pensions Authority (KPPA). The CERS Board of Trustees would be responsible for governing CERS, while the KRS board would handle KERS and the State Police Retirement System (SPRS). The KPPA would provide personnel needs, day-to-day administrative needs, and other duties specified by the CERS or KRS Board of Trustees.

Both the CERS and KRS Boards of trustees would consist of nine trustees, three of which would be elected by the respective memberships. For the CERS board, two trustees would be elected by nonhazardous members, while one would be elected by hazardous members. The KRS elected membership would include one SPRS member and two KERS members.

In addition to the elected members, both boards would have six trustees appointed by the governor, of whom three must have at least 10 years of retirement experience and three must have at least 10 years of investment experience. Each board would hire a chief executive officer who will function as legislative, legal, and executive advisor to the board. Each board would be responsible for its own investment decisions, actuarial data, auditing, asset allocations, medical, and other professional, or technical services, and each board would hold quarterly meetings and publish an annual financial report.

The KPPA would also consist of nine members, consisting of four trustees from both the CERS and KRS Board of Trustees, along with one gubernatorial appointee chosen from a list submitted by the Legislative Research Commission, who would only vote in the event of a tie. The KPPA would provide benefit counseling and administration, information technology and services, legal services, employer reporting and compliance, processing, distribution of benefit payments and other financial/accounting duties, and completing and compiling of financial data and reports.

In conclusion, Ms. Carroll discussed several other provisions of the draft KRS reorganization bill. She stated that all three boards would report to the Public Pension Oversight Board (PPOB) and noted the legislation would not impact benefits or the inviolable contract. She also pointed out that the governor would not have ability to reorganize, replace, amend, or abolish any of the boards, and that additional language had been added to restrict a municipality from filing for bankruptcy protection if it is in default or delinquent in the payment of pension contributions. Lastly, Ms. Carroll noted the three boards would assume their new roles starting on April 1, 2021.

Mr. Turner added that the County Fiscal Courts and Kentucky League of Cities (KLC) are in total

unison with the proposal of this bill.

Mr. Kennedy added that the Kentucky School Board Association (KSBA) has been a strong supporter of the overall movement to examine how the systems function. He stated that KSBA is looking forward to the passage of this bill.

Mr. Baer added that the proposed separation has been the top priority for the Kentucky Professional Fire Fighters for a number of years.

Mr. Livingston added that the passage of this bill is important to the Kentucky Magistrates and Commissioners Association.

In response to a question from Representation Pratt regarding liability in the event a municipality declares bankruptcy, Ms. Carroll stated the hybrid approach, as proposed in the bill, would continue to function just as it does currently. In the event that a county were to dissolve, then its liability would be the responsibility of the state to fund, however, if a municipality declared bankruptcy, the remaining employers in the system would absorb payment. In addition, new language had been added in the bill so that no municipality could declare bankruptcy solely based on their pension liability.

In response to a question from Mr. Jefferson regarding how investment and retirement experience would be defined, Ms. Carroll stated that current statutory language already defines the terms, and the CERS board would adopt the same requirements. In response to a follow up question regarding what specific items, outside of board inequity, led to the hybrid approach versus reorganizing the current board, Ms. Carroll stated KLC could not support increasing the number of CERS trustees on the current board due to concerns regarding liability, fiduciary conflict of interests, and politics. She stated that CERS trustees do not want to have input in or and fiduciary responsibility for other state systems, and there are times when making decisions in the best interest of CERS, while considering the other systems, could lead to a fiduciary conflict. Lastly, she advised that another important component of the hybrid approach was to remove politics from the process.

In response to a question from Mr. Jefferson with regards to added costs of the proposal, Mr. Eager stated that staff had estimated the cost would roughly include \$225,000 of one-time implementation costs, with ongoing annual costs ranging from a low end of \$3.6 million and a high end of \$6.7 million.

Senator Higdon commented that he was in support of the separation but had concerns regarding some of the details. First, he expressed some concern over administrative costs, which he believes were already high. Ms. Carroll responded that KLC is very sensitive to the administrative costs of KRS and noted that 64 percent of those expenses are being paid by CERS. Secondly, Sen. Higdon expressed some concern over further separating the investment management process and removing staff from KRS 18A personnel standards. Ms. Carroll stated that the KPPA was created in a manner that would allow both systems to invest together, however, it would be a joint decision by each. With regards to removing staff from KRS 18A, Ms. Carroll stated that decision was based on removing the political aspects of staffing, however, she noted the bill included requirements of the KPPA

to report number of staff, salaries, as well as any raises provided on an annual basis.

Mr. Turner added that he has examined the retirement situation from top to bottom over his extended work life and believes the plan being presented is one of the best and most workable.

Mr. Livingston added that sometimes the similar focus needs to be placed on the revenue aspect and not just a cost aspect. While additional costs may be incurred, if a CERS board could maximize returns or create additional income, less pressure will be placed on employers, such as school boards, who represent half of CERS.

Senator Higdon agreed that returns need to be maximized, however, was not certain it was necessary to have their own investment board in house. He stated that he continues to be concerned about the administrative costs. In response, Ms. Carroll stated the proposal would not result in additional staff hired other than the one employee that would be their representative for CERS on the KPPA board. She noted both boards would share investment staff.

Mr. Chilton added his comments. First, he stated that there was some confusion with regards to the term "joint investment." He clarified that CERS and KERS had never made joint investments but rather had invested assets in the same security. Secondly, he noted that a statement had been made indicating that KRS was in support of the proposal. As a member of the KRS board, Mr. Chilton stated that he did not believe an opinion had been made. Third, he noted that he had participated in this discussion, which dated back to 2015, and asked if the major motivation for separation dealt with managing the budgets of the employers and the investment return that is being assumed. In response to comments and questions from Mr. Chilton, Ms. Carroll stated that the ability for CERS and KRS to unitize or invest in the same security would still be available. In addition, she clarified that the statement of KRS' support was regarding the decision to remove CERS from under KRS 18A due to political aspects, and that KRS agreed to language requiring the KPPA to report salaries and the number of employees. With regards to motivation, Ms. Carroll stated concerns over political pressure, inequitable membership on the KRS board, along with serious concerns with the liability of having to manage KERS, are additional to the motivations of budget and investment return.

Mr. Kennedy added that part of the reason why employer groups are wanting a separation is the desire to have a stronger focus on CERS. Given meetings are live streamed, more and more constituents are watching, and there have been times where KERS or CERS might not always get the adequate focus to each of their respective needs. In addition, he noted a concern from potential CERS trustee candidates who do not want to carry the responsibility for oversight of the KERS or SPRS plans.

Mr. Price, a retiree, spoke in opposition to separation and proposed that a CERS subcommittee be created with the express purpose of allowing input on setting assumptions and investments.

With no further business, the meeting was adjourned.



# GOVERNMENT CONTRACT REVIEW COMMITTEE

## Committee Minutes

May 12, 2020

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, May 12, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Paul Hornback, and Phillip Wheeler; Representatives Charles Booker, Chris Fugate, and Mark Hart.

Guests: Joan Graham, Astrud Masterson, Dana Feldman (Teleconference), Jason Glass (Teleconference), Jamie Link (Teleconference), Dough Hendrix (Teleconference), Jeremy Ratliff (Teleconference), Bart Hardin, Barry Swanson, Tom Stratton, Katie Marks (Teleconference), Edith Slone (Teleconference), and Lee Guice (Teleconference).

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Senator Wheeler to approve the minutes of the April 2020, meeting of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Hart 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 Hart 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 Hart 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 Hart seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Film Tax Incentive List, with exception of those items selected for further review by members of the committee. Representative Hart seconded the motion, which passed without objection.

A motion was made by Senator Meredith to consider as reviewed the Correction List. Representative Hart seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS  
Harding Shymanski and Company, 2000002476.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES  
Envivo Health, LLC, 1800002286-1; Phillip W. Bale, PSC, 2000001467; Crown Services, Inc., 2000001581; Multi, 2000002163.

BOARD OF PROFESSIONAL COUNSELORS  
Marisa Neal, 2000002262.

DEPARTMENT OF AGRICULTURE  
Saybolt LP, 2000001918.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING  
Deborah Dawson-Crain, 2000001890; Joseph Stuart Cline, 2000001933; Brett Scott, 2000001934; MB Consulting Services, LLC, 2000001935.

DEPARTMENT OF EDUCATION  
Kentucky Museum of Art and Craft, Inc., 2000002259; Mike Wilson, 2000002267; Panorama Education, Inc., 2000002276; Adelaide Services, Inc., 2000002358.

DEPARTMENT OF HIGHWAYS  
Michael Baker International, Inc., 2000002534; Haworth Meyer Boleyn, Inc., 2000002554; Palmer Engineering County, 2000002928.

DEPARTMENT OF INSURANCE  
Ami Risk Consultants, Inc., 2000001879; DK Business Enterprises, LLC, 2000001886; Financial and Regulatory Consulting, LLC, 2000001901; INS Consultants, Inc., 2000001921; J.W.G. Financial Examinations, LLC, 2000001924; K Squared, 2000001940; Leduke Financial Consulting, LLC, 2000001941; MDG Examination Consulting, LLC, 2000001948; Regulatory Services, LLC, 2000001954; Renee Hanshaw Consulting, LLC, 2000001957; RRREVIEW, LLC, 2000001960; Zach Cannon Consulting, LLC, 2000001967; E&S Regulatory Services, LLC, 2000002626.

DEPARTMENT OF JUVENILE JUSTICE  
Roland P. Merkel, 2000001812; Keith Hardison, 2000001815; Guardian Healthcare Providers, Inc., 2000002383.

DEPARTMENT OF MILITARY AFFAIRS  
Samuel Thomas Harrell, 2000002556.

DEPARTMENT OF VETERANS AFFAIRS  
Mountain Mobile Diagnostics, Inc., 2000001676; Astra Behavioral Health LLC, 2000001903; Trilogy Healthcare Holdings, Inc., 2000001939; Multi, 2000001955; Multi, 2000001971; 360care, LLC, 2000001982; Amerathon, LLC, 2000002410.

EASTERN KENTUCKY UNIVERSITY  
Dynamix Productions, Inc., 20-018; iModules Software, Inc., 22-002; Multi, 22-004; Multi, 22-005; Multi, 22-006; Multi, 22-007; Multi, 22-008;

Multi, 22-009; Multi, 22-010; Multi, 22-011; Multi, 22-012; Multi, 22-013; Multi, 22-014; Multi, 22-015; BioMedical Research Services, 22-021; Marsh & McLennan Agency, LLC, 22-025.

ECON DEV - OFFICE OF THE SECRETARY  
Quartz Smith Strategies, 2000001944; MCM CPAS & Advisors, LLP, 2000002143; Eva Garland Consulting, LLC, 2000002478; Finn Weisse, 2000002730.

FACILITIES & SUPPORT SERVICES  
Facility Commissioning Group, Inc., 2000001736.

FINANCE - OFFICE OF THE SECRETARY  
Embry Merritt Shaffar Womack, PLLC, 2000002091; Goldberg Simpson, LLC, 2000002096; Morgan & Pottinger, P.S.C., 2000002098; Sturgill, Turner, Barker & Moloney, PLLC, 2000002100; Vanantwerp Attorneys, LLP, 2000002101; Sturgill, Turner, Barker & Moloney, PLLC, 2000002102.

KENTUCKY EMPLOYERS MUTUAL INSURANCE  
Claims Compensation Bureau, LLC, 20-CCB-001.

KENTUCKY RETIREMENT SYSTEMS  
Gabriel Roeder Smith & Company, 2000001307; Paul Anthony Ebben, 2000001910; Industrial Rehabworks, 2000002170; Donald Merz, 2000002212; John E. Albers, 2000002214; Nancy K. Mullen MD, 2000002220; Donna Fay Sadler MD, 2000002386.

KENTUCKY STATE FAIR BOARD  
Triangle Talent, LLC, 2000001931.

KY BOARD OF LICENSURE FOR PRIVATE INVESTIGATORS  
Mary E. Martins, 2000002241.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM  
E. Clark Toleman, 799.

KY HOUSING CORPORATION  
Hanna Resource Group, 2021-42.

MURRAY STATE UNIVERSITY  
Governmental Grant Professionals, LLC, 029-20.

NORTHERN KENTUCKY UNIVERSITY  
BKD, LLP, 2020-117; Geotechnology, Inc., 2020-118; BKD, LLP, 2021-100.

PERSONNEL - OFFICE OF THE SECRETARY  
Callan, LLC, 2000001805.

UNIVERSITY OF KENTUCKY  
SSR, Cx, LLC, A201200; Staggs & Fisher Consulting Engineers, A201210; Lord, Aeck, & Sargent, Inc., A201220; JRA Architects, A201230; JRA Architects, A201240; APAX Software, K20-148.



UNIVERSITY OF LOUISVILLE  
Mullen Coughlin, LLC, 20-069.

THE FOLLOWING PERSONAL SERVICE  
AMENDMENTS WERE REVIEWED WITHOUT  
OBJECTION:

BOARD OF MEDICAL LICENSURE  
Multi, 1900000777.

BOARD OF PROFESSIONAL COUNSELORS  
Marisa Neal, 1900002999.

DEPARTMENT FOR INCOME SUPPORT  
Abundant Living Psychological and Coaching  
Services, 1900000489.

DEPARTMENT OF CORRECTIONS  
NOA Counseling, LLC, 1900000527.

DEPARTMENT OF HIGHWAYS  
T.H.E. Engineers, Inc., 1000001409; Palmer  
Engineering Company, 1200002613; Palmer  
Engineering Company, 1300000803; Stantec  
Consulting Services, Inc., 1400000824; Integrated  
Engineering, 1500000077; HMB Professional  
Engineers, Inc., 1500002143; Palmer Engineering  
Company, 1900002527; Palmer Engineering  
Company, 1900003312; Integrated Engineering,  
1900003492; American Engineers, Inc., 1900004732;  
WSP USA, Inc., 2000000852; Haworth Meyer Boleyn,  
Inc., C-99005065.

FACILITIES & SUPPORT SERVICES  
Third Rock Consultants, LLC, 1200003126;  
Omni Architects, 1800000919; Stantec Consulting  
Services, Inc., 1800001103.

KENTUCKY EMPLOYERS MUTUAL  
INSURANCE  
Gallagher Benefit Services, Inc., 21-GBS-001.

KENTUCKY LOTTERY CORPORATION  
IGT Global Solutions Corporation f/k/a GTECH  
Corporation, 20-15-001; Kizan Technologies, LLC,  
20-19-069.

MOREHEAD STATE UNIVERSITY  
Sturgill, Turner, Barker & Moloney, PLLC, 20-  
002.

TRANSPORTATION - OFFICE OF THE  
SECRETARY

Family Medicine Associates of Flemingsburg,  
1800001440; Youthful Essence Medical Center,  
1800001444; Workwell, 1800001455; St .Elizabeth  
Business Health, 1800001460; Kentucky Society  
of Professional Engineers, Inc., 1800001508;  
Construction Estimating Institute, 1800002038-1.

UNIVERSITY OF KENTUCKY  
HGA Architects & Engineers, LLC, A151140;  
GBBN, A161200; Omni Architects, A181090; Stengel-  
Hill Architecture, A191100.

UNIVERSITY OF LOUISVILLE

JRA, Inc., 20-004.

THE FOLLOWING MEMORANDA OF  
AGREEMENTS WERE REVIEWED WITHOUT  
OBJECTION:

ADMINISTRATIVE OFFICE OF THE  
COURTS  
New Vista d/b/a Bluegrass.org, 2000002890.

BEHAVIORAL HEALTH, DEVELOPMENTAL  
& INTELLECTUAL DISABILITIES  
University of Louisville, 2000001502; Office of  
Vocational Rehabilitation, 2000001596; Wellspring,  
Inc., 2000001615; Hazelden Betty Ford Foundation,  
2000001655; Lake Cumberland Mental Health  
Mental Retardation Board d/b/a The Adanta Group,  
2000001656; Mountain Comprehensive Care Center,  
2000001671; Department of Corrections, 2000001695;  
Isaiah House, 2000001749; Kentucky Hospital  
Research & Education Foundation, 2000001758;  
Kentuckiana Health Collaborative, 2000001839;  
Norton Healthcare, 2000001841; Achieving Recovery  
Together, Inc., 2000001843; Baptist Health Care  
System, Inc., 2000001853; Kenton County Fiscal  
Court, 2000001878; Department of Corrections,  
2000001975; Western Kentucky Regional Mental  
Health & Retardation Advisory Board, 2000002011;  
Lifeskills, Inc., 2000002017; Northern Kentucky  
Regional Mental Health Mental Retardation Board,  
2000002026; Comprehend, Inc., 2000002027;  
Mountain Comprehensive Care Center, 2000002029;  
Justice Cabinet, 2000002175; St. Elizabeth Medical  
Center, 2000002209.

BOARD OF MEDICAL LICENSURE  
Kentucky Physicians Health Foundation,  
2000001650.

BOARD OF OCCUPATIONAL THERAPY  
Department of Professional Licensing,  
2000001697.

CHFS - DEPARTMENT FOR AGING AND  
INDEPENDENT LIVING  
New Vista Behavioral Healthcare, Inc.,  
2000001714.

COUNCIL ON POSTSECONDARY  
EDUCATION  
University of Kentucky Research Foundation,  
2000001606.

DEPARTMENT FOR COMMUNITY BASED  
SERVICES  
Community Action of Southern Kentucky, Inc.,  
2000001471; Consortium for Children, 2000001522.

DEPARTMENT FOR FAMILY RESOURCE  
CENTERS & VOLUNTEER SERVICES  
Multi, 2000001719; Multi, 2000001720; Multi,  
2000001721; Multi, 2000001724; Multi, 2000001726;  
Multi, 2000001727; Multi, 2000001728; Multi,  
2000001730.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Cynthiana, 2000001312; City of  
Vanceburg, 2000001482; McCracken County Fiscal  
Court, 2000001743; Lincoln County Fiscal Court,  
2000001875; City of Falmouth, 2000002025; City  
of Hazard, 2000002190; Glasgow/Barren County  
Industrial Development Economic Authority,  
2000002234; Letcher County Fiscal Court,  
2000002235; City of Morehead, 2000002250;  
Perry County Fiscal Court, 2000002283; City of  
Jackson, 2000002364; Johnson County Fiscal Court,  
2000002399; Lee County, 2000002479; City of  
Manchester, 2000002584.

DEPARTMENT FOR MEDICAID SERVICES  
University of Kentucky Research Foundation,  
2000000970; United Way of Kentucky, Inc.,  
2000001016; Department of Education, 2000002193.

DEPARTMENT FOR PUBLIC HEALTH  
University of Kentucky, 2000001476; Family  
and Children's Place, Inc., 2000001521; Kentucky  
Public Health Institute, 2000001932; Kentucky  
Cancerlink, Inc., 2000001973; Dayspring Health,  
Inc., 2000001978; Regional Health Care Affiliates,  
2000002123; Healthcare Equipment and Resource  
Tools, Inc., 2000002124.

DEPARTMENT OF AGRICULTURE  
Office of Kentucky Nature Preserves,  
2000001827; Northern Kentucky Area Development  
District, 2000002310; Dare To Care, Inc.,  
2000002314; Purchase Area Development District,  
Inc., 2000002316; Gods Pantry Food Bank, Inc.,  
2000002317; Tri State Food Bank, Inc., 2000002319;  
Northern Kentucky Area Development District,  
2000002326; Purchase Area Development District,  
Inc., 2000002339; Dare To Care, Inc., 2000002342;  
Gods Pantry Food Bank, Inc., 2000002343; Feeding  
America, Kentucky's Heartland, 2000002344; Tri State  
Food Bank, Inc., 2000002345; Multi, 2000002599.

DEPARTMENT OF EDUCATION  
Kentucky Valley Education, 2000002224;  
University of Kentucky Research Foundation,  
2000002284; Arts for All Kentucky, Inc., 2000002388;  
Bullitt County Board of Education, 2000002496.

DEPARTMENT OF JUVENILE JUSTICE  
Eastern Kentucky University, 2000002394.

DEPARTMENT OF MILITARY AFFAIRS  
Bath County Fiscal Court, 2000001302.

ECON DEV - OFFICE OF THE SECRETARY  
University of Kentucky Research Foundation,  
2000002771.

EDUCATION - OFFICE OF THE SECRETARY  
Personnel Cabinet CETA, 2000001631.

OFFICE OF INSPECTOR GENERAL  
Education and Workforce Development  
Cabinet, 2000001431.

THE FOLLOWING MEMORANDA OF  
AGREEMENT AMENDMENTS WERE REVIEWED

WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS

Bluegrass Regional Mental Health Mental Retardation, 1900004719.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Pharmacy Education and Research Foundation, Inc., 1700002898; Kentucky Housing Corporation, 1800001972; University of Kentucky Research Foundation, 1800002012; Kentucky Partnership for Families and Children, Inc., 1900000286; Bluegrass Regional Mental Health Mental Retardation, 1900000973; Bluegrass.org, 1900001648; Kentucky Administrative Office of the Courts, 1900003569; Green River Regional MHMR Board, Inc., 1900004141; Western Kentucky Regional Mental Health & Retardation Advisory Board, 1900004144; Pathways, Inc., 1900004169; Pennyroyal Regional Mental Health Mental Retardation Board, 1900004176; Communicare, Inc., 1900004178; Centerstone of Kentucky, Inc., 1900004187; Lifeskills, Inc., 1900004193; Comprehend, Inc., 1900004202; Northern Kentucky Regional Mental Health Mental Retardation Board, 1900004210; Mountain Comprehensive Care Center, 1900004217; Cumberland River Behavioral Health, Inc., 1900004219; Lake Cumberland Mental Health Mental Retardation Board, 1900004222; Bluegrass.org, 1900004235; Kentucky River Community Care, Inc., 1900004241.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 1900000633; Multi, 1900000884; Multi, 2000000214.

CHFS - OFFICE OF THE SECRETARY

University of Kentucky, 2000000403.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Owl d/b/a Opportunity for Work and Learning, 1800001634; Ramey Estep Homes, Inc., 1800001833; Multi, 1800001966; Kentucky Association of Sexual Assault Programs, 1800001967.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Bluegrass Greensource, Inc., 1700001336.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Jefferson County Board of Education, 1900001735; Department for Aging and Independent Living- AmeriCorps, 2000000324.

DEPARTMENT FOR LOCAL GOVERNMENT

Magoffin County, 1900002274; Knott County Fiscal Court, 1900003045; Knott County Fiscal Court, 1900003046; Knott County Fiscal Court, 1900003047; Knott County Fiscal Court, 1900003051; Knott County Fiscal Court, 1900003052; Knott County Fiscal Court, 1900003053; Knott County Fiscal Court,

1900003054; Knott County Fiscal Court, 1900003055; Knott County Fiscal Court, 1900003056; Elliott County, 2000000600; Knott County Fiscal Court, 2000000695; Knott County Fiscal Court, 2000000696.

DEPARTMENT FOR MEDICAID SERVICES

University of Kentucky Research Foundation, 1800001666.

DEPARTMENT FOR PUBLIC HEALTH

Pathways, Inc., 1800001884; University of Louisville Research Foundation, 1800002133; Kentucky Primary Care Association, Inc., 1900000925; University of Kentucky Research Foundation, 1900002814; University of Kentucky Research Foundation, 1900003109; Multi, 1900004001; Kentucky Cancerlink, Inc., 1900004009; Multi, 1900004358.

DEPARTMENT OF AGRICULTURE

Northern Kentucky Area Development District, 1900000049; Dare To Care, Inc., 1900000055; Purchase Area Development District, Inc., 1900000056; Gods Pantry Food Bank, Inc., 1900000058; Feeding America, Kentucky's Heartland, 1900000059; Multi, 1900003210.

DEPARTMENT OF EDUCATION

Northern Kentucky University, 1900003841; VSA Kentucky, 1900003842; Berea Independent Board of Education, 1900004237; Carter County Board of Education, 1900004242; Casey County Board of Education, 1900004244; Danville Independent School District, 1900004250; Garrard County Board of Education, 1900004254; Harlan County Board of Education, 1900004256; Jackson County Board of Education, 1900004258; Larue County Board of Education, 1900004259; Eastern Kentucky University, 1900004260; Menifee County Board of Education, 1900004269; Metcalfe County Board of Education, 1900004270; Owensboro Independent School District, 1900004274; Southgate Independent School District, 1900004279; Washington County Board of Education, 1900004281; Webster County Board of Education, 1900004283; Whitley County Board of Education, 1900004284; Eastern Kentucky University, 1900004760; Kentucky Community and Technical College System, 1900004761; KET Foundation, 2000000506.

DEPARTMENT OF JUVENILE JUSTICE

Eastern Kentucky University, 1900000322.

ECON DEV - OFFICE OF THE SECRETARY

University of Kentucky Research Foundation, 1900003442.

HORSE RACING COMMISSION

University of Kentucky Research Foundation, 1900002363.

TRANSPORTATION - OFFICE OF THE SECRETARY

Pike County Health Department, 1800001448.

THE FOLLOWING FILM TAX INCENTIVES WERE REVIEWED WITHOUT OBJECTION:

TOURISM - OFFICE OF THE SECRETARY

Stargazer 2019b, LLC, 2000001792; Wyckoff Film Company, LLC, 2000002602; Stargazer 2019c, LLC, 2000002644; Stargazer 2019d, LLC, 2000002800.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT OF AGRICULTURE

Roy Wayne White, 2000001916; Wagner Consulting Group, Inc., 2000001917. Dana Feldman and Jason Glass discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed.

KENTUCKY COMMUNICATIONS NETWORK AUTHORITY

Ice Miller, 2000001702; Klein Law Group, PLLC, 2000001704. Jamie Link and Doug Hendrix discussed the contracts with the committee. A motion was made by Representative Booker to consider the contracts as reviewed. The motion failed due to the lack of a second. A motion was made by Senator Meredith to disapprove the contracts. Senator Hornback seconded the motion, which failed with Representative Booker, Representative Fugate, and Senator Wheeler voting no. Contract moves forward.

KY HOUSING CORPORATION

McBrayer, PLLC, 2020-37. Jeremy Ratliff discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Representative Hart seconded the motion, which passed with Senator Hornback and Senator Meredith voting no.

UNIVERSITY OF KENTUCKY

Baker Donelson Bearman Caldwell & Berkowitz PC, K20-149. Bart Hardin and Barry Swanson discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Pharmacy Education and Research Foundation, Inc., 2000001865. Tom Stratton and Katie Marks 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 with Senator Hornback and Representative Lee voting no.

MEDICAID SERVICES BENEFITS

Kentucky Transportation Cabinet, 2000001547.

Tom Stratton and Lee Guice discussed the contract with the committee. A motion was made by Representative Lee to defer the contract to the June meeting of the committee. Senator Meredith seconded the motion, which passed with Representative Booker voting no.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

#### OFFICE OF HEALTH DATA AND ANALYTICS

Multi, 1900003614. Tom Stratton and Edith Slone discussed the contract with the committee. A motion was made by Senator Wheeler to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

#### DISCUSSION OF MASTER AGREEMENTS

Joan Graham, Executive Director, Office of Procurement, Finance and Administration Cabinet and Astrud Masterson, Executive Director, Office of Administrative Services, Office of the Secretary were present to testify regarding six master agreements; 2000000491 Management Registry, Inc., 2000000492 Crown Services, Inc., 2000000493 Maxim Healthcare Services, Inc., 2000000494 Hudson Gate Partners, LLC, 2000000495 LOCUMTENENS.COM, and 2000000497 Judge Technical Services. The contracts provide health and welfare services to Kentucky citizens amid the COVID-19 pandemic in all 120 counties. Senator Meredith, Representative Lee, and Senator Wheeler asked questions.

#### EXEMPTION REQUESTS:

#### KENTUCKY INFRASTRUCTURE AUTHORITY

The Kentucky Infrastructure Authority requests and exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for the purpose of eight (8) Coal Severance Grant Projects for an extension of time only. A motion was made by Senator Meredith to grant the request to June 30, 2022. Representative Fugate seconded the motion, which passed without objection.

#### CABINET FOR HEALTH & FAMILY SERVICES

The Cabinet for Health and Family Services, Division of Procurement & Grant Oversight, on behalf of the Department for Public Health requests and exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for the purpose of the Kentucky WIC Modernization Technical Writing Contract. A motion was made by Senator Meredith to grant the request to June 30, 2020. Representative Fugate seconded the motion, which passed without objection.

#### KENTUCKY BOARD OF VETERINARY EXAMINERS

The Kentucky Board of Veterinary Examiners requests and exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the biennium for the purpose of hiring two new investigator contractors. A motion was made by Senator Meredith to grant the request to June 30, 2022. Representative Fugate seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 12:11 PM.

### ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

#### Minutes of the May Meeting of the 2020 Interim

May 12, 2020

##### Call to Order and Roll Call

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 12, 2020, at 1:00 PM, in Room 171 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; Senators Julie Raque Adams and Alice Forgy Kerr; Representatives Deanna Frazier and Mary Lou Marzian.

Guests: Todd Allen, Education Professional Standards Board, Department of Education; Stafford Easterling, Personnel Board; Larry Hadley, Board of Pharmacy; Leanne Diakov, Board of Medical Licensure; Julie Campbell, Board of Cosmetology; Morgan Ransdell, Board of Nursing; Clint Quarles, Department of Agriculture; Paulette Akers, Michael Mullins, Department of Natural Resources; Amy Barker, Department of Corrections; Heidi Schissler, Kevin Sharkey, Department for Public Advocacy; DJ Wasson, Department of Insurance; Max Fuller, Department of Housing, Buildings, and Construction; Kelli Rodman, Office of the Secretary; Julie Brooks, Department for Public Health; Laura Begin, Department for Community Based Services.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on Tuesday, May 12, 2020, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Educator Preparation

16 KAR 5:020. Standards for admission to educator preparation. Todd Allen, interim general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS

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

PERSONNEL: Personnel Board

101 KAR 1:325. Probationary periods. Stafford Easterling, general counsel, represented the board.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns. Larry Hadley, executive director, represented the board.

In response to a question by Co-Chair West, Mr. Hadley stated that the changes to this administrative regulation were to simplify the process for supervision of interns.

In response to a question by Representative Frazier, Mr. Hadley stated that a supervising pharmacist was required to be present in the building with an intern.

A motion was made and seconded to approve the following: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to clarify that a pharmacist intern, under the supervision and direction of a licensed pharmacist, shall practice pharmacy pursuant to KRS 315.010(22), with the exception that prior to dispensing, a pharmacist shall verify the accuracy and appropriateness to include drug utilization review and final product verification of the prescription or product dispensed. Without objection, and with agreement of the agency, the amendments were approved.

Board of Medical Licensure

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. Leanne Diakov, general counsel, represented the board.

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

Board of Cosmetology

201 KAR 12:030. Licensing, permits, and examinations. Julie Campbell, board administrator, represented the board.

In response to questions by Co-Chair West, Ms. Campbell stated that active duty military was intended to include reserves, National Guard, and veterans. The board did not have many military personnel utilizing these provisions.

In response to a general question by



Representative Frazier, Ms. Campbell stated that legislation would be required in order to amend place-of-service requirements. Statutory exemptions could not be expanded by administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 3 to restore language with the minimum number of hour requirements for curriculum for applicants licensed in other states to conform with KRS 317A.050; and (3) to amend Section 20 to update the Out of State Transfer Application and Limited Facility Permit Application to: (a) comply with the drafting requirements of KRS Chapter 13A; (b) correct fees; and (c) make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 12:060. Inspections.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 12:082. Education requirements and school administration.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 18, 32, and 33 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:100. Infection control, health and safety. A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4, 6, 7, 9 through 11, and 17 through 21 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to complete the definition for “porous”; and (3) to add Section 22, to establish requirements for autoclaves. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 12:140. School equipment.

In response to questions by Co-Chair West, Ms. Campbell stated that biometric provisions were to ensure that attempts at licensure were not fraudulent. The board had experienced instances of fraud. Biometric screening could be as simple as a fingerprint scan.

A motion was made and seconded to approve the following amendments: to amend Section 2

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

#### 201 KAR 12:260. Fees.

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

#### Board of Nursing

201 KAR 20:600. Standards for training programs for licensed certified professional midwives. Morgan Ransdell, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to add a definition for “preceptor”; and (3) to amend Section 8 to incorporate by reference the Core Competencies and Standards of Practice of the Midwives Alliance of North America forms. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 20:610. Approval process for training programs for licensed certified professional midwives.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to delete the definition for “preceptor.” Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 20:620. Licensing requirements for licensed certified professional midwives.

In response to a question by Senator Raque Adams, Mr. Ransdell stated that the board was not currently planning to lower the \$1,000 initial licensure and renewal fee; however, the board had the authority to reconsider the amount. The fee amount was based upon the cost of regulating a small number of licensees, which required implementation of a new electronic system. This fee was expected to impact approximately twenty (20) licensees. Senator Raque Adams stated that the fee seemed high and that she might ask the board to consider lowering it in the future.

In response to a question by Co-Chair West, Mr. Ransdell stated that the initial licensure fee for an RN was \$135. The corresponding renewal fee was sixty-five (65) dollars. Co-Chair West reiterated Senator Raque Adams concern about the high fee and the

possible need to revisit this issue in the future.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 and 7 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 20:630. Disciplinary actions for licensed certified professional midwives.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 20:640. Requirements for informed consent for licensed certified professional midwives.

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

#### 201 KAR 20:650. Licensed certified professional midwives permitted medical tests and formulary.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### 201 KAR 20:660. Licensed certified professional midwives duty to report.

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, 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.

#### 201 KAR 20:670. Licensed certified professional midwives consultation, collaboration, and referral provisions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:680. Licensed certified professional midwives client records.

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

201 KAR 20:690. Licensed certified professional midwives transfer guidelines.

In response to questions by Senator Raque Adams, Mr. Ransdell stated that transfer provisions related to the hand-off of a patient with home-delivery complications to an emergency room of a hospital. The transfer provisions were developed by the midwife as a contingency and were a component of the plan of care. There was communication between the midwife and the hospital in developing the plan. The plan specifications depended on the complications of the individual delivery. Senator Raque Adams stated that the provisions seemed to need clarification in the future.

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

DEPARTMENT OF AGRICULTURE: Office of the Commissioner: Livestock Sanitation

302 KAR 20:012. Repeal of 302 KAR 020:030, 302 KAR 020:050, 302 KAR 020:052, 302 KAR 020:66, 302 KAR 020:090, 302 KAR 020:100, and 302 KAR 020:150. Clint Quarles, counsel, represented the department.

302 KAR 20:013. Repeal of 302 KAR 020:110, 302 KAR 020:115, 302 KAR 020:120, 302 KAR 020:130, 302 KAR 020:140, 302 KAR 020:180, 302 KAR 020:185, and 302 KAR 020:261.

302 KAR 20:014. Repeal of 302 KAR 020:070.

Office of the State Veterinarian: Livestock, Poultry, and Fish

302 KAR 22:130. Equine.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 7, 10 through 12, and 14 through 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 22:150. Cervids.

In response to questions by Co-Chair West, Mr. Quarles stated that the department worked closely with the Department of Fish and Wildlife Resources regarding the prevention of chronic wasting disease in cervids. Duplication of effort was not an issue because the Department of Fish and Wildlife Resources was responsible for the fence and the area beyond the fence perimeters, while the Office of State Veterinarian was responsible for regulation within the containment area up to the fence.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 14, 16, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Agricultural Marketing: Ginseng

302 KAR 45:010. Ginseng.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 4, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET:  
Department for Natural Resources: Division of Conservation: Administration

416 KAR 1:010. Administration of Kentucky Soil Erosion and Water Quality Cost-Share Fund. Paulette Akers, division director, and Michael Mullins, regulation coordinator, represented the division.

In response to a question by Co-Chair West, Ms. Akers stated that previous versions of this administrative regulation required that cost-share funds not spent be returned to the division. It was often difficult to get that money returned. In the late 1990s or early 2000s, the division began reimbursing unspent funds directly to the district based on farmers' receipts.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 8 and 10 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to establish that: (a) cost-sharing assistance applicants shall complete management practices within one (1) year of approval; (b) upon request, the division shall grant a six (6) month extension; and (c) after two (2) extensions have been granted and expired, the landowner shall forfeit the right to cost-sharing assistance funds. Without objection, and with agreement of the agency, the amendments were approved.

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

501 KAR 6:020. Corrections policies and procedures. Amy Barker, assistant general counsel, represented the department. Kevin Sharkey, attorney, Kentucky Protection and Advocacy, appeared in opposition to this administrative regulation.

In response to questions by Co-Chair West, Ms. Barker stated that this administrative regulation represented the department's annual or biannual review of standard policies. The department was updating various policies, including a broad range of topics.

In response to questions by Co-Chair West, Mr. Sharkey stated that Kentucky Protection and Advocacy provided legal services for the protection of the rights of individuals with disabilities. CPP 5.1 currently prohibited medical testing on inmates. This proposed version reversed that prohibition. Kentucky Protection and Advocacy preferred to maintain the prohibition; however, if the prohibition was being reversed; due to the disproportionate number of inmates with diminished capacity, the coercive nature of incarceration, and historical abuses; an exclusion should be included for those with diminished decision-making capacity, mental illness, or traumatic brain injury. The proposed exclusion was only for inmates with intellectual disabilities. Participation in medical testing should be only voluntary. CPP 13.13 also needed amendment. Kentucky Protection and Advocacy was opposed to placing inmates with serious mental illness in solitary confinement. The Eighth Amendment (US Constitution) prohibited cruel and unusual punishment. The US Supreme Court has held that the Eighth Amendment (US Constitution) prohibited prison officials from disregarding known substantial risks of serious harm. Solitary confinement was dangerous for inmates with serious mental illness and often caused existing conditions to clinically deteriorate, including, for example, increased anxiety, depression, anger, cognitive disturbances, obsessive thoughts, psychosis, and suicidal thoughts. One of the nation's top experts in mental health has stated that solitary confinement of inmates with serious mental illness was an extreme hazard to their mental health, causing irreparable emotional damage, psychiatric disability, extreme mental anguish, and suffering. In some cases, these inmates were at higher risk of self-injury or suicide. Solitary confinement was in opposition to evolving norms. Numerous medical and governmental organizations agreed. Several court decisions determined that this practice constituted a violation of the Eighth Amendment (US Constitution.) Kentucky Protection and Advocacy preferred a prohibition against solitary confinement of inmates with serious mental illness but, if absolutely necessary, that confinement should occur only with supports, such as meaningful human interaction, purposeful activities, out-of-cell time, and adequate mental health services.

In response to questions by Co-Chair West, Ms. Barker stated that the department had mental health staff and multidisciplinary teams to manage inmates with mental health issues. Solitary confinement was sometimes necessary due to the age of Kentucky's

facilities, staffing limits, and budgetary restraints. The change to CPP 5.1 was initiated by clinical trial partners that needed inmates for medical trials. Coercion was not a factor. Medical testing prohibitions were being lifted because federal prohibitions had changed. Medical testing included research of all sorts, not just clinical testing. The department's agency amendment addressed concerns about consent but did not go as far as Kentucky Protection and Advocacy preferred. All studies were voluntary.

In response to a question by Representative Frazier, Ms. Barker stated that most of the trial partners were university affiliates. A mentally ill inmate would be unable to voluntarily consent.

In response to questions by Representative Marzian, Ms. Barker stated that department facilities had psychologists available. An inmate in need of services could make a request to any staff member. There was a triage process for receiving care. Ms. Barker stated that she was unaware what services would be available to inmates released due to coronavirus.

In response to questions by Co-Chair West, Mr. Sharkey stated that the department's amendment to CPP 5.1 only applied to inmates with intellectual disabilities and did not go far enough to protect inmates with diminished decision-making abilities for other reasons such as mental illness or traumatic brain injury. CPP 13.13 also did not go far enough in protecting inmates with serious mental illness from the possible damaging effects of solitary confinement.

In response to a question by Co-Chair West, Ms. Barker stated that the department agreed to continue working with Kentucky Protection and Advocacy regarding these policies. Co-Chair West stated that these issues may also be addressed at the subject matter committee.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 and the material incorporated by reference to: (a) clarify various provisions; (b) correct statutory citations; (c) update edition dates; and (d) comply with the drafting requirements of KRS Chapter 13A; (2) to amend CPP 5.1, Research, Surveys, and Data Requests, to establish screening procedures for inmates suspected of having an intellectual disability; and (3) to amend CPP 13.13, Behavioral Health Services, to clarify housing procedures for: (a) inmates whose current mental health situation does not permit successful placement in general population; and (b) inmates presenting with severe mental illness. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: Pupil Transportation

702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training. Todd Allen, interim general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2, 4, 5, 7, 9, 12, and 19 to

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

Office of Learning Support Services

704 KAR 7:090. Homeless children and youth education program and ensuring educational stability of children in foster care.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:025. Credit for reinsurance. D. J. Wasson, executive advisor, represented the department.

In response to a question by Co-Chair West, Ms. Wasson stated that this administrative regulation did not relate to stacking.

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, 3 through 11, 14, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to add a definition. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings, and Construction: Division of Plumbing: Plumbing

815 KAR 20:191. Minimum fixture requirements. Max Fuller, deputy commissioner, represented the division.

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

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Epidemiology and Health Planning: Communicable Diseases

902 KAR 2:065. Immunization requirements for long-term care facilities. Kelli Rodman, executive director, and Julie Brooks, regulation coordinator, represented the division.

In response to questions by Co-Chair West, Ms. Brooks stated that the division required long-term facilities to offer pneumococcal vaccines to residents and staff. Changes included provisions for planning for illnesses. These changes aligned requirements with the division's other administrative regulations. The outbreak data reporting requirement changes pertained to the forms and the process for making a report. This administrative regulation was initially filed prior to the coronavirus outbreak.

In response to a question by Representative Frazier, Ms. Brooks stated that the division didn't mandate the vaccinations but required them to be available and offered.

A motion was made and seconded to approve the following amendment: to amend Section 2 to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

Department for Community Based Services: Division of Child Care: Day Care

922 KAR 2:090. Child-care center licensure. Kelli Rodman, executive advisor, and Laura Begin, regulation coordinator, represented the division.

In response to a question by Co-Chair West, Ms. Begin stated that these administrative regulations were initially filed prior to the coronavirus outbreak. These provisions were intended to assist child-care providers with hiring and maintaining required staff by providing for temporary, contracted substitute staff. Deadlines for required training for child-care staff were streamlined.

Day Care

922 KAR 2:100. Certification of family child-care homes.

A motion was made and seconded to approve the following amendment: to amend Section 11 for consistency with 922 KAR 002:090. Without objection, and with agreement of the agency, the amendment was approved.

The following administrative regulations were deferred or removed from the May 12, 2020, subcommittee agenda:

SECRETARY OF STATE: Notary Public

30 KAR 8:005 & E. Notary Public applications and electronic and online registrations.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:230. Special limited pharmacy permit – Central Fill.

Board of Dentistry



201 KAR 8:550. Anesthesia and sedation.

201 KAR 8:590. Teledentistry.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:555. Ground agencies.

DEPARTMENT OF AGRICULTURE: Office of the Consumer and Environmental Protection: Egg Marketing

302 KAR 10:011. Repeal of 302 KAR 010:010, 302 KAR 010:020, 302 KAR 010:030, 302 KAR 010:040, 302 KAR 010:050, 302 KAR 010:060, 302 KAR 010:070, 302 KAR 010:080, and 302 KAR 010:090.

302 KAR 10:015. Egg grading and classification.

302 KAR 10:025. License application, refusal, revocation, suspension, and appeals.

302 KAR 10:100. Refrigeration of eggs and temperature requirements.

Office of the State Veterinarian: Livestock, Poultry, and Fish

302 KAR 22:050. Stockyards.

Office of Agricultural Marketing: Industrial Hemp

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

302 KAR 50:020. Policies and procedures for hemp growers.

302 KAR 50:030. Policies and procedures for hemp processors and handlers.

302 KAR 50:055. Sampling and THC testing, post-testing actions, disposal of noncompliant harvests.

302 KAR 50:060. Fees for the Hemp Licensing Program and forms.

LABOR CABINET: Department of Workplace Standards: Division of Safety and Health Compliance: Division of Safety and Health Education and Training: Occupational Safety and Health

803 KAR 2:180. Recordkeeping, reporting, statistics.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Flat and Steeplechase Racing

810 KAR 4:030. Entries, subscriptions, and declarations.

Standardbred Racing

810 KAR 5:060. Entries and starters.

810 KAR 5:070. Running of the race.

Incentive and Development Funds

810 KAR 7:040. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund.

Medication Guidelines

810 KAR 8:010. Medication; testing procedures; prohibited practices.

810 KAR 8:070. Bisphosphonates.

Harness Racing

811 KAR 1:250. Exotic wagering.

CABINET FOR HEALTH AND FAMILY SERVICES: Kentucky Health Program: Medicaid Services

895 KAR 1:002E. Repeal of 895 KAR 001:001, 895 KAR 001:010, 895 KAR 001:015, 895 KAR 001:020, 895 KAR 001:025, 895 KAR 001:030, 895 KAR 001:035, 895 KAR 001:040, 895 KAR 001:045, 895 KAR 001:050, and 895 KAR 001:055.

Office of Inspector General: Division of Certificate of Need: Certificate of Need

900 KAR 6:075 & E. Certificate of need nonsubstantive review.

DEPARTMENT FOR PUBLIC HEALTH: Division of Healthcare: Health Services and Facilities

902 KAR 20:036. Operation and services; personal care homes.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability.

The subcommittee adjourned at 2:20 p.m. The next meeting of the subcommittee is tentatively scheduled for June 9, 2020, at 1 p.m.

## EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

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

June 11, 2020

#### Call to Order and Roll Call

The 2nd meeting of the Education Assessment and Accountability Review Subcommittee was held on Thursday, June 11, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Brandon Reed, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Brandon Reed, Co-Chair; Senators Alice Forgy Kerr, Gerald A. Neal, and Mike Wilson; Representatives Tina Bojanowski, Regina Huff, and Steve Riley.

LRC Staff: Joshua Collins, Lauren Busch, and Christal White.

Guests: Todd Allen, Interim General Counsel, KDE; Rhonda Sims, Associate Commissioner of Assessment and Accountability; David Couch, Associate Commissioner, KDE Office of Technology, Associate Commissioner; Michael Hackwork, Policy Advisor, Office Assessment and Accountability; DeDe Conner, Director of School Data Services Division, KDE; Whitney Crowe, Executive Advisor to the Office of Continuous Improvement and Support, KDE; and Jessica Carlton, Office of Finance and Operations, KDE.

Todd Allen, Interim General Counsel, KDE, gave an overview of the proposed regulation, 703 KAR 5:140, the requirements for school and district report card. The amendment to this regulation clarified several definitions, updated statutory and regulatory references, and aligned the regulation with state and federal law requirements. Mr. Allen said school and district accountability ratings were removed from the regulation, although schools are required to publish their ratings on school and district websites. The department also publishes school and district ratings on KDE's website.

Rhonda Sims, Associate Commissioner of Assessment and Accountability, said the regulation affects five offices within KDE in capturing the federal requirements. The report card contains definitions, requirements on the school- and district-level report card, data verification, and publications. Mr. Allen said the components of the report card provide a means for parents to get detailed, private information via the Parent Portal. Another component is available for researchers who desire more detail. However, the primary purpose is focused on parents and students.

Michael Hackwork, Policy Advisor, Office Assessment and Accountability, said the number of assaults on teachers or students was previously collected and continues to be collected and reported.

In response to a question from Representative Bojanowski, Ms. Sims said the dashboard is shown within the school report card and follows statutory language in SB 158 as passed during the 2020 Regular Session.

Mr. Allen said regulation 703 KAR 5:270, Kentucky's Accountability System, encompassed both

state and federal requirements. The United States Department of Education (USDE) required KDE to include all Grade 12 students as part of the transition readiness indicator for their approval to the Kentucky's consolidated plan. Ms. Sims said Kentucky's transition readiness has included only graduates in the past; however USDE requires all Grade 12 students in the country, whether or not a diploma was earned, to be calculated into the transition readiness indicator formula.

Responding to a question from Representative Bojanowski, Ms. Sims said some students may meet benchmarks through the ACT or through other options and said her staff would provide the percentage of graduating students meeting benchmark scores set forth by the Council of Postsecondary Education (CPE). Ms. Sims said the percentage is not incredibly high for students meeting all categories based on the ACT only and said flexibility in the regulations allow students to demonstrate their talents in a variety of ways other than test results.

On a motion by Senator Kerr and a second by Representative Bojanowski, the minutes of the February 7, 2020 meeting were approved by voice vote.

The next meeting of the EAARS committee will be July 7, 2020 at 3 p.m.

There being no further business, the meeting adjourned at 9:20 a.m.

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

### **Minutes**

May 19, 2020

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

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, May 19, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

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

Guests: Katie Smith, Commissioner, Department for Financial Services, Cabinet for Economic Development; Ryan Barrow, Executive Director, Office of Financial Management; and Bart Hardin, Director of Government Relations, University of Kentucky.

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

#### **Approval of Minutes**

Representative Rudy moved to approve the April 14, 2020 meeting minutes. Representative Pratt seconded the motion and the committee approved the minutes by voice vote.

#### **Correspondence Items**

The Council on Postsecondary Education reported full council approval of Western Kentucky University's Reconfigure Health Science Classrooms project approved by the committee at the May

meeting.

Pursuant to KRS 45.800(2), the committee notified the Finance and Administration Cabinet that it did not approve the lease modification for the Transportation Cabinet's REAL ID driver's license office space in Warren County. Pursuant to KRS 45.800(4), the Finance and Administration Cabinet notified the committee that it renegotiated the lease modification.

#### **Information Items**

Pursuant to KRS 45.760(5), UK HealthCare reported an \$800,000 restricted funds purchase of a gamma knife radiosurgical device reload for Chandler Hospital.

Pursuant to KRS 45.812(1), the Barren County school district reported an anticipated \$15.795 million energy conservation debt issue for which energy savings will cover just over half of the debt service. The district did not need to levy an additional tax to pay debt service.

Pursuant to KRS 45A.077(6), the University of Kentucky reported the issuance of a Request for Proposal utilizing the Public-Private Partnership delivery method for the Construct Research/Incubator Facility project on Coldstream Research Campus.

Project Report from the Finance and Administration Cabinet

Pursuant to Part II(4) of the executive branch appropriations bill, the Finance and Administration Cabinet through the Office of State Budget Director, reported a \$2.9 million restricted funds Fees-in-Lieu-of (FILO) Stream Mitigation Projects Pool allocation to the Tourism, Arts and Heritage Cabinet, Department for Fish and Wildlife, for the construction phase of the Ross Creek 20,716 linear feet restoration.

Project Report from the Office of Financial Management

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

Ms. Smith submitted two Economic Development Fund (EDF) grants for the Cabinet for Economic Development (CED). Representative Thomas moved to roll the grants into one roll call vote, seconded by Senator Mills, and approved by voice vote.

The first was \$1.5 million, disbursed annually over four years based upon achieved performance requirements included in the grant agreement, to the Ballard County Fiscal Court for the benefit of Phoenix Paper Wickliffe. The company is restarting a mill in Wickliffe and converting it to a pulp and brown paper packaging facility. CED will review compliance with the job and wage requirements annually beginning December 31, 2023, after which it will disburse the grant funds. The company will be required to create at least 500 new full-time Kentucky resident jobs paying an average hourly wage of \$33, including benefits, by December 31, 2026.

In response to Senator McDaniel, Ms. Smith said the State Property and Buildings Commission issues tax-exempt debt to provide EDF program cash. EDF funds will be disbursed to Ballard County, who will then disburse the funds to Phoenix Paper. If Phoenix Paper has to repay the grant, then the funds will go to Ballard County to avoid SPBC debt arbitrage.

Senator McDaniel said he preferred economic development incentive funding disbursements after the beneficiary meets compliance benchmarks rather than upfront. Representative Rudy said he was very supportive of the project, spanning across two administrations and located in the heart of his district, and that he grew up with the paper mill.

The second was \$500,000 to the City of Elizabethtown for the benefit of the Elizabethtown-Hardin County Industrial Foundation for site work and utilities at T.J. Patterson Industrial Park. The City, in partnership with the Industrial Foundation, will provide a full match for the grant. This project is one of eight recommended by an independent site consultant to receive Kentucky Product Development Initiative program funds, administered in conjunction with the Kentucky Association for Economic Development, to upgrade industrial sites. Disbursements of grant funds will occur on a reimbursement basis to local governments after CED reviews the required supporting documentation.

Senator Mills said that he will be voting no on approval items submitted to the committee to express his disappointment in Governor Beshear's actions in response to the COVID-19 pandemic and stated his intent to either sponsor or cosponsor legislation proposing a constitutional amendment to allow the legislature to call itself into an extraordinary session.

Representative Rudy moved to approve the grants, seconded by Senator McDaniel, and approved by a roll call vote of six yes votes and one no vote.

#### **Municipal Liquidity Facility Overview**

Mr. Barrow discussed the Municipal Liquidity Facility (MLF), the Federal Reserve's mechanism to provide cash flow to municipalities in response to delayed revenues, often to the next fiscal year, with the COVID-19 income tax filing deadline extensions. The state as well as Louisville and Lexington may borrow directly. For smaller municipalities, the state would need to borrow and then extend the credit to that municipality. To date, the state has neither secured the debt of nor lent directly to local governments.

Eligible issuers may access the facility through December 31, 2020 to issue the notes, maximum maturity of three years, either on a taxable or tax-exempt basis through either competitive or negotiated sale. Given the MLF's relatively high pricing structure, it is more cost effective for most states, including Kentucky, to issue notes directly through the capital markets. Issuers are also looking to local banks for cash flow. Kentucky can borrow internally between its four investment pools with aggregate balances between three and four billion dollars.

In response to Senator McDaniel, Mr. Barrow said the state can borrow within a fiscal year without general assembly action [KRS 56.866(3)] through the Kentucky Asset/Liability Commission. Through the MLF program, eligible notes are bond anticipation notes, revenue anticipation notes, tax anticipation notes, tax and revenue anticipation notes, and other similar short-term notes. Mr. Barrow said that if the state borrows to extend credit to municipalities, then it would be obligated to repay the debt if the municipality defaults.

#### **New Debt Issues**

Mr. Barrow submitted two new debt issues.

Representative Rudy moved to roll the new debt issues into one roll call vote, seconded by Representative Thomas, and approved by voice vote.

The first debt issue was for the SPBC Revenue Bonds, Project No. 124 to finance \$150 million of various remaining capital projects authorized in appropriations bills. The \$150 million is consistent with other SPBC capital project financings. The estimated all-in-true interest cost is 3.13 percent; however, interest rates are volatile.

The second debt issue was the University of Louisville General Receipts, 2020 Series A and B. The estimated \$87 million aggregate competitively financed transaction will finance two residence halls and associated costs of issuance. Series A, comprised of about half of the \$87 million, will finance the first residence hall (replacement of Miller Hall – Phase I) at 3.54 percent. Series B, comprised of the other half of the \$87 million, will be sold at a later date to finance the second residence hall (replacement of Threlkeld Hall – Phase II). The issuance will be thirty rather than twenty years with interest capitalized during construction, to lessen student fee increases. A postsecondary debt transaction typically takes at least three months to execute; therefore, UofL is obtaining the usual approvals despite COVID-19, particularly as the existing facilities are obsolete.

Senator McDaniel referenced Moody's fall 2019 credit opinion which mentioned endowment amounts, increased risk with its KentuckyOne Health asset acquisition, thin liquidity, and narrow operating margins. He said that while the president is doing good things, he is concerned about the university potentially overcommitting itself.

Senator Carroll moved to approve the debt issues, seconded by Representative Rudy, and approved by a roll call vote of six yes votes and two no votes.

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

Mr. Barrow submitted four new school district (Barren County, Fayette County, Harlan Independent (Harlan County), and Jefferson County) debt issues with SFCC debt service participation, for which none of the school districts needed to levy an additional tax to pay debt service. Representative Sorolis moved to roll the school district debt issues into one roll call vote, seconded by Representative Rudy, and approved by voice vote.

Of the just above \$194 million total anticipated issuance amount for new projects, SFCC \$19 million participation around 9.7 percent and \$175 million local participation around 90 percent. Harlan Independent's transaction has a \$735,000 refunding component, SFCC participation around 37 percent and local participation around 63 percent.

Senator McDaniel said he was voting no due to the current economic environment, noting Jefferson County Public School's \$23 million projected occupational tax revenue loss due to COVID-19.

Representative Thomas moved to approve the school district debt issues, seconded by Representative Rudy, and approved by a roll call vote of six yes votes and two no votes.

Lease Report from the University of Kentucky

Mr. Hardin submitted three new UK HealthCare leases. Representative Rudy moved to roll the leases into one roll call vote, seconded by Senator Carroll, and approved by voice vote.

The first lease was for UK HealthCare Philanthropy, consolidating existing and additional staff. The \$188,600 annual rental cost will be paid from hospital and philanthropy revenues.

The second lease was for UK HealthCare eICU, providing increased space as the virtual ICU project moves from the demonstration phase to full implementation with 24/7 remote monitoring (detecting changes in patient status) of all ICU patients, enhancing patient care and augmenting staffing.

The third lease was for UK HealthCare Bluegrass Care Clinic, expending funds generated by the Kentucky AIDS Drug Assistance Program [housed in UK's Retail Pharmacy Department] through 340B Program pricing savings and insurance payments in conjunction with the Kentucky Department of Public Health. UK is expanding the Bluegrass Care Clinic to accommodate the 30 percent increased patient demand. [The Clinic will also provide Kentucky Income Reinvestment Program, established to improve healthcare for existing HIV patients and prevent new HIV infections, services]. The space is located in Beaumont Center off of Harrodsburg Road with a \$634,500 annual rental cost.

In response to Representative Thomas, Mr. Hardin said that, factoring COVID-19, all three leases will benefit UK Healthcare; Philanthropy due to decreased revenues, eICU due to potential increase in patients, and Bluegrass Care Clinic as pharmaceutical AIDS treatment is still a necessity.

Senator McDaniel noted that UK HealthCare continues to be a bright spot throughout the commonwealth. In response to Senator McDaniel, Mr. Hardin said UK, anticipating a surge in COVID-19 cases, contracted for leased equipment and services to convert Nutter Field House into a field hospital and that UK HealthCare planned to provide the doctors, nurses, staff, and laboratory services. UK procured bids and Emergency Disaster Services was the only respondent able to provide a turnkey facility without having to subcontract. EDS also set up field hospitals in several other states. UK requested reimbursement from the federal government for expenses.

In response to Representative Pratt, Mr. Hardin said that he was fairly certain that the UK HealthCare team and personnel evaluating the bids made the final decision to contract with EDS. EDS may have submitted the lowest bid even though it did not have to subcontract.

In response to Senator Carroll, Mr. Hardin said that EDS was the only vendor to submit a bid for full services.

In response to Senator Girdler, Mr. Hardin said the final amount to EDS will be around \$6.7 million. If UK extended the contract, then there would have been substantial increases.

Senator Carroll noted the statistical justification for field hospitals based upon the trajectory of the virus. Senator Girdler noted the overall expenditures based upon the statistical models.

Senator McDaniel moved to approve the new

leases, seconded by Senator Carroll, and approved by a roll call vote of seven yes votes and one no vote.

Senator Girdler announced upcoming meeting dates and times: June 25, 2020, 12:00 p.m.; July 22, 2020, 12:00 p.m.; and August 19, 2020, 3:00 p.m.

With there being no further business the meeting adjourned at 1:54 p.m.

## Police Reform, from page 3

Committee Co-chair Sen. Whitney Westerfield, R-Crofton, said the testimony of James and Keturah Herron of the American Civil Liberties Union was an opportunity to provide a platform for the pair to speak about the events surrounding Taylor's death.

The 26-year-old EMT was fatally shot by police after officers entered her home in the early morning hours of March 13 on a "no-knock" warrant in connection with a narcotics investigation. An officer was shot by Taylor's boyfriend who has maintained he thought he was shooting at robbers – and not the police. No drugs were found in the home, and charges in connection to the shooting of the officer have been dismissed.

"We are not going to take questions," West-erfield said to the committee members, some of whom participated via video chat. "We are not going to comment or make statements. I'll save that for each of you in your own district in your own way and in your own time. This is a time for us to listen. We need to hear what needs to be said from these two fine professional folks."



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