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Lawmakers discuss COVID-19 transportation guidelines for schools

by Jordan Hensley

FRANKFORT – Last month, the Interim Joint Committee on Education heard testimony from educators advocating for clearer guidelines and more flexibility and autonomy when it comes to reopening schools.

This month, the Kentucky Department of Education (KDE) shared their COVID-19 transportation guidelines with committee members for schools that grant individual school districts flexibility.

“We are encouraging districts to use a good faith effort to use that social distancing where it is feasible and practical to do so,” Robin Kinney, associate commissioner for KDE, said during a Sept. 15 committee meeting.

KDE worked with the Kentucky Department for Public Health and utilized Centers for Disease Control and Prevention guidelines when drafting its guidelines for Kentucky schools, according to Kinney’s presentation.

Taking many factors into consideration, such as school district size and finances, social distancing with one child per seat every other seat is ideal, Kinney said. However, for districts where this is a challenge, other mitigating strategies can be used if bus capacity cannot be kept low.

Those mitigation strategies include requiring students to wear masks, check their temperatures prior to boarding the bus and using hand sanitizer, according to Kinney’s presentation.



Sen. Reginald Thomas, D-Lexington, asks a question during the Sept. 15 meeting of the Interim Joint Committee on Education.

Loading buses from back to front if possible as well as cleaning the buses between uses is also recommended. Assigned seating is also recommended in the event a child on a bus tests positive for COVID-19 and contact tracing is needed, Kinney said.

“It will really be a district decision,” Kinney said.

Sen. Stephen Meredith, R-Leitchfield, said he appreciated the flexibility the districts have in implementing the transportation guidelines.

“I just appreciate the flexibility in this and recognizing every school system is different and we have unique challenges,” Meredith said.

Sen. Stephen West, R-Paris, expressed concerns about how struggling school districts will be able to afford to implement the guidelines.

Kinney said Coronavirus Aid, Relief and Economic Security (CARES) Act funds the school districts received can be used to offset the cost.

Testimony outlines pandemic concerns in long term care facilities

by Jordan Hensley

FRANKFORT – Emotions ran high during testimony on the COVID-19 death rate in long term care (LTC) facilities during the August 26 Interim Joint Committee on Health, Welfare and Family Services meeting.

Betsy Johnson, president and executive director of the Kentucky Association of Health Care Facilities (KAHCF) and Kentucky Center for Assisted Living (KCAL), shared data showing that more than half of Kentucky's COVID-19 related deaths have occurred in LTC facility residents.

“COVID deaths in long term care settings have nothing to do with the quality of the facility,” Johnson said. “Some of the hardest hit facilities here in Kentucky are our best facilities. Facilities I have recommended to my parents. Finally, we still need help. We need a lot of help, mainly funding to retain our workforce, which has been decimated.”

More funding is also needed for personal protective equipment and additional COVID-19 testing, Johnson added. According to her presentation, the top three reasons why staff have quit are: fear of contracting COVID-19, childcare needs and fear of exposing high-risk individuals at home.

At the beginning of the pandemic, KAHCF and KCAL sent a request to Gov. Andy Beshear for a Medicaid rate add-on of \$55 per Medicaid resident per day, according to Johnson. In April, the organizations learned their request was denied but facilities would receive an additional \$270 for COVID-19 positive beds only.



Rep. Kimberly Poore Moser, R-Taylor Mill, asks a question about how long term care facilities in other states are addressing the COVID-19 pandemic during an August 26 meeting. Moser is co-chair of the Interim Joint Committee on Health, Welfare and Family Services.

Johnson said the additional funding decisions made by the state have not been adequate enough to address the issues LTC facilities are facing.

After a question from committee co-chair Sen. Ralph Alvarado, R-Winchester, about how LTC facilities are addressing an outbreak, Johnson claimed there's been issues with working with local health departments and the state department for public health.

“There's a lot of ‘you shall do this,’ rather than, you know, understanding that our skilled nursing facilities have been managing infectious disease in their buildings way before COVID,” Johnson said. “They care for these individuals and it's not a one size fits all kind of solution. So it would be nice to have more of a listen to what we need and you all provide support rather than dictating what should happen inside that building.”

Mackenzie Longoria, the director of public policy with the Greater Kentucky & Southern Indiana Alzheimer's Association, and Johnson also put in a request for the Cabinet for Health and Family Services to hire full-time coordinators on dementia and long term care facilities to advise the state in operations and to aid in securing grant funding.

“I think we've also noticed that there's been a serious lack of understanding of how skilled nursing facilities operate during the COVID-19 pandemic,” Johnson said.

Committee co-chair Rep. Kimberly Poore Moser, R-Taylor Mill, stated she was supportive of Longoria and Johnson.

“I think that's a great idea,” Moser said. “And I think this all really highlights the need for that — the inadequacy of the funding or the application of the funding just being inappropriate or not taking the time to listen to those who are in the trenches is what bothers me.”

Although there have been some issues addressing the pandemic in LTC facilities, Johnson said expansion of telehealth has been extremely helpful as well as state and federal government waiving some regulatory requirements.

Lawmakers express concerns over proposed increase in food manufacturing fees

by Jordan Hensley

FRANKFORT— Lawmakers spoke out against proposed changes to the permit and fee structure for food establishments and food manufacturing businesses during the Sept. 17 meeting of the Interim Joint Committee on Agriculture.

“I’m extremely concerned about our small farmers,” Rep. Joe Graviss, D-Versailles, said.

In June, the Kentucky Department for Public Health filed the proposed Kentucky Administrative Regulation changes. The public comment period for the proposal ended Aug. 31.

According to Julie Brooks, regulation coordinator for the Department for Public Health, the department received more than 400 comments on the proposed regulation changes with most of the submissions expressing concern over the increase in fee amounts.

Originally, the new fee structure was based on risk of the food being produced or stored instead of square footage of the facility. Brooks said after reviewing the submitted comments, a fee structure based on risk and income is in the works.

A suggested revision to the original proposal would require food manufacturers whose income is under \$100,000 and are at the highest risk level to pay \$400 per year. Currently facilities 1,000 square feet and under pay \$120 while the larger facilities pay up to \$600 per year.

The suggested revisions to the original proposal show some food manufactures, depending on income and risk level, could pay hundreds more in fees in 2021 if the changes are approved.

“I think it goes against the spirit and the intent of (House Bill) 129 to protect our farmers,” Graviss said. “Some of the fees they’re going to experience, the increase is more than their income for the year.”

HB 129, dubbed a “public health transformation” by lawmakers, was an effort to improve Kentucky’s public health system through new funding models and operational changes. The bill passed early on in the 2020 legislative session. The bill had bipartisan support.

Brooks said the bill allows for these fee increases. Some lawmakers, such as committee co-chair Sen. Paul Hornback, R-Shelbyville, and Rep. Nancy Tate, R-Brandenburg, questioned whether the Department for Public Health of was taking advantage of the fee increase perimeters set by HB 129.

Sen. Stephen West, R-Paris, called the proposed fee increase “poorly conceived.” Other lawmakers pointed out the proposal comes at a time when many small businesses are facing financial hardship due to the COVID-19 pandemic.

Rep. Brandon Reed, R-Hodgenville, called the income tiers “unfair.”

“That tier two seems like a wide swath there between \$100,000 plus up to \$1 million,” Reed said, adding it is not fair for someone making \$100,000 to be held to the same standard as someone making \$990,000.

Legislative panel briefed on general election costs

By Jim Hannah

Frankfort – Kentucky’s top election official is estimating \$5.42 million in cost overruns associated with running November’s general election.

“I know that is a lot of money, especially right now, but I believe that is a bargain for a successful presidential election held during a pandemic,” Kentucky Secretary of State Michael Adams said while testifying before the Sept. 16 meeting of the Interim Joint Committee on Appropriations & Revenue.

Adams said the overruns would have been greater without \$4.5 million in federal relief aid leftover from May’s primary.

Rep. Lynn Bechler, R-Marion, asked how the estimated overruns compare to prior presidential elections. Adams said it historically costs Kentucky \$10 million to run an election. He said the extra expenses associated with the upcoming election range from \$4 million to cover postage for more absentee ballots to \$500,000 in miscellaneous costs, including the purchase of 1.2 million ink pens for one-time voter use.

Rep. Wilson Stone, D-Scottsville, asked when results of the general election in Kentucky would be released. Adams forecasted Kentucky would have 75 percent to 80 percent of the votes counted on election night. He added that results would come in quicker than during the primaries because of more in-person voting and additional processes to speed up the counting of absentee votes.

“We are not going to have final results election night,” Adams said. “They are going to be unofficial ... but it will be enough for us to project some outcomes and give some finality to the candidates and voters.”

Rep. Myron Dossett, R-Pembroke, highlighted a mobile voting precinct in Hopkins County as a creative way clerks are engaging voters. Adams added other clerks plan to offer drive-through voting.

Sen. Michael J. Nemes, R-Shepherdsville, asked when voters will be notified where they can vote. Adams said he is still waiting for some of the larger counties to submit plans, but his goal is to have all voter locations finalized by Oct. 1.

McDaniel praised Adams’ efforts in recruiting younger poll workers. He said the average age of poll workers in Kenton County, where he lives, has traditionally been over 75.

“Thank you for acknowledging our success at getting younger poll workers,” Adams said. “I testified to the Interim Joint Committee on State Government last November ... that we had a poll worker crisis in our state. This is not a Kentucky-unique problem or a pandemic-unique problem.”

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LRC Publications 2020 Price List

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Regular Session: \$80.00 (2 Volumes)

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House Set, Senate Set: Priced after

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Legislative Research Commission Minutes of the 566th Meeting

September 9, 2020

Call to Order and Roll Call

The 566th meeting of the Legislative Research Commission was held on Wednesday, September 9, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Representative David Osborne, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: 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 John Bam Carney, Derrick Graham, Angie Hatton, Joni L. Jenkins, Chad McCoy, David Meade, and Suzanne Miles.

LRC Staff: Jay D. Hartz and Christy Glass.

Speaker Osborne called the meeting to order and asked for a Motion to approve the minutes of the May 13, 2020, meeting; accept as indicated items A. through J. under Staff and Committee Reports; approve items A. through X. under New Business; and accept and refer as indicated items through 1. through 28. under Communications.

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

MINUTES OF THE May 13, 2020 meeting.

STAFF AND COMMITTEE REPORTS

Committee Activity Reports since May 2020.

Report of the Administrative Regulations Review Subcommittee meetings on May 12, June 9, July 13, and August 11, 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meeting on June 4, 2020.

Committee review of the administrative regulations by the Education Assessment and Accountability Review Subcommittee during its meeting on June 11, 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Agriculture during its meeting on July 9, 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations during its meetings on July 30 and August 25, 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Local Government during its meeting on July 28, 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Judiciary during its meeting on August 20, 2020.

Committee review of the administrative regulations by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on August 26, 2020.

Committee review of the FY 21 Low Income Home Energy Assistance Program Block Grant Application by the Interim Joint Committee on Natural Resources and Energy during its meeting on July 9, 2020.

NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 141** (An act relating to cannabidiol products) to **Agriculture**; **BR 153** (An act relating to property taxes for veteran service organizations), **BR 159** (An act relating to a tax credit for volunteer firefighters), and **BR 226** (An act proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation) to **Appropriations and Revenue**; **BR 57** (An act relating to consumer protections in health insurance) and **BR 51** (An act relating to prescription insulin) to **Banking and Insurance**; **BR 152** (An act relating to state employment offices) to **Economic Development and Workforce Investment**; **BR 176** (A Joint Resolution relating to school accountability), **BR 236** (An act relating to the Kentucky Educational Excellence Scholarship) and **BR 283** (An act relating to bus operation safety) to **Education**; **BR 52** (An act relating to controlled substances), **BR 56** (A Concurrent Resolution calling for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes), **BR 77** (An act relating to implicit bias in perinatal care), **BR 86** (An act relating to Medicaid eligibility for individuals diagnosed with metastatic breast cancer), **BR 99** (An act relating to youth mental health protection and declaring an emergency), **BR 216** (An act relating to youth mental health protection and declaring an emergency) to **Health, Welfare, and Family Services**; **BR 22** (An act relating public protection), **BR 215** (An act relating to indemnification of prosecutors), and **BR 243** (An act relating to interpersonal violence) to **Judiciary**; **BR 140** (An act relating to welding safety) to **Licensing, Occupations, and Administrative Regulations**; **BR 162** (A Concurrent Resolution requesting state and local officials and the judiciary to dedicate resources and adopt practices to

preserve public investments) to **Local Government; BR 139** (An act relating to on-site sewage disposal systems), **BR 146** (An act relating to public water and wastewater), and **BR 147** (An act relating to soil conservation and making an appropriation therefor) to **Natural Resources and Energy; BR 41** (An act relating to emergencies), **BR 47** (An act relating to governmental emergencies), **BR 66** (An act relating to emergencies), **BR 70** (An act relating to state employee compensation), **BR 73** (An act relating to emergencies), **BR 96** (An act relating to statues and making an appropriation therefor), **BR 98** (An act proposing to amend Section 36 of the Constitution of Kentucky relating to time and place of meetings of the General Assembly), **BR 124** (An act relating to state holidays), **BR 127** (An act relating to state holidays), **BR 130** (An act relating to emergencies and declaring an emergency), **BR 149** (An act relating to actuarial analysis on retirement bills), **BR 157** (An act relating to election districts and making an appropriation therefor), **BR 158** (An act relating to transparency in campaign finance), **BR 180** (An act relating to state employee compensation), and **BR 225** (An act relating to actuarial analysis on retirement bills), and **BR 231** (An act proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly) to **State Government; BR 160** (An act relating to off-highway vehicles and making an appropriation therefor) to **Transportation; BR 68** (An act relating to Women Veterans' Day) to **Veterans, Military Affairs, and Public Protection.**

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving member attendance at interim meetings by teleconference.

From House Speaker David Osborne: Memorandum requesting approval to organize the Aerospace/Aviation Caucus.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum jointly appointing Mr. Tony Goetz to the Legislative Ethics Commission for a term expiring April 2024.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Representative Rachel Roberts to the Interim Joint Committee on Agriculture.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Representative Randy Bridges to the Interim Joint Committee on Local Government.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum creating and authorizing the 2020 Interim Task Forces and LRC Staff Study.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the authorization of and appointments to the 2020 Substance Use Recovery Task Force.

From Senate President Robert Stivers and House

Speaker David Osborne: Memorandum approving the authorization of and appointments to the 2020 Public Water and Wastewater System Infrastructure Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the authorization of and appointments to the 2020 Property Valuation Administrator's Office Task Force

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the authorization of and appointments to the 2020 Jail and Corrections Reform Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the appointment of Michael Wilson, representing the Secretary of State, to the 2019 Task Force on Electronic Recording of Official Documents by County Clerks.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the authorization of and appointments to the 2020 Exceptional Support Waiver Services Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Representative Kevin Bratcher to the Interim Joint Committee on Economic Development and Workforce Investment.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the authorization of and appointments to the 2020 Classification of Workers in the Construction Industry Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Senator C. B. Embry as acting Co-chair to the Interim Joint Committee on Veterans, Military Affairs, and Public Protection.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum regarding interim calendar changes.

David Osborne: Memorandum regarding the use of masks for members and visitors to the Capitol and Capitol Annex.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Russ Tilford, David Cox, Dr. Tim Bobrowski, and Thom Cochran as members to the Local Superintendents Advisory Council.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Senator Karen Berg to the Interim Joint Committees on Transportation; Economic Development and Workforce Investment; Tourism, Small Business, and Information Technology; and Veterans, Military Affairs, and Public Protection.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Steve Shannon as a member of the Jail and Corrections Reform Task Force.

From Senate President Robert Stivers and House

Speaker David Osborne: Memorandum appointing Darcy Mayer as a member of the 2019 Task Force on Electronic Recording of Official Documents by County Clerks.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Wendy Morris as a member of the 2020 Exceptional Support Waiver Services Task Force.

From Jay D. Hartz: Prefiling Deadlines for the 2021 Regular Session.

COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Reports for March, April, May, and June 2020. Pursuant to KRS 418.075(3).

From the Finance and Administration Cabinet: Investment Income Report for May, June, July, and August 2020. Pursuant to KRS 42.410.

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 10, 11, 12, and 13, and year-to-date activity for the period of July 1, 2019, through June 30, 2020, and Accounting Period 1, and year-to-date activity for the period of July 1, 2020, through July 31, 2020. Pursuant to KRS 42.190.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarters ending March 31 and June 30, 2020. Pursuant to KRS 154.20-150.

From the Finance and Administration Cabinet, Department of Revenue: 2020 Report of Exempt Real Property. Pursuant to KRS 132.220(6).

From the Kentucky Personnel Board: FY 19 Personnel Board Annual Report.

From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statements and Financial Status for the periods ending March 31 and June 30, 2020.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of March 31 and June 30, 2020.

From the Auditor of Public Accounts: Examination of Certain Financial Operations and Internal Policies and Controls of Select County Attorney Offices.

From the Education and Workforce Development Cabinet, Kentucky Commission on the Deaf and Hard of Hearing: 2019-2020 Telecommunications Access Program Annual Report. Pursuant to

KRS 163.527.

From the Cabinet for Health and Family Services: FY 20 Citizen Review Panel Annual Report.

From the Auditor of Public Accounts: FYS 18-19 Report of the Audit of the Kentucky Board of Chiropractic Examiners.

From the Justice and Public Safety Cabinet, Department of Corrections: 2020 Education Program on AIDS Annual Report. Pursuant to KRS 197.055.

From the Justice and Public Safety Cabinet, Department of Corrections: Lee Adjustment Center Annual Report. Pursuant to KRS 197.515.

From the Auditor of Public Accounts: An Examination of Local Tourism Commissions.

From the Justice and Public Safety Cabinet, Department of Corrections: 2020 Annual Report. Pursuant to KRS 196.031.

From the Department of Education: Kentucky Assessment System, Validation and Research Agenda, 2020-2022 Biennial Plan for Validation Studies. Pursuant to KRS 158.6453(14).

From the Energy and Environment Cabinet, Department for Environmental Protection: FY 20 Biennial Report of the Hazardous Waste Management Fund. Pursuant to KRS 224.46-580(13)(c).

From the Cabinet for Health and Family Services: Department for Community Based Services Second Quarter caseload report. Pursuant to KRS 199.641(4).

From the Cabinet for Health and Family Services: SFY 20 Fostering Success Report.

From the Auditor of Public Accounts: FYS 18-19 Report of the Audit of the Kentucky 911 Services Board.

From the Kentucky Personnel Cabinet: Quarterly Report as of June 30, 2020, which lists the number of all full-time classified (merit) and unclassified (non-merit) employees. Pursuant to KRS 61.392.

From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center Quarterly Report, April 1 through June 30, 2020.

From the Justice and Public Safety Cabinet: 2020 Kentucky State Corrections Commission Annual Report. Pursuant to KRS 196.736.

From the Justice and Public Safety Cabinet: FY 19 Department of Corrections Annual Report. Pursuant to KRS 196.031.

From the Cabinet for Economic Development: 2020 Annual Report of the Kentucky Commission on Small Business Advocacy.

From the Finance and Administration Cabinet: 2020 Insurance Premiums Surcharge for Kentucky Licensed Property. Pursuant to KRS 136.392.

From the Department of Corrections: Prison Industries Enhancement Certification Program (PIECP) Annual Report. Pursuant to KRS 196.704.

Representative Graham inquired as to whether the Legislative Research Commission had an officially appointed clergy to serve the Agency and/or Capitol. Representative Osborne and Director Hartz both responded that the LRC has never appointed a clergy to the Commission. Representative Graham said there was someone on social media stating that they are now chaplain to the Capitol, and that he feels the individual must be communicated with that he is falsely advertising on behalf of LRC. Representative Osborne said that LRC does not control the Capitol, and that Representative Graham should feel free to take that up with him.

Representative Hatton asked if there were any updates on a plan for remote voting during session. Representative Osborne responded that LRC's technical team has been working diligently on this issue. Bids were obtained to outsource remote voting software, however LRC's Office of Computing and Information Technology has team put together a system that saved money, and works efficiently from each individual's office computer, if it were to be necessary.

Senator Givens asked to make a point of clarification regarding remote voting. He said that remote voting does have its place, but the Constitution requires that members be on the premises, and any engagement, as he understands it, involves members being on the campus, in their office, voting. He said that point needs to be clarified and amplified, because members who are miles and miles away should not have a latitude to weigh in with a vote, which is a sacred honor and duty.

There being no further business, the meeting was adjourned.

Interim Joint Committee on Agriculture Minutes of the 3rd Meeting of the 2020 Interim August 27, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Agriculture was held on Thursday, August 27, 2020, at 10:30 AM, in SWC 201-203, State Fair and Exposition Center, Louisville, Kentucky. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; David

P. Givens, Robby Mills, Dennis Parrett, Damon Thayer, Robin L. Webb, Stephen West, and Whitney Westerfield; Representatives George Brown Jr, Myron Dossett, Kelly Flood, Joe Graviss, Mark Hart, Kim King, Matthew Koch, Phillip Pratt, Rick Rand, Brandon Reed, Rachel Roberts, Steven Rudy, Dean Schamore, John Sims Jr, Wilson Stone, Walker Thomas, James Tipton, and Susan Westrom.

Guests: David Beck, President and CEO, Kentucky Venues, and Mayor Greg Fischer, Louisville and Jefferson County, Ryan Quarles, Commissioner, Kentucky Department of Agriculture.

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

The July 9, 2020 minutes were approved by voice vote, without objection, upon motion made by Representative Tipton and seconded by Senator Parrett.

Warren Beeler, said that through the programs of the Governor's Office of Agricultural Policy, over \$636 million has been spent on agriculture, and agriculture has grown by \$2 billion in a market that has been terrible. He encouraged people to get involved in agriculture in order to continue making strides in technology in order to produce more food for the people. Mr. Beeler stated that the Ag Finance Program has approximately \$94 million, of which \$90 million has been loaned out. He said that the Ag Finance Program was getting back almost \$1 million a month in interest.

Ryan Quarles, Commissioner, Kentucky Department of Agriculture, stated that the youth shows at the Kentucky State Fair had great participation. Commissioner Quarles said that one item of concern is the proposed increase in food processing fees by the Kentucky Department for Public Health (KDPH). He said that the proposal would affect approximately 330 Kentucky Proud processors. The current fee for food processing inspections is as low as \$120, but under the new fee structure, some processors could see increases of 1,000 to 2,000 percent. The comment period ends August 31st.

In response to Representative Schamore, Commissioner Quarles stated that he did not know why the KDPH was proposing the fee increase.

Representative Graviss stated that he also attended the same meeting as Commissioner Quarles. He said it was pointed out to KDPH that the proposed fee increase was against the law according to HB 129 that was passed in 2019.

Welcome and Update on Louisville Metro/ Jefferson County Programs

Mayor Greg Fischer stated the Louisville/ Jefferson County was beginning to see a plateau in Covid-19 cases. He said that CARES funding was being used to help businesses and to help stop evictions. He said that funding Louisville area restaurants was important to Kentucky Proud producers. He said Louisville was still considered a great foodie city. He noted that Louisville was in

the spotlight and everything is being done to work towards racial equity.

In response to Senator Thayer, Mayor Fischer said that Churchill Downs made the decision to not have spectators at the Kentucky Derby. The city is having challenges and some issues are hard to address overnight. Louisville is seeing gaps in education, housing, healthcare, COVID, and widespread use of social media has led to everything boiling over into the streets. The Louisville Metro Police Department is allocating resources to where the challenges are in the community. Investments will have to be made in areas that have not seen improvements or investments, in the past.

In response to Representative Tipton, Mayor Fischer said that police had been operating under very difficult circumstances and the police want to have a safer city by continuing to work with the community.

Report on the Kentucky State Fair Board

Mr. David Beck, CEO, Kentucky Venues, explained that Kentucky Venues is the marketing name related to two properties: The Kentucky Exposition Center (KEC) and the Kentucky International Convention Center (KICC) that is located downtown Louisville. He said that normally, the KEC would host over 200 shows a year and the KICC would have 135 shows. The KICC had its grand reopening in 2018 and improvements are still being made. The KEC property has been making significant improvements by tearing down the old Cardinal Stadium and installing a new front gate along with additional traffic lanes in order to expedite traffic. The property has been cleared of older buildings and been cleaned up, providing an additional 8 acres of useable property. He said improvements were being made throughout the fairgrounds. He said that the facilities are unique and listed in the top 10 for acreage and attendance. The goal has always been the safety of guests, visitors, sponsors, and exhibitors. He stated that the State Fair Board worked hard to make the State Fair happen this year. Mr. Beck said that due to COVID, the two convention centers had lost approximately \$11 million in business. The youth livestock shows over the last couple of weeks have gone very well. Normally, there would be 11,000 entries, but for this year the number will be closer to 3,800.

In response to Senator Hornback, Mr. Beck said that the committee recommended to the Board, on the original plan submitted, to have the State Fair. When COVID numbers started to rise, the administration asked the Board to take another look at the recommendation. Meetings were held with leadership of the board and Frankfort officials and it was decided to change the original plan. There was no vote taken by the Board on approving the revised plan.

In response to Senator Hornback, Mr. Beck said that Kentucky Kingdom had been open during the week, but their schedule had changed. They are not open every day now, but they can operate on the weekends. As to the convention center located

downtown, Mr. Beck said that meetings had been postponed and some re-booked. There was some broken glass, from protests, but those windows had been boarded up and would be replaced at a later time. The graffiti had been removed, but as a safety precaution, a fence was installed around the premises. He said the main questions from clients related to security in the downtown convention center and the fairgrounds.

Meeting adjourned.

Interim Joint Committee on Appropriations and Revenue Minutes of the 3rd Meeting of the 2020 Interim

August 19, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 19, 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, Rick Girdler, David P. Givens, 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, Russ A. Meyer, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Brandon Reed, Steve Riley, Rob Rothenburger, John Sims Jr, Jim Stewart III, Wilson Stone, James Tipton, and Susan Westrom.

Guests: John Hicks, State Budget Director.

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

Approval of Minutes

A motion was made by Senator Parrett, seconded by Representative Rothenburger, to approve the minutes of the June and July meetings. The motion was approved by voice vote.

Closeout of Fiscal Year 2019-2020

John Hicks, State Budget Director, discussed the closeout of fiscal year 2019-2020.

John Hicks testified that the Fiscal Year (FY) 2020 budget was enacted in 2018 with a revenue growth rate of 2.6 percent and a 2.4 percent spending growth rate. For the 2020 session, the Consensus Forecasting Group (CFG) in December, 2019, revised revenue estimates upward by \$102 million. Through March, 2020, revenues grew 3.9 percent.

The CFG's pessimistic scenario from December, 2019, was used as the basis for the remaining FY 2020 budget, as well as for the FY 2021 budget. Revenues in April were down significantly, in-part due to delayed income tax filings. In May, the CFG

was asked to revise the FY 2020 revenue estimate. Mr. Hicks reviewed the reductions in FY 2020 general fund revenue estimates and the actual FY 2020 general fund revenues.

There was a 1.5 percent growth rate in FY 2020 revenues over FY 2019 revenues. Individual income tax revenues were up 4.9 percent from FY 2019. Withholding on individual income was only up because Kentucky taxes unemployment insurance benefits. Sales and use tax revenues were up 3.4 percent from FY 2019. Corporate income and limited liability tax revenues fell by \$123 million, for a 16.2 percent drop from FY 2019 totals. Corporate income tax revenues were the lowest seen since 2011. Property tax revenues were also down from last year. Actual revenues for FY 2020 were \$104 million greater than the enacted estimate.

FY 2020 ended with a \$177.5 million general fund surplus. This was a result of revenues above the enacted estimate and spending lapses. Spending lapses contributed \$71.7 million to the general fund surplus for FY 2020. Of this surplus, \$162.5 million was deposited to the budget reserve trust fund. This was the largest ever deposit from a year-ending surplus. The current balance of the budget reserve trust fund is \$465.7 million, roughly four percent of FY 2020's revenue. This is the highest ratio in the fund's history. For several budgets, the fund has been used as an appropriation source for certain budgetary expenses.

Mr. Hicks reviewed the various enacted and revised FY 2020 road fund revenue estimates. Actual road fund revenues in FY 2020 totaled \$1,491,500,000. Actual revenues were higher than the CFG's revised May, 2020 estimate, but lower than the estimate enacted during the 2020 regular session. FY 2020 motor fuels revenues were down \$31.6 million, or 4.1 percent, from FY 2019. Motor vehicle usage revenues were down three percent from last fiscal year. The revenue shortfall from the enacted budget totaled \$60.3 million, or 3.9 percent. The shortfall was balanced through reduced revenue sharing from the motor fuels tax with local governments, coronavirus relief fund replacement, and spending lapses.

There are many strong signals that FY 2021 will be a significant budget challenge with lower revenues than in FY 2020. Federal stimulus relief to individuals and businesses has supported Kentucky's economy in the last few months, but most of that has expired.

Mr. Hicks testified that \$15.4 billion from federal stimulus has been put into Kentucky's economy through businesses and individuals from March through July. Almost four billion dollars of economic impact payments came into Kentucky. Another \$3.9 billion in unemployment insurance benefits came to Kentucky. Other funds came to Kentucky through programs such as the paycheck protection program and the provider relief fund.

From March through April, over 283,000 non-farm jobs were lost in Kentucky. Roughly 125,000

jobs have been recovered.

FY 2020 fourth quarter revenues declined by 4.5 percent compared to fourth quarter FY 2019. Sales and use tax revenues declined by almost six percent. Withholding, excluding unemployment insurance benefits, declined by 5.5 percent. Individual estimated payments were down 12 percent. Business taxes were down 16.5 percent. Wages and salaries were down 16 percent in the fourth quarter. Coal severance tax revenues were the worst ever recorded.

Fourth quarter FY 2020 road fund revenues declined by almost 24 percent from FY 2019 fourth quarter revenues. Motor fuels revenues dropped 19 percent. Motor vehicle usage revenues dropped 28 percent.

In response to a question from Representative Rudy, Mr. Hicks testified that around 200-300 hundred million dollars in government assistance has come from the federal government. Representative Rudy cautioned members of the committee when asking for more federal bailout.

In response to a question from Senator Nemes, Mr. Hicks stated that there was an uptick in July of motor vehicle operators and motor vehicles licensing revenues. He added that the withholding revenue from unemployment insurance will continue.

In response to a question from Representative Tipton, Mr. Hicks testified that the Office of State Budget Director (OSBD) will soon release information that looks ahead at employment, income, and other economic factors.

In response to a question from Senator McDaniel, Mr. Hicks stated that it is difficult to measure the level of unemployment associated with remote learning and a lack of available childcare. He continued to say that the federal government gave Kentucky additional money to help keep some childcare agencies afloat during the spring.

In response to a question from Senator Wheeler, Mr. Hicks testified that the Governor's office has been in touch with the federal government to completely understand the parameters of the extended unemployment benefits offered by President Trump. He continued to say that an announcement would be made soon regarding Kentucky's choice regarding participation in the program.

In response to a question from Representative Dossett, Mr. Hicks testified that leisure and hospitality in Kentucky saw a loss of 32,000 jobs from June of 2019 to June of 2020, equating to a 15 percent drop. Calculations related to the personal income loss associated with those job losses are done. He continued to say that the Department of Parks was unable to meet its budget last year. OSBD is working with Secretary Berry and Department of Parks staff to try to get a good estimate of the fiscal difficulty looking forward. In response to another question from Representative Dossett, Mr. Hicks stated that the coronavirus relief fund was used to pay the Department of Parks to hold certain lodges as locations for quarantining. State

government has not devoted any coronavirus relief funds to a business sector in Kentucky's economy. In response to a final question, Representative Rudy said that \$1.16 million was paid to the Department of Parks to hold lodges for quarantining.

In response to a question from Senator West, Mr. Hicks testified that Kentucky has committed roughly 45 percent of the \$1.6 billion it received in coronavirus relief funds from the federal government. Three hundred million dollars was committed to cities and counties. Another \$46.2 million went to local health departments. Over a quarter-billion dollars has gone through the emergency management function for the purchase of personal protective equipment and medical supplies that have been distributed throughout the state. Roughly \$60 million-plus through FY 2020 has gone towards reimbursements to state agencies. In response to a follow-up question, Mr. Hicks testified that the unspent funds are housed in the OSBD, which is acting on behalf of the governor.

Senator Meredith commented on the impact of COVID-19 on tourism.

Representative Rudy commented on how some of the money borrowed from the federal government will have to be repaid.

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

Interim Joint Committee on Appropriations and Revenue Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection Minutes of the 3rd Meeting of the 2020 Interim August 19, 2020

Call to Order and Roll Call

The 3rd 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, August 19, 2020, at 8:30 AM, in Room 154 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Lynn Bechler, Co-Chair; Senator Max Wise; Representatives Terri Branham Clark, Savannah Maddox, Dean Schamore, and Russell Webber.

Guests: Rebecca Goodman, Secretary, Energy and Environment Cabinet (EEC); Tony Hatton, Commissioner, Department for Environmental Protection (DEP); John Lyons, Deputy Commissioner, DEP; and Cori Troutman, Assistant Director, Division of Financial Management, EEC.

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

Impact of COVID-19 on the Department for Environmental Protection

Secretary Goodman, Commissioner Hatton, Deputy Commissioner Lyons, and Assistant Director Troutman provided an update on the impact of COVID-19 on the Department for Environmental Protection and the regulatory flexibility that was implemented in response to the pandemic.

In response to questions from Chair Bechler, Deputy Commissioner Lyons noted that the Environmental Protection Agency (EPA) memorandum regarding temporary relief of environmental compliance obligations would not be extended. Secretary Goodman noted that EEC could provide an extension but that the need for flexibility had severely reduced. Deputy Commissioner Lyons confirmed that DEP would follow up on businesses that had received flexibility to ensure that they were back in compliance. Commissioner Hatton noted that many follow up visits and inspections had already taken place. Commissioner Hatton noted that it would be both dangerous and against federal regulations to make waivers on underground storage tank inspections permanent. Assistant Director Troutman stated that the "Other Personnel" line item in the DEP budgeted expenditures was for a variety of personnel related costs such as workers' compensation insurance and employee training costs. Commissioner Hatton noted that DEP would like to retain staff as much as possible, but that younger employees tend to leave after only a few years. Assistant Director Troutman noted that the department believes that all COVID-19 related expenditures would be eligible for Coronavirus Aid, Relief, and Economic Security (CARES) Act reimbursement.

There being no further business before the subcommittee, the meeting was adjourned at 9:21AM.

Interim Joint Committee on Appropriations and Revenue Budget Review Subcommittee on Education Minutes of the 3rd Meeting of the 2020 Interim August 19, 2020

Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 19, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senators C.B. Embry Jr., Christian McDaniel, Gerald A. Neal, Johnny Ray Turner, and Mike Wilson; Representatives Kim Banta, Randy Bridges, Joseph M. Fischer, Kelly Flood, Cluster Howard, Regina Huff, C. Ed Massey, Bobby McCool, Brandon Reed, Rob Rothenburger, and Attica Scott.

Guests: David Cook, Director, Division of

Innovation, Department of Education; Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support, Department of Education; Robin Kinney, Associate Commissioner, Office of Finance and Operations, Department of Education; Chay Ritter, Director, Division of District Support, Department of Education; Christina Weeter, Director, Division of Student Success, Department of Education; Jon Akers, Executive Director, Kentucky Center for School Safety; Ben Wilcox, State School Security Marshal, Department of Criminal Justice Training; Dr. Aaron Thompson, President, Council on Postsecondary Education.

LRC Staff: Chuck Truesdell, Seth Dawson, Nick Peak, and Amie Elam

Kentucky Department of Education

Representatives from the Kentucky Department of Education (KDE) gave a presentation focusing on the impact of COVID-19 on SEEK formula calculations.

In response to a question from Senator McDaniel, Mr. Cook said that KDE is currently receiving information from school districts regarding the impact of the property tax shortfall. Mr. Cook said that participation numbers collected in the spring are hard to compare to other school years because the information was not gathered in a standard way. Mr. Cook said that all third-party digital platform vendors are reviewed and must follow guidelines that adhere to the Kentucky academic standards outlined in statute.

In response to a question from Representative Riley, Ms. Kinney said KDE is working with the Administrative Office of the Courts to develop guidance on how to handle students that do not attend or participate in virtual learning.

In response to a question from Representative Tipton, Ms. Kinney said the emergency regulation is drafted so that 2018-2019 attendance data would push forward to calculate attendance for SEEK purposes. Mr. Cook said that KDE would report to the legislature in October, June, and July the participation information for all school districts.

In response to a question from Representative McCool, Mr. Cook said teachers who are working with students that have special needs are going above and beyond to find ways to connect with their students during this unusual time. He added that KDE has developed specific guidelines related to students with special needs and non-traditional instruction.

In response to a question from Representative Scott, Mr. Cook said school districts are working hard to ensure each student has a personal learning device. He said the number of students without devices is getting smaller every day.

School Safety

Representatives from the Kentucky Department of Education (KDE), the Kentucky Center for School Safety, and the Department of Criminal Justice Training gave a presentation focusing on the implementation of school safety and resiliency

legislation.

In response to a question from Representative Bridges, Mr. Akers said that he would provide the individual district information to Representative Bridges.

In response to a question from Representative Scott, Mr. Akers said that School Resource Officers (SROs) account for 31 percent of requested safe school funds.

Council on Postsecondary Education

Dr. Aaron Thompson gave the committee an update on the Council on Postsecondary Education's Agency Budget.

There being no further business to come before the subcommittee, the meeting adjourned at 11:53 a.m.

Interim Joint Committee on Appropriations and Revenue Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement Minutes of the 3rd Meeting of the 2020 Interim

August 19, 2020

Call to Order and Roll Call

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

Present were:

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

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

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

Approval of Minutes

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

Presentations

Presentations were provided by Robin Morley, Executive Director, Legislative and Intergovernmental Affairs, FAC; Ruth Day, Commissioner, COT, FAC;

and Gerina Whethers, Secretary, Personnel Cabinet.

Questions

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

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

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

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

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

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

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

Adjournment

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

Interim Joint Committee on Appropriations and Revenue Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement Minutes of the 3rd Meeting of the 2020 Interim September 16, 2020

Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, September 16, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair and Representative Jim Stewart III, Co-Chair; Senators Dennis Parrett and Phillip Wheeler; Representatives Kevin D. Bratcher, Jim Gooch Jr., Joe Graviss, Mark Hart, Adam Koenig, Michael Meredith, Suzanne Miles, Jerry T. Miller, Patti Minter, Phillip Pratt, and Nancy Tate.

Guests: Keith Jackson, Commissioner, Kentucky Department of Veterans Affairs (KDVA); Dean Stoops, Deputy Commissioner, KDVA; Mark Bowman, Executive Director, Office of Kentucky Veterans' Centers (OKVC); Mike Rodgers, Budget Analyst, OKVC; Stephanie Belt, Budget Specialist III, KDVA; Ben Adams, BG US Army (Ret), Executive Director, Kentucky Department of Military Affairs (KDMA); Rebecca Dittert, Staff Assistant, KDMA; Josh Keats, Executive Director, Kentucky Office of Homeland Security (KOHS); and, Mike Sunseri, Deputy Executive Director, KOHS.

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

Approval of Minutes

A motion was made by Representative Pratt to approve the minutes of the August 19, 2020 meeting. The motion was seconded by Senator Wheeler, and the minutes were approved without objection.

Department of Veterans Affairs

Commissioner Jackson and Deputy Commissioner Stoops provided an overview of their response to the COVID-19 pandemic and CARES Act funding.

Representative Miles expressed her appreciation for the agency helping out with Unemployment Insurance (UI) claims. Representative Pratt echoed her sentiments, adding that he gets questions regarding UI claims from his constituents on a daily basis.

In response to a question from Chair Mills regarding the Veterans' Centers, Mr. Bowman said their leadership team meets twice weekly to assess the possibility of accepting new patients. He added that a major consideration is access to care, and is not simply an admissions issue. He mentioned zoning systems for distancing both patients and staff members and the increase in need for personal protective equipment as examples.

In response to a question from Representative Bratcher regarding the nursing shortage, Commissioner Jackson replied that they are actively recruiting. Mr. Bowman added that there are continued challenges when filling vacancies and there is still much to do.

He said they can only admit the number of patients that can be properly cared for with the staff they have.

Department of Military Affairs

General Adams provided an overview of their response to the COVID-19 pandemic and CARES Act funding.

In response to a question from Chair Mills regarding the Kentucky National Guard's presence at violent protests, General Adams said the numbers are based on the need in each individual case and vary based on agency requests through the Governor's office.

In response to a question from Representative Miller regarding elections support, General Adams said he will provide that information later.

Office of Homeland Security

Mr. Keats provided an overview of their response to the COVID-19 pandemic and CARES Act funding.

In response to a question from Chair Mills regarding teleworking, Mr. Keats said if the agency is required to maintain their staffing at current levels, they are equipped to do so, and approximately ninety percent of the work can be done remotely.

Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 9:18AM.

Interim Joint Committee on Appropriations and Revenue Budget Review Subcommittee on Justice and Judiciary Minutes of the 2nd Meeting of the 2020 Interim August 19, 2020

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 19, 2020, at 8:30 AM, 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; Representative Jason Nemes, Co-Chair; Senators Denise Harper Angel, Christian McDaniel, John Schickel, and Whitney Westerfield; Representatives Daniel Elliott, Angie Hatton, Nima Kulkarni, and Jason Petrie.

Guests: Danny Rhoades, Executive Officer, Department of Court Facilities, Administrative Office of the Courts (AOC); Carole Henderson, Budget Director, AOC; and LaDonna Koebel, Executive Director, Office of Senior Protection and Mediation, Office of the Attorney General.

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

Update of Judicial Facility Construction and Renovation Projects

Mr. Rhoades and Ms. Henderson provided an

overview of ongoing and upcoming Judicial Branch construction projects.

In response to questions from Chair West, Ms. Henderson noted that the Judicial Branch would be requesting additional monies in the 2022-2024 fiscal biennium. Mr. Rhoades noted that a project doesn't normally take six years to complete. Mr. Rhoades noted that the Nicholas County courthouse and the Henry County courthouse both experienced various delays. Mr. Rhoades noted that a normal completion timeframe is four to five years. Mr. Rhoades stated that the AOC estimates that the Bath County courthouse would begin construction in either spring or summer of 2021 and that it will take 18 months to complete. Mr. Rhoades confirmed that the county governments hire county employees for maintenance and then the AOC reimburses them for the percentage of a building that the AOC occupies.

In response to questions from Senator McDaniel, Mr. Rhoades noted that AOC is seeing an increase in construction and equipment replacement costs.

In response to questions from Co-Chair Nemes, Ms. Henderson stated that funding is deferred for projects that were authorized in the 2020 Regular Session. Ms. Henderson noted that several courthouses would be paid for by FY 2024.

In response to a question from Chair West, Ms. Henderson stated that the AOC will not ask for additional construction funding in FY2021.

Grant Concerning Elder Abuse

Ms. Koebel provided information concerning elder abuse fraud and a Coronavirus Emergency Supplemental Funding grant that the Office of the Attorney General is seeking to assist victims of and to help combat elder abuse fraud.

In response to a question from Chair West, Ms. Koebel stated that the grant amount would be \$146,000, specifically used to fight coronavirus related scams targeting the elderly.

In response to a question from Senator Schickel, Ms. Koebel stated that the Office of Senior protection does not handle physical elder abuse claims, rather fraud and scams.

There being no further business before the subcommittee, the meeting was adjourned at 9:21AM.

Interim Joint Committee on Appropriations and Revenue Budget Review Subcommittee on Transportation Minutes of the 3rd Meeting of the 2020 Interim August 19, 2020

Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, August 19, 2020, at 10:30 AM, in Room 154 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 Dennis Parrett and Robin L. Webb; Representatives Chris Fugate, Chris Harris, Samara Heavrin, Thomas Huff, Bart Rowland, John Sims Jr, and Ken Upchurch.

Guests: Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC; Mark Day, Immediate Past Chair, Kentuckians for Better Transportation (KBT); Andy Aiello, General Manager, Transit Authority of Northern Kentucky; Chuck Craycraft, Senior Vice President, HW Lochner Consulting Engineers; John Mahre, Deputy Judge-Executive, Christian County; and Megan McLain, Innovative Finance Manager, Department of Highways, KYTC.

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

Approval of Minutes

A motion was made by Co-Chair Higdon to approve the minutes of the July 8, 2020 meeting. The motion was seconded by Representative Huff, and the minutes were approved without objection.

Kentucky Transportation Cabinet

Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC, provided an overview of the cabinet's year-end closeout.

In response to a question from Co-Chair Higdon regarding fuel usage tax revenues, Ms. Brewer said they were down by about 1.1 percent compared to July of last year, and that should normalize with the addition of August receipts.

Kentuckians for Better Transportation

Mark Day, Director for Development and Facilities, Lexington-Bluegrass Airport, and Immediate Past Chair of KBT, provided an overview of KBT.

In response to a question from Chair Santoro regarding the downturn in air travel due to the pandemic, Mr. Day said activity was a 70 percent reduction from July 2020 as compared to July 2019. He added that there had been some family vacation travel, but business and international travel has decreased dramatically. Mr. Aiello said there is a long-term need for General Fund allocations. Mr. Craycraft said there had been impacts to transportation funding since 2015, when the gas tax took such a big hit. Co-Chair Higdon commented that currently there are 1,500 all-electric vehicles and 34,500 hybrid vehicles in Kentucky, and it has been projected that there will be approximately 450,000 electric vehicles in the state by 2030. He said there needs to be a user fee implemented, since these vehicles do not contribute motor fuels taxes.

Representative Harris commented on the importance of infrastructure maintenance, especially in areas such as Martin County. Chair Santoro agreed that these are very important issues, and thanked KBT for their input.

Louisville Bridges

Ms. McLain provided an overview and update of the Louisville-Southern Indiana Ohio River Bridges project.

In response to a question from Co-Chair Higdon regarding the camera vendors having problems capturing license plates, Ms. McLain said the percentage of successful captures is at 99 percent. She said despite having images of nearly all licenses crossing the bridges, there are a few that are not included. She will provide actual numbers at a later date.

In response to a question from Co-Chair Higdon regarding unpaid toll bills being written off, Ms. McLain said no interest is charged on outstanding balances. There are three different fees charged for non-payment, and then a hold is placed on vehicle registrations. The hold is not removed until the toll is paid. Ms. McLain will provide more information when year-end closeout is complete.

Adjournment

There being no further business before the subcommittee, the meeting was adjourned at 11:27 AM.

Interim Joint Committee on Economic Development and Workforce Investment Minutes of the 3rd Meeting of the 2020 Interim

August 27, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, August 27, 2020, at 2:00 PM, at the State Fair and Exposition Center in Louisville, KY. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: David Beck, President and CEO, Kentucky Venues; Secretary Mike Berry, Tourism, Arts, and Heritage Cabinet; Commissioner Michael Mangeot, Department of Tourism, Tourism, Arts, and Heritage Cabinet; Secretary Larry Hayes, Cabinet for Economic Development; Anthony Ellis, General Counsel, Cabinet for Economic Development; and Commissioner Katie Smith, Department of Financial Services, Cabinet for Economic Development;

Commissioner Jeff Taylor, Department of Business Development, Cabinet for Economic Development.

LRC Staff: Andrew Manno, Chip Smith, Audrey Ernstberger, and Kirsten Parker.

Approval of Minutes

A motion to approve the minutes of the July 30, 2020 meeting was made by Co-Chair Russell Webber, seconded by Representative Chris Freeland, and approved by voice vote.

Update on State Fair and Fairgrounds

David Beck, President and CEO of Kentucky Venues, gave an update about the status of facilities throughout Kentucky. He first discussed updates to the Exposition Center and Fairgrounds in Louisville, which now allows more events to occur at the same time. Recent improvements include new signs, more lanes, and new pavement. The Expo Center usually has over 200 shows in a normal year. Some of the shows include the Farm Machinery Show, the North American Livestock Exhibition, the State Fair, and the World Championship Horse Show. Cardinal Stadium was torn down, which provides additional parking. The old Transportation Cabinet building was also demolished so to have more land to use for outdoor events. The facilities in downtown Louisville have around 130 events. Health and safety is a primary objective. Kentucky Venues hired a compliance officer and is working with Louisville Tourism to obtain a good housekeeping approval, which is a star rating to handle infection, sanitization, and being in compliance with health measures. COVID-19 forced changes to the State Fair this year and the Fair Board Committee met each Monday afternoon to discuss the changes. The committee submitted a plan to have the fair and were busy booking and rebooking events and vendors. The State Fair is closed to guests this year, and the fair lost between \$10.5 and \$11 million in business. They are seeing both leisure and business travel change because of COVID-19.

Responding to a question asked by Co-Chair Danny Carroll, Mr. Beck explained that their plan for next year's fair is to return to the original format while still being open to new ideas. The plans for this year were completely changed because of COVID-19. They also want to focus on economic development by providing a space for new entrepreneurs so they can demonstrate their new ideas and provide them with opportunities to attract investors, markets, and employees.

Tourism Update

Mike Berry, Secretary of the Tourism, Arts, and Heritage Cabinet, and Michael Mangeot, Commissioner of the Department of Tourism, gave an overview of the impact of COVID-19 on Kentucky Tourism. Secretary Berry began by explaining that before COVID-19, an economic survey was completed and reported that spending and visitation growth increased in 2019 as trips topped \$73.8 million and spending reached \$7.9 billion. This growth also created more than 95,800 jobs and \$823

million in state and local taxes. When COVID-19 began in March, weekly travel spending declined by 40 percent from the first week of March to the last week of April. Overall, \$2.9 billion in travel spending and \$26 million in tax revenue has been lost. Outdoor activities are increasing and leading indicators, but the season is coming to an end. In July, state park occupancy was 43.9 percent and overall was 56 percent. There have been gradual increases in travel spending since the end of April, putting Kentucky in a good position to recover.

Commissioner Mangeot explained that tourism was hit hard by COVID-19, but Kentucky has many opportunities to be active while being safe. Longwoods International conducted a census of participants in the travel industry which revealed that 67 percent of respondents have travel plans in the next 6 months and 27 percent will drive instead of fly because of health concerns. Therefore, more people will be travelling through the state because of the increase in the length of time travelers are willing to drive. It was also revealed that 61 percent of respondents would visit or are more likely to visit destinations that require a mask. The cabinet is being conservative in their approach and is trying to conserve funds. Because Kentucky has an opportunity for in-state travel, a new ad campaign has been created to inspire and encourage in state vacations, increase state travel, and increase spending and tax revenue. The digital campaign will be advertised on TV and radio. The ad includes the catch line “Stay Close. Go Far” and includes activities to travel to in the state. The campaign was created with existing footage so no money was spent. Secretary Berry concluded that it is estimated by experts that the state will not recover until 2024, but they are dedicated to making a quicker recovery.

Responding to a question by Co-Chair Danny Carroll, Commissioner Mangeot explained that national recreational vehicle sales are 90 percent ahead of last year. Around the nation, other states are seeing the same increase in outdoor activities as people are wanting to get out, but the season is over next week so there will be a drop off. Answering another question by Co-Chair Danny Carroll, Secretary Berry responded by saying that they were made aware of the new fee on the shipment of Asian Carp by their business partners in Western Kentucky. He has had a conversation with Health and Family Services.

Addressing a question by Representative Kim King, Secretary Berry discussed the decision about the operation of the State Fair by describing the proposal process for the plan. The State Fair Board submitted suggested guidelines for having the State Fair to the Healthy at Work portal. The Healthy at Work Taskforce, the Cabinet, Kentucky Venues Management, and the State Fair Board worked together to come up with a plan that was the safest for Kentuckians. The plan received approval, but additional adjustments were made. It was a joint

effort, but it was highly influenced by the executive order requiring masked gatherings and requirements of large events.

Replying to Representative Chris Freeland, Secretary Berry said he was not aware of the need for upgraded camping sites at Kenlake State Resort Park, but he had completed a visit to Kentucky Dam Village. It had similar issues as Kenlake such as the spaces being too small and the hookups being too old to be used by newer campers. He has found that hookups must be replaced and is aware there are places that need upgrades in order to make use of all spaces.

Answering a question from Representative Chris Fugate, Secretary Berry was aware of a group of rally race cars that brought in a lot of revenue for Representative Fugate’s area. Representative Fugate commented that the group is looking to return in September 2020 and wanted to know if the Secretary would help support this event. Secretary Berry responded by saying he would be happy to meet with Representative Fugate to discuss.

Responding to Co-Chair Russell Webber, Secretary Berry responded that it was the decision of Kentucky Venues in conjunction with the State Fair Board and the Cabinet to have no spectators at the Fair this year. To his knowledge, the initial plan did not exclude spectators, but the plan later was changed to no spectators. It was not his suggestion, but the plan had his support. Co-Chair Webber asked that records and information of the plans that he had submitted to all co-chairs.

Steve Wilson, the Chairman of the State Fair Board, stated that the plan that limited attendance at the Fair was made before he was made chairman. Over 23 states, including Kentucky’s surrounding states, had cancelled their fairs. The Board had three options which included cancelling the Fair, having general admission, or continuing with the plan. It was recommended to exclude spectators. Co-Chair Webber asked for Mr. Wilson to forward all records regarding approval of the plans to the co-chairs.

Answering a question from Co-Chair Phillip Pratt, Mr. Wilson stated that Governor Beshear appointed him chairman of the State Fair Board. Mr. Wilson made the decision about the fair being held with no spectators without the State Fair Board’s vote. When asked if this was proper under the bylaws of the Fair Board, Mr. Wilson responded that he felt that it was the proper thing to do.

Inquiring about the public’s reception of the fair being open by Senator Reginald Thomas, Mr. Wilson responded by saying that everyone at the Fair has been very appreciative. He was not aware of any COVID-19 cases at the Fair thus far.

Responding to Representative Rachel Roberts, Mr. Wilson stated that he did not have information about viewing the Fair online. Representative Roberts commented that the public could watch the fair’s live activities online at Kystatefair.org.

Representative George Brown commented on

the nature of questions that have been asked regarding the decisions about the State Fair.

Answering Co-Chair Danny Carroll’s question, Mr. Wilson responded that there were discussions about guests being allowed at the Fair before he was named chairman. He said he had relayed to the Governor of the possibility of closing the fair.

Representative Jim Gooch made the comment that people in leadership positions who are making COVID-19 related decisions should take responsibility for those decisions.

Representative Al Gentry thanked Mr. Wilson for taking the leadership role of chairman at a difficult time and for making the right decision about closing the Fair to spectators.

Co-Chair Carroll concluded the Tourism update by stating that it would be a good idea for Secretary Berry and Commissioner Mangeot to be featured on the Governor’s live updates to spread positive tourism news.

Economic Development Update

Larry Hayes, Secretary of the Cabinet for Economic Development, described the difficulties the business world is facing and said he was confident of people adapting to a post COVID-19 lifestyle. There was a drop off for the total business announcements for the first seven months as compared to other years. There are numerous projects happening, many including foreign direct investments. For foreign direct investment, Kentucky is at 8 percent, while the nation is at 5 percent. The Cabinet is looking for new ways to communicate, and one way has been through webinars.

Jeff Taylor, the Commissioner for Business Development, explained the development opportunities in the state through the salesforce and marketing. Sixty one expansions and new-location projects have been announced, with 3,314 new full-time jobs and \$1.18 billion in investment. Despite the decline in projects, jobs, and investments due to COVID-19, it could have been worse and the Commonwealth still remains strong in long-term investment and job creation.

Anthony Ellis, General Counsel for the Cabinet for Economic Development, explained two new state programs to assist the economy. The Regional Innovation for Startups and Entrepreneurs (RISE) Program through KY Innovation supports entrepreneurs and startups throughout the state by offering comprehensive services and connections to regional resources. \$2.6 million has been invested into six regional support offices to provide this support through coaching and connecting companies to those in the community. The Kentucky Commercialization Ventures (KCV) Program which is a public-private partnership that creates products, services, and businesses from research and intellectual property developed at Kentucky’s public universities. Nearly \$1.16 million has been invested into KCV. The goal is to provide more resources to small businesses and

entrepreneurs.

Commissioner Katie Smith explained 2020 expenditures and the budget for 2021. For expenditures, the biggest difference is all grant funding was not exhausted. They want to abide by the budget and do everything to administer programs while not spending money they do not have to spend.

In response to a question by Senator Wil Schroder, Secretary Hayes discussed the process of naming a permanent Cabinet Secretary.

Addressing Representative Travis Brenda's inquiry about the increase in jobs at locations being temporary, Commissioner Taylor responded by explaining the job increases are a result of permanent expansions that have been through the approval process.

In response to a question from Representative Steve Sheldon, Commission Taylor and Secretary Hayes responded by saying that the Governor came up with the guidelines when businesses were closed in March 2020. It was the decision of each business whether they could operate under the guidelines. The Cabinet was consulted by many of the larger companies that wanted to be deemed essential, and the Governor took that information into consideration. The Cabinet officials relied heavily on recommendations from Dr. Steven Stack, Commissioner of the Department for Public Health. There were regular, continuous discussions on impacts and opportunities with the Governor's Office

Secretary Hayes responded to Representative Chris Fugate's question by saying that he would meet with him to discuss the economic impact of establishing a regional ATV trail modeled after the Hatfield and McCoy system in West Virginia.

Replying to concerns raised by Co-Chair Danny Carroll, Secretary Hayes stated the Cabinet is also concerned about the impact of COVID-19 on economic incentives and the Cabinet wants the state to stay competitive.

Answering a question from Senator Wil Schroder, Secretary Hayes said the Cabinet's plan regarding its emphasis on economic development is going to be discussed on Monday. The Cabinet would also like to meet with judge executives and senators to align everyone together.

There being no further business, the meeting adjourned.

Interim Joint Committee on Education

Minutes of the 3rd Meeting of the 2020 Interim

August 18, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Education was held on Tuesday, August 18, 2020, at 10:30 a.m., in Room 171 of the Capitol Annex. Representative Regina Huff, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests:

LRC Staff: Jo Carole Ellis, Yvette Perry, and Maurya Allen.

Approval of the Minutes – July 7, 2020

Following introduction of special guests, Representative Tipton made a motion to approve the minutes. The motion was seconded by Representative Bridges and passed by voice vote.

Introductory Remarks from New KDE Commissioner

Newly appointed Kentucky Department of Education (KDE) Commissioner Jason Glass joined the committee via teleconference to share his vision for KDE in his new capacity. He spoke of the unprecedented challenges that face schools during the current pandemic and said that schools, administrators, and government need to work together to surmount them. Looking toward the future, there is no way to know what to expect, and schools need to be flexible and extend grace to teachers, administrators, students, and parents. In addition to facing the challenge of COVID-19, schools also will be advancing the work of anti-racism efforts and providing better educational equity to all students. Budget shortfalls will have a real impact on schools, and he hopes to work with the legislature to address those concerns in the upcoming sessions. Overall, he said he is excited to begin having conversations about what school can be and creating an educational environment for all students to achieve the American dream.

Coping with COVID: Importance of Engaging Students, Educators, and Families for Education Excellence in a Changing World

Brigitte Blom Ramsey, President/CEO, Prichard Committee for Academic Excellence, spoke briefly about a survey conducted by the student members of the Prichard Student Voice Team. The survey was performed in May and was directly assessing student perspectives on non-traditional instruction used at the beginning of the novel coronavirus pandemic. An additional survey of parents and educators was conducted and results should be available in the coming weeks.

Gabriella Staykova, Grade 12, Paul Laurence Dunbar High School, and Krupa Hegde, Grade 12, Gatton Academy/Ryle High School, spoke as representatives of the Prichard Committee Student

Voice team. The team is comprised of over 100 self-selected students in high school and college who are interested in increasing student involvement and equity in education. They explained that the survey was designed in collaboration with students and faculty at the University of Kentucky and was comprised of two parts. The first part was a large general questionnaire, which garnered over 9,000 meaningful responses. This was followed with approximately 50 in-depth personal interviews. They were proud to say that the questionnaire portion had covered all 120 counties and almost every school district, so the answers were robust and representative of the whole state.

They were able to categorize their results into several themes. The first of which was education environment. One aspect which was particularly highlighted was that of teacher/student communication. Over the course of the shutdown, communication waned and became more task-based. Less frequent communication lowered motivation, and students expressed a desire for more meaningful communication. As the shutdown of schools persisted, there was less meaningful feedback for students from teachers and that resulted in a decreased manageability of school work. Another theme highlighted from the survey results were the impacts on the home environment. Regarding basic needs and security, one-third of respondents reported one or both parents had lost a job or experienced reduced hours/pay during the pandemic shutdowns. Many students reported they had taken on additional hours in their part-time jobs, or gotten part-time jobs, in order to support their households. Lower income students had heightened concerns about food security and had less access to reliable internet necessary to participate in virtual instruction. The students of the Prichard Student Voice Team recommended that going forward, schools adopt more flexible attendance policies to help accommodate these students and remove other barriers to low income students' participation and overall needs security. Students must have their basic needs met in order for learning to happen, and that includes psychological safety.

The third theme was that of physical and mental wellness. One of the primary understandings from the survey was that students' emotional experiences are intimately connected to their academic success. The survey illustrated that meaningful work led to more engagement and leads to more positive outcomes, including less anxiety for students. Between one and five hours of schoolwork daily achieved the maximum amount of productivity and engagement for students. Less than that amount was seen to be pointless, while more than five hours of work proved a struggle for students to remain engaged and focused in the home environment. There was also a 50 percent increase in those who wanted mental health services, but there was not a corresponding increase in access. Additionally, those students who had been receiving mental health support services from their schools lost

access during the shutdown. High risk families and students faced the greatest challenges. They will need more robust mental health supports than what was available before the pandemic crisis.

Students also expressed concerns about postsecondary options due to the impact of the shutdown on their grades and extracurricular activities. There was a high amount of uncertainty among high school juniors and seniors who saw their grades falter because of schools closing or whose families lost income and might not be able to afford college. This has led to a large amount of cynicism about the future, with students reporting feeling they have ‘lost their future’ as they can no longer qualify for top choice postsecondary schools or programs. The Prichard Student Voice Team recommended that schools and administrators address these concerns with robust postsecondary advising that is tailored to the changes in the postsecondary landscape as a result of the pandemic in order to help students allay fear and achieve postsecondary success. The students closed their presentation by thanking the Prichard Committee for its support and the University of Kentucky who helped with development of the survey. They also thanked their financial sponsors National Geographic, Pathway 2 Tomorrow, Teach for America, Project Aware, and the Woodrow Wilson National Fellowship Foundation. Finally, they thanked the Kentucky Student Council Association and the Kentucky YMCA for their assistance in distributing the survey.

Chair Huff thanked the students and said their perspective on the mental health aspects was especially helpful. Representative Bojanowski remarked that their presentation was very impressive saying it was difficult to remember they were high school students. Representative Scott said the students had provided an excellent presentation. Representative Willner agreed and thanked them for their presentation. She remarked it was so valuable to have student voices and perspective on the issue of education.

Responses to the Governor’s Recommendation Regarding Reopening of Schools

Eric Kennedy, Director of Governmental Relations, Kentucky School Boards Association, spoke to how shocked and frustrated school board members are regarding the changes schools have endured in the face of the novel coronavirus. He admitted that the situation itself is frustrating and that all schools are trying to mitigate the situation while providing the necessary education and other supports that students rely on schools to provide. The situation is constantly evolving and change is stressful, but in the end, this is about children so everyone wants to make sure it is done right. However, many things are being said to board members and teachers that are extreme, stressful, and unhelpful. He urged everyone to remember that there is a great deal of diversity in the Commonwealth and a ‘one-size-fits-all’ approach will not be helpful or appropriate. Some of the main recommendations to combat the spread

of COVID-19 are regarding facilities and differently designed buildings in each district are a local issue. Most schools have performed a local survey of parent opinions and want to have the ability to address these local concerns and needs. Different communities will have different priorities and want to be given the authority to address them through prioritization of local control.

He said the Department of Public Health (DPH) has been participating in weekly webinars with school personnel to provide guidance and the main question from schools has been ‘what single metric can we use to determine if it is safe to open/stay open?’ Unfortunately, there is not one metric that can be applied statewide, according to health experts. This situation cannot be treated in the same way the annual flu season is addressed. He suggested it be compared more to the local discretion exercised for snow day closures, with schools assessing their local risks and monitoring outbreaks, much the same as schools assess local topography and weather patterns during the winter. Many students are raised by their grandparents, and that is a risk that must be considered, but erring on the side of in-person instruction as safely as possible will provide better education than virtual instruction alone. Schools and local communities need to mitigate as much risk as possible so that education, and the affiliated supports offered by schools such as meals and mental health assistance, can be provided. Public education is essential, it is constitutionally mandated in this state, and needs to be supported as such.

Healthy at School guidelines are well thought out and address the best way to mitigate risk and return to school. They include required masking, which is widely regarded as necessary to curb the spread of the novel coronavirus. Student input has been vital, but schools need more clarity on requirements versus recommendations from the state to address critical liability concerns. In closing, he urged for clarity on discretionary options for school boards and for everyone to support their local schools as we face the unprecedented challenges of the upcoming school year.

Dr. Jim Flynn, Executive Director, Kentucky Association of School Superintendents, said he had been listening carefully to recommendations, because safety is paramount for students and the adults who care for and teach them. There is a significant amount of risk to kids staying at home, based on statements by the Department of Public Health and CDC. Also, based on their recommendations, he believes that with local school control, there are options available to provide in-person instruction safely. Parents should be allowed to choose whether to keep their students home or assume the risk of sending them in-person. There has been mixed advice and not a single solution that will make everyone happy in every way. Virtual instruction is more likely for all schools as the winter cold and flu season begins, but it is hard for local

communities to understand why they are not allowed to open when local COVID-19 case numbers are low. He urged that local control provides the most agility when combined with accurate and reliable data provided by the state. Local groups will be able to make informed decisions in the best interests of as many students as possible. In reality, the virus is not predictable, and the state may need to intervene again if cases continue to rise. In that event, an order from the Governor or DPH would be welcome. But until then, he strongly advocated for local control and to allow schools to implement the plans they have spent all summer developing.

Chuck Adams, Superintendent, Spencer County Schools, said there is great diversity in Kentucky. Spencer County and Jefferson County are neighbors, but the counties cannot react in the same way to the challenges created by the novel coronavirus. He echoed the necessity of allowing local control. Planning has been a critical element of the summer for teachers and 82 percent of parents have requested in-person classes with social distancing. He stated that the Governor’s recommendation was not actually a ‘recommendation’ once all of the consequences for non-compliance were known. Parents assumed the decisions to delay school were local decisions, and local board members faced incredibly negative backlash. In the end, he asked for leaders to be as forthright as possible because right now there is simply too much confusion.

Representative White introduced his constituent and guest, Dennis Buschman, concerned parent and JROTC instructor, who was representing himself and fellow parents, not the school district (Rowan County). Mr. Bushman said he has served in the army 20 years, and between his military service and JROTC instruction, he believes that once you have been in combat when an enemy is trying to kill you, your worldview changes. His faith in Jesus has also changed him. As a country of liberty and federalism, after six months of lockdown, we now have a good idea of what we are facing and can assume the risks head-on. He cited statistics that in the state of Kentucky there have been 11,000 positive cases of COVID-19 for individuals aged 0-29 years old, but only one death. This results in a 0.0009 percent chance of death for the 0-29 age group. More children died of the flu in 2018. For the age group containing most educators, COVID-19 has a death rate of 0.01 percent. He asked why schools are closed if children have such a high survival rate for this disease. He also likened it to the inherent risks of driving, stating that more young people are killed in car accidents and yet we still let them ride in cars. He agreed that some families with higher risk should be allowed to stay home, but the mandate should not come from the government. As a parent, he feels completely comfortable sending his children back without masks and without social distancing. If school sports can resume, so can classroom instruction. Also, he claimed that facemasks would be detrimental to learning for

students and difficult for educators to enforce. It is time for everyone to stop living in fear and let kids go back to school.

Representative Massey commented that the Governor's Scholars Program had allowed scholars to attend in-person activities over the summer and it was completely successful. He wondered if perhaps schools could look at what had been done during that program and possibly implement some of those protocols.

Representative Marzian expressed concern for family members at home who may get the virus from a child, regardless of how low the rate of severe illness or death is for the child. She said that if you are the parent of the 1 in 1000 students who gets seriously ill or dies from COVID-19 caught at school, you will not care that the others did not get sick. This could be a liability issue for schools. Mr. Buschman responded saying that the one-size-fits-all approach will not work. Local schools need to have options and parents need to assume individual responsibility. He said we can do better and conquer the enemy.

Senator Thomas said Kentucky has fared better than many other southern states with the lowest number of deaths, and we should be commended on this. And the science shows that young people can be asymptomatic and transmit the virus to others who are far more at risk of death. However, on August 10, 2020, there was a great spike in cases. In order to mitigate risk to schools, delay was requested. He asked what had been so harmful about a reasonable request to delay. Mr. Kennedy said that many different locations did not mind the request, and indeed, a majority of boards have heeded the advice and delayed. Mr. Buschman said his perspective is for "dangerous liberty over peaceful enslavement."

Senator Wise expressed concerns about inconsistent messaging. He said schools had plans but were not given a chance to implement them. He asked if the recommendation was the problem or the consequences that were learned afterwards. Mr. Adams said the consequences were the deciding factor. Many were upset because it appeared the decision was a choice of local control, but the consequences to the district really made it a mandate. He said leadership needed to be straight with schools. Mr. Flynn said he did not know what the future would hold, but getting students into in-person classrooms to build relationships before remote instruction was mandatory was a key concern. He echoed that there had been mixed messages from the DPH and medical experts. Schools want to comply with safety protocols, but they need to know what is required versus optional. He said many schools were being creative with hybrid models and partnerships and using those to mitigate risk. In response to a follow up question, Mr. Flynn said schools would absolutely not hide positive cases because the stakes are too high. They would communicate quickly with local health officials because all parents and teachers need

to know the risks in order to best protect themselves and their students.

Representative Riley said there appeared to be a real need to balance public health and public education. He said approximately 20 percent of Fayette County students did not participate in NTI during the shutdown in the spring. Reports also show that students only covered one-third of the material they would normally cover in that time period. It is also difficult for teachers to get to know and teach students whom they have never met in person. They do not know their aptitude or personality in order to most effectively communicate with them. In response to his questions, Mr. Kennedy said there have been many discussions about legal liability and other consequences among school board members. Liability concerns have been a deciding factor in many decisions to delay reopening.

Representative Gibbons Prunty expressed her strong desire for more local control on this issue and asked what the specific consequences were for schools if they chose not to heed the Governor's recommendation. Mr. Flynn said different groups have authority to close schools and those were outlined in conversations with Interim Commissioner Brown. Also, other superintendents and board members have been in conversations with representatives of KDE, which were supportive.

Senator West commented that everyone has asked for local control but that is not what has happened. He also stated that KRS 39A gives the Governor the authority to issue an executive order to provide liability coverage through sovereign immunity for schools and resolve those fears for schools. There are examples of in-person instruction being used all over the world to mitigate liability. He also disagreed with Mr. Buschman, stating that the only child who supposedly died from COVID-19 may have been a SIDS death, so that would reduce the death rate for ages 0-29 to zero. He said the negative effects of in-person instruction may not outweigh the negative effects of not having it. Mr. Kennedy said balance between negative effects of in-person versus virtual instruction had been addressed during many discussions. He also said that with Healthy at School guidelines it should be possible to achieve a proper balance of caring for the whole child. Senator West concluded saying we need strong leadership now, and the Governor needs to allow the local leaders to lead.

Senator Meredith said the leading cause of death for teenagers is motor vehicle accidents, and we could prevent those deaths by preventing teenagers from ever driving. But that is not realistic. The issue at hand is local control, and each district functions differently. There is no real reason not to allow local control. And this also represents a threat to public schools. Parents are looking to other educational services while schools stay closed, some of whom may never go back.

Representative Willner briefly said how important the student-teacher relationship is and

expressed disappointment that there were no teacher perspectives on reopening provided in today's testimony. She said in all the discussions about liability, there was not a discussion of accountability. If the board makes a decision to reopen schools during a pandemic, would they not be assuming the consequences of that decision? Mr. Adams said he was glad that discussions between schools and state officials have taken on a better tone regarding reopening. The context in the beginning was not supportive and seemed to be more one of state officials trying to talk schools out of reopening if they chose to disregard the Governor's recommendation to delay in-person instruction until September 28th. There was a strong suggestion that administrative regulations or executive orders would be used should schools continue to pursue in-person instruction before the end of September.

Representative Bojanowski joined with Representative Willner's concerns about the lack of teacher perspectives, citing a poll of Jefferson County teachers where they voted 2 to 1 against in-person instruction. Teachers with high risk were especially concerned. And as a teacher for special needs students, she sympathized with the loss of critical supports for students when they are not in school, but it is critical that all members of the school community are considered. Chair Huff noted that the Kentucky Education Association had released a statement regarding teacher opinions on the Governor's recommendation, and today's meeting was to highlight different perspectives. Additionally, JCPS had already indicated they were opening with only virtual instruction prior to the Governor's recommendation to delay in-person instruction.

Senator Givens stressed that in-person instruction is critical for districts who feel it is right for them. He also said the Governor's use of the word "recommendation" has had different weight for different people. He asked that while the Governor makes the case for his recommendation, he additionally instructs KDE to wholly support those districts who feel in-person instruction is right for them. Allow COVID-19 support funds to flow to those districts unimpeded. As different districts open at different times, we can learn things and apply those best practices across the state. The Governor should lend a supportive tone to those who both agree and disagree with him.

Chair Huff thanked everyone for their presentations and comments during the discussion. She announced the next meeting of the committee will be September 15, 2020, at 10:30 a.m. With no further business to come before the committee, the meeting adjourned at 12:20 p.m.

Interim Joint Committee on Health, Welfare, and Family Services

Minutes of the 3rd Meeting of the 2020 Interim

August 26, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, August 26, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Tom Buford, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Morgan McGarvey, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Tina Bojanowski, Adam Bowling, George Brown Jr, Tom Burch, Daniel Elliott, Deanna Frazier, Robert Goforth, Scott Lewis, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Steve Sheldon, Cheryl Lynn Stevenson, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Mackenzie Longoria, Director of Public Policy, Greater Kentucky & Southern Indiana Alzheimer's Association; Betsy Johnson, President, Executive Director, Executive Vice President, Emily Weber, Director of Communications and Digital Marketing, Kentucky Association of Health Care Facilities, Kentucky Center for Assisted Living; Amy Staed, Executive Director, Kentucky Association of Private Providers; Bradley Stevenson, Executive Director, Child Care Council of Kentucky, Incorporated; Adam Mather, Inspector General, Office of the Inspector General, Keith Knapp, Senior Advisor, Office of the Secretary, Laura Begin, Staff Assistant, Department for Community Based Services, and Donna Little, Deputy Executive Director, Office of the Secretary, Cabinet for Health and Family Services.

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

Approval of Minutes

A motion to approve the minutes of the July 29, 2020 meeting was made by Senator Alvarado, seconded by Representative Burch, and approved by voice vote.

The Impact of COVID-19 with the Alzheimer's and Dementia Population

Mackenzie Longoria, Director of Public Policy, Greater Kentucky & Southern Indiana Alzheimer's Association, stated that due to COVID-19, one of the biggest issues for patients with Alzheimer's in long-term care (LTC) is social isolation. The social isolation is leading to a more rapid decline for patients with Alzheimer's mentally and physically. Patients with Alzheimer's also have behavioral issues, anxiety, loneliness, and depression. People with dementia make up 48 percent of the residents in

nursing homes and 42 percent of residents in other LTC communities. More than 95 percent of people with Alzheimer's and other forms of dementia have an additional chronic health condition that may increase the likelihood of complications from COVID-19. The Alzheimer's Association believes that rapid testing at all facilities must happen before resuming visitation. The COVID-19 testing is logistically challenging and facilities need help from elected officials.

Ms. Longoria stated that On July 14th, the United States Department of Health and Human Services (HHS) announced that each nursing home will be provided with one rapid, point-of-care diagnostic test instrument and the associated tests. The one-time distribution is limited to nursing homes. Assisted living facilities and other residential LTC communities regulated by the states will not be served by the program. Kentucky has a projected increase of 12.1 to 17.3 percent of people living with Alzheimer's between now and 2025. The Alzheimer's Association recommends creating a permanent position within the Cabinet for Health and Family Services (CHFS) to coordinate Alzheimer's and dementia services and supports. The dementia coordinator would be able to study and work on tuition assistance, scholarships, pay raises, and caregiver tax credits. The Alzheimer's Association also recommends dementia-specific training, setting a base level of training requirements for home direct-care workers, and incentives for direct-care workers.

In response to questions and comments from Representative Bojanowski, Ms. Longoria stated that individuals diagnosed with Alzheimer's disease or dementia can benefit from the Home and Community-Based Services 1915(c) waiver. The Kentucky Home Care Program has a waiting list and different financial eligibility requirements than the waiver programs.

The Impact of COVID-19 on Health Care Facilities

Betsy Johnson, President, Executive Director, Kentucky Association of Health Care Facilities (KAHCF), Kentucky Center for Assisted Living (KCAL), stated that COVID-19 has been extremely hard on Kentucky's LTC community. The number of COVID-19 deaths in LTC settings have nothing to do with the quality of the facility. LTC communities need help with funding to retain the workforce, to acquire more personal protective equipment (PPE), and to support ongoing COVID-19 testing. The Centers for Medicare and Medicaid Services (CMS) reported that in Kentucky 63.5 percent of all COVID-19 related deaths are in LTC facilities. There were five LTC staff members that have died due to COVID-19. She shared a graph that illustrated how the rate of community spread of COVID-19 is linked to the number of cases of COVID-19 in nursing homes. She gave examples of how other states have either increased the federal medical assistance percentage (FMAP) add on for providers or used the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding that they

received to assist LTC providers.

Ms. Johnson gave a timeline and summaries of KAHCF/KCAL requests that were sent to the Governor and the responses from CHFS regarding the COVID-19 Medicaid rate add on. CHFS provided a \$270.00 per day add-on for positive COVID-19 Medicaid residents, who are in a facility. Not all residents in a LTC facility are Medicaid eligible such as Medicare or private-pay clients who are not eligible for the add-on payments. CHFS provided ways for easier and quicker enrollment into Kentucky Medicaid. CARES act funding provided strike teams and state-wide surveillance testing. A total of \$33.6 million HHS funding was paid to nursing facilities in Kentucky. However, nursing facilities received only 7.1 percent of the total \$474.5 million of funds allocated. She shared results from a July 2020, KAHCF and KCAL member workforce survey regarding the day-to-day impacts of COVID-19 in its facility. She also shared results from an April 2020, KAHCF and KCAL member survey regarding the day-to-day impacts of COVID-19 on PPE. Kentucky has seen an average of an eight percent drop in census since COVID-19 whereas early data has shown that nationwide it was around 10 percent. Due to COVID-19 there has been expanded access to healthcare by utilizing telehealth services. She stated there have also been positive changes in the workforce, training, and certification of nurse aides.

In response to questions and comments from Senator Alvarado, Ms. Johnson stated that nursing facilities are instructed to call the local health department to report a positive case of COVID-19. They are also working with the Kentucky Department for Public Health. There have been mandates issued to facilities without the understanding that the skilled nursing facilities have been managing infectious disease before COVID-19 and may have alternate, successful procedures and treatment plans already in place. She stated that nursing facilities would like their needs to be heard and to see more support given accordingly rather than dictating what should happen inside the building. KAHCF and KCAL would like to see the Kentucky Department for Public Health have an expert in long-term care on staff to combat the serious lack of understanding of how skilled nursing facilities operate.

In response to questions and comments from Representative Moser, Ms. Johnson stated that Tennessee provided across the board Medicaid funding to LTC facilities. In Kentucky, there was not an immediate focus on LTC facilities.

In response to questions and comments from Senator Danny Carroll, Ms. Johnson stated that she has heard stories of staff staying in-house to isolate the facility from the community and possible outbreaks of COVID-19 but the staff was not mandated by state or local government to do so. She hopes there will be a more open dialogue and collaboration on what is needed by LTC facilities rather than a mandated, one-

size fits all solution.

The Impact of COVID-19 on Kentucky Private Providers

Amy Staed, Executive Director, Kentucky Association of Private Providers (KAPP), stated that KAPP members provide community-based services through Kentucky's 1915(c) waivers. KAPP members work with individuals with intellectual and developmental disabilities. Adult day trainings are furnished in certified adult day training centers or licensed adult day health centers. Adult day training and health centers were ordered closed by the Governor on March 20, 2020 and allowed to reopen on June 29, 2020 but many have been unable to reopen due to low utilization. When comparing 2019 to 2020 the capacity has been reduced by an average of 93 percent between April and June. In the same time period, the revenue has decreased by approximately 90 percent but employee wages have only decreased approximately 30 percent. The facility costs remain the same. The centers do not receive any CARES Act funding. Telehealth has only been utilized in rare cases. The patients do not have access to internet or cannot tolerate telehealth. The providers applied for Paycheck Protection Program (PPP) loans that supplied eight weeks of payments. The centers also got funding from a federal government emergency relief fund that supplied seven days of revenue. The centers are now out of options.

She stated that 30 percent of KAPP members report that they know a day center that has gone out of business. If the services are not available to the clients, the clients will suffer. Parent caregivers need access to the adult day training and health centers so that they are able to go to work. Other services, such as therapy, are also offered at the adult day training and health centers including the social aspects in gathering. She has offered a solution outlined in a letter addressed to the Secretary of CHFS and located with the meeting materials on the Legislative Research Commission (LRC) website.

In response to questions and comments from Representative Frazier, Ms. Staed stated that the skilled nursing care reimbursement of \$11.32 an hour is at an adult day health center. The day training programs offered in the centers are reimbursed at approximately two to three dollars per 15 minutes.

In response to questions and comments from Senator Danny Carroll, Ms. Staed stated that CHFS has developed a risk assessment tool. A problem that was found is that if a healthy person is eligible to go to a day training program in a congregate setting, that person generally has a roommate with significant health risks. Balancing both individuals' rights and state guardianship has been difficult. State guardians have been unwilling to allow the individuals to return to congregate settings.

The Impact of COVID-19: Update on Child Care Providers

Bradley Stevenson, Executive Director, Child

Care Council of Kentucky, Inc. stated that the number of child care providers in Kentucky from 2013 to 2020 has decreased approximately 50 percent. Prior to COVID19, Kentucky's child care capacity was 165,314. The survey conducted by Prichard Committee for Academic Excellence found that 11 percent to 15 percent of child care providers may close permanently due to COVID-19. The Child Care Council survey found that there were 44,333 children enrolled prior to COVID-19 and 25,728 enrolled after reopening in June. The Child Care Council survey found that 84 percent of respondents accept Child Care Assistance Program (CCAP). The current CCAP enrollment of the respondents is 8,206 children. He stated that 43 percent of respondents would have to close, if group size restrictions in child care are not removed. He stated that 315 respondents reported weekly income loss averaging \$3,605 per center. The survey found that 57 percent reported a need for in-person tours to build enrollment. Kentucky invested approximately \$67 million into the child care infrastructure through COVID-19 funds. There were also hero incentive payments for essential workers who cared for child during the peaks of COVID-19.

In response to questions and comments from Senator Givens, Mr. Stevenson stated that when child care providers begin closing in Kentucky the demand for providers is still there. There are regulated slots for children to be in care, yet children are being placed in unregulated care due to the restrictions.

Items Received for Review

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

Consideration of Referred Administrative Regulations

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 009:270 Proposed** (deferred from July 29, 2020) - Professional standards for prescribing or dispensing buprenorphine-Mono-Product or Buprenorphine-Combined-with - Naloxone. The administrative regulation above was reviewed by the committee. Leanne Diakov, General Counsel, Kentucky Board of Medical Licensure, was available for questions.

The following referred administrative regulation was placed on the agenda for consideration: **921 KAR 003:025 Proposed** - Technical requirements; and **921 KAR 003:025 Emergency** - Technical requirements. Donna Little, Deputy Executive Director, Office of the Secretary, and Laura Begin, Staff Assistant, Department for Community Based Services, Cabinet for Health and Family Services, were available for questions. Comments were made by Senator Alvarado. A motion to defer this administrative regulation was made by Senator Alvarado and seconded by

Senator Danny Carroll, and accepted by voice vote. The administrative regulation **921 KAR 003:025 Proposed** and **921 KAR 003:025 Emergency** were deferred.

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

Adam Mather, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services, stated that he would like to present the entire presentation at a later meeting date and time due to time restraints of this meeting. Representative Moser stated that may be a possibility and requested that the Inspector General answer questions.

In response to comments and questions from Senator Alvarado, Inspector General Mather stated that the Kentucky Department for Public Health (DPH), local health departments, healthcare acquired infections (HAI) group, and the Office of the Inspector General work together to follow the Centers for Disease Control and Prevention (CDC) guidelines and the White House Coronavirus Task Force recommendations. He stated that there have been robust services wrapped around LTC facilities. He stated that in the latest CMS data Kentucky is ranked 20th in the country for COVID-19 deaths in LTC facilities. Tennessee has a 50 percent occupancy rate in LTC facilities. Tennessee's LTC environment is a more community-based system. There are individual calls with every LTC facility when there is a COVID-19 outbreak to help with action plans to properly follow CDC guidelines and White House Coronavirus Task Force recommendations. When a LTC facility has a COVID-19 outbreak there is not a one-size-fits-all response.

In response to comments and questions from Senator Givens, Inspector General Mather stated that a significant amount of PPE provided by the federal government was delivered to local health departments and then to LTC facilities. He stated that Kentucky has one of the more robust programs in the country for global testing. Kentucky has received money from the CARES Act funding to provide ongoing testing. Both LTC associations and assisted living associations members were engaged on how to operationalize the on-going testing. He stated that the kycovid19.ky.gov website shows how to become a lab provider, a specimen collection provider, and get reimbursed almost immediately.

Adjournment

There being no further business, the meeting was adjourned at 3:02 PM.

Interim Joint Committee on Judiciary

Minutes of the 3rd Meeting of the 2020 Interim

August 20, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Thursday, August 20, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Alice Forgy Kerr, 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, Angie Hatton, Samara Heavrin, Nima Kulkarni, Stan Lee, Derek Lewis, Savannah Maddox, C. Ed Massey, Chad McCoy, Patti Minter, Kimberly Poore Moser, Jason Nemes, Brandon Reed, Maria Sorolis, and Rob Wiederstein.

Guests: Laurie Dudgeon, Director, Administrative Office of the Courts; Tara Blair, Executive Officer, Department of Pretrial Services, Administrative Office of the Courts; Angela Darcy, Deputy General Counsel, Office of General Counsel, Administrative Office of the Courts; John McGarvey, Morgan Pottinger McGarvey; Lindsay Beaver, Legislative Counsel, Uniform Law Commission; Ben Carter, Senior Litigation and Advocacy Counsel, Kentucky Equal Justice Center; Josh Crabtree, Executive Director, Legal Aid of the Bluegrass; Amanda Young, Executive Director, Legal Aid of Kentucky; Jesse Brewer, Greater Cincinnati Northern Kentucky Apartment Association; JD Carey, Executive Director, Apartment Association of Kentucky; Michael Wilson, Business Director and Deputy General Counsel, Secretary of State's Office.

LRC Staff: Katie Comstock and Yvonne Beghtol.

Approval of Minutes

Senator Schickel made a motion to approve the July 09, 2020 minutes, seconded by Senator Wheeler, and passed by voice vote.

COVID-19 Pretrial Release Numbers

Laurie Dudgeon, Director of the Administrative Office of the Courts, gave an overview of the pretrial process. A defendant is arrested, booked into a local jail, and a pretrial officer conducts a risk assessment by evaluating the defendant's criminal history and scoring the risk to reoffend and the risk of danger to the community. The pretrial officer then presents this information to a local district judge who makes the release decision. The defendant may be released on their own recognizance, with non-financial bond conditions or with additional release conditions, or a financial bond may be set. In 2017, the Supreme Court expanded a program statewide that some judges had been piloting since 2014. The Administrative Release Program allows low level non-violent offenders to be released by pretrial services. Arrests have been down statewide during the COVID pandemic, but numbers

are returning to pre-COVID levels. However, the Administrative Release Program has brought some uniformity to release practices statewide.

Tara Blair, Executive Office of the Department of Pretrial Services, began by stating that the Supreme Court expanded the existing Administrative Release Order on April 14, 2020, to expedite the release of defendants that judges were already releasing. The program allows for the release of defendants served with a warrant for nonpayment of fines, arrested on a bench warrant for failure to appear on a nonviolent or nonsexual Class D felony, or arrested for contempt on civil matters. On June 1, 2020, an amendment was issued to scale back the eligibility criteria.

Ms. Blair presented statewide pretrial services arrest data comparing 2018, 2019, and 2020. The data indicates a significant drop in arrests during the 2020 COVID period of March 16 to May 31. Ms. Blair stated they saw 500 to 700 defendants daily statewide pre-COVID which dropped to under 200 per day between March and May. The pretrial release rate is typically around 10 percent but went to 39 percent once the Administrative Release Order changed on April 14, 2020. The pretrial release rate then dropped to 29 percent once the amended order was issued on June 1, 2020.

Ms. Blair gave data on the Kentucky jail population, advising that the Administrative Release Program was not the driving factor in lowering the jail population. The data showed a minimal change in the yearly percentage of rearrests (6 percent in 2019 and 7 percent in 2020) and no rearrests (94 percent in 2019 and 93 percent in 2020) of those released in 2019 and 2020. The number of judicial releases were much lower in 2020, compared to 2019, but the percentage of arrests and rearrests are very similar. The number of administrative releases was much higher in 2020 due to the Administrative Release Program, but the percentage of rearrests and no rearrests were similar. When comparing class of offense cases from 2019 to 2020, the percentages are similar with the majority of rearrests being for Class A misdemeanors. The number of those released on a felony who recommitted a felony or committed a misdemeanor and those released on a misdemeanor who committed a felony or recommitted a misdemeanor has remained similar between 2019 and 2020. The largest percentage is those released on misdemeanors who recommit a misdemeanor. Ms. Blair stated that the pretrial data remains consistent from year to year. The rearrests rates from 2009 to present hover between 10 to 12 percent.

In response to Senator Schickel, Ms. Blair stated that the COVID-19 pandemic has allowed them to move from in-person interviews in jails to remote work, and allowed them to have 24/7 pretrial in every jail. The expansion of the Administrative Release Program has been discussed in every session, but its continuation will depend on the Supreme Court. Ms. Blair is not aware of any cases where an Administrative Release has overridden a bond release

set by a judge.

In response to Senator Schroder, Ms. Dudgeon is not aware of any cases where a judge held back an arrest warrant out of concern for jail personnel safety.

Chairman Petrie stated that the pretrial data presented should be used by the committee for oversight purposes only. It is the responsibility of the judicial system to determine how pretrial services work and to adjust internal procedures accordingly.

Uniform Deployed Parents Custody and Visitation Act

John McGarvey, Morgan Pottinger McGarvey, began by stating that military families have a high divorce rate and military transfers place parents in separate jurisdictions.

Lindsay Beaver, Legislative Counsel for the Uniform Law Commission, began by stating that HB 428 was introduced in 2020, but the COVID pandemic brought it to a halt. Ms. Beaver stated that notice of a sudden deployment allows little time for parents to address custody issues. The Uniform Deployed Parents Custody and Visitation Act (UDPCVA) helps military families by simplifying conflict resolution, protects and nurtures familial bonds while the parent is away, and ensures that those who serve their country are not penalized for their service. The UDPCVA has been enacted in 14 states.

In response to President Stivers, Ms. Beaver stated that the UDPCVA helps families by laying out a framework, providing expedited court procedures, and allowing electronic testimony. Mr. McGarvey added that the UDPCVA has the support of the Department of Defense, the National Guard Association, and the office of the Fort Campbell JAG. Ms. Beaver stated that the order is temporary and modifiable upon the return of the service member and includes a provision to protect the deployed parent from allowing the courts to use the deployment as a negative factor in determining the best interest of the child.

In response to Representative Sorolis, Ms. Beaver confirmed that the UDPCVA addresses when both parents are enlisted in the military. The UDPCVA also addresses non-parental visitation, allowing the deployed parent to delegate visitation to a step-parent or grandparent.

Evictions

Ben Carter, Senior Litigation and Advocacy Counsel with the Kentucky Equal Justice Center (KEJC), stated that he sees the current renter situation as an eviction explosion. Mr. Carter stated that if the eviction process did not disproportionately affect those of color, the process would not be allowed to continue. The data presented indicates that higher income jobs are returning but lower income jobs are not. In addition, your rights as a home renter depend on where you live and in what type of dwelling. The Uniform Residential Landlord Tenant Act (URLTA) has not been adopted in all areas, and the definition of a "covered dwelling" may not be known by the renter, which can impact if a renter is subject to late fees or

allowed an extended eviction due to nonpayment. Currently, some sheriff departments may place a court order above Governor Beshear's executive order prohibiting setouts during a pandemic, and renter rules are changing quickly. During the pandemic, a home is shelter from the COVID-19 virus, school for children, and an office for the employed. Mr. Carter gave data showing the percentage of renters who spend more than 50 percent of their income on housing, and the percentage of renters and home owners who made partial or no payment during July 2020. He stated that the Governor and the courts need more time to process and develop a more uniform, safe, and fair process.

Josh Crabtree, Executive Director of Legal Aid of the Bluegrass, stated that Legal Aid provides direct services to constituents in all 120 Kentucky counties and that Legal Aid of the Bluegrass represents 68 counties. Most Kentuckians spend more than 45 percent of their income on housing. Renters are least likely to have emergency funds set aside. Eviction Lab data estimates that 221,000 Kentucky households, or 44 percent of all households that rent their homes, are currently unable to pay rent or are at risk of eviction. The estimated rental shortfall is \$212,000,000. It is likely that 149,000 Kentucky households will have an eviction filed against them in the next few months. Evictions aggravate homelessness and poverty, harm families, imperil health, destabilize neighborhoods, and perpetuate racial inequality. Evicting children from their homes when their homes are also their school, will have lasting impacts on children, families, and communities. Parents need to know that they have the stability of a place to educate their children as long as in-person school options are not available. Evictions operate through the force of a complex and inconsistent legal system. Mr. Crabtree presented slides showing the eviction procedures for URLTA versus non-URLTA jurisdictions as well as pre-pandemic versus pandemic.

In response to Chairman Westerfield, Amanda Young, Executive Director for Legal Aid of Kentucky, stated that up to five jurisdictions in Kentucky have adopted URLTA.

In response to Chairman Westerfield, Mr. Crabtree stated that when he called the 120 counties to ask how they would handle evictions, there was no uniformity, and most did not ask why he was filing for an eviction. Ms. Young responded that most evictions filed for reasons other than non-payment are continuing. Mr. Crabtree added that evictions due to non-payment have tripled in 33 of the counties Legal Aid of the Bluegrass represents. Legal Aid's extensive case management system gathers data that includes loss of jobs, not receiving unemployment, as well as COVID related reasons for non-payment.

In response to Senator West, Ms. Young stated that the time frame for eviction for non-payment needs to be consistent throughout the state. Tenants without a lease in non-URLTA jurisdictions are entitled to a 30

day notice of eviction if behind on rent. If there is a written lease, it can shorten that period. Mr. Crabtree stated that a URLTA jurisdiction gives a 7 day notice. In reply to a question regarding the economic long-term effects of allowing non-payment of rent, Mr. Carter stated that the appropriate amount of time during a pandemic to allow non-payment of rent should be determined by whether or not it is deemed safe to open schools and whether individuals are still waiting on unemployment insurance. The CARES Act offers assistance such as mortgage forbearance, paycheck protection program, and small business emergency loans for landlords.

In response to Representative Maddox, Mr. Crabtree stated that the Legal Aid of the Bluegrass' main priority is to keep people fed and housed. It is the job of the other powers that be to take on constitutional arguments with the Supreme Court.

JD Carey, Executive Director of the Apartment Association of Kentucky, stated that his association is dedicated to working with legislators on solutions to alleviate the needs of renters and housing providers. Apartment owners and operators also face financial challenges due to the COVID pandemic. The Apartment Association of Kentucky's members are working to assist those who are out of work by offering payment plans, waiving late fees, and other financial arrangements. Some owners cannot sustain even a small loss of rental income, and therefore face potential foreclosure due to the lack of governmental and judicial resources. Owners have expenses beyond mortgages, including federal, state, and local taxes, insurance, maintenance, utilities, payroll, and debt services that must be met regardless of whether or not a tenant pays rent. If an eviction moratorium is in place or extended, some owners will risk bankruptcy and the loss of their property, increasing the shortage of available housing.

Mr. Carey stated that the number of rental units up for eviction have been exaggerated. A study by the Aspen Institute concludes that up to 23,000,000 Americans living in rental housing are at risk of eviction as of September 30, 2020, based on an assumed renter unemployment rate of 25 to 30 percent. But the unemployment rate in July was at 10.2 percent, which casts doubt on the Aspen Institute's prediction. The National Multi-Family Housing Council found that 13.1 percent of renter households across the United States made no payment through the middle of August, which is a 2 percent increase from those who missed payments through mid-August 2019. This information indicates that most tenants are taking advantage of payment arrangement options, possible beneficiaries of the CARES Act, and recipients of the unemployment insurance benefits. These are preventative measures that reduce the likelihood of eviction for non-payment.

Mr. Carey stated that the multi-family apartment industry is the only sector of our economy being asked to giveaway their product for free, while still

having to meet their own financial obligations. In addition, not all evictions are for non-payment of rent. Rental housing providers must be allowed to proceed with evictions for reasons other than non-payment of rent due to COVID-19 or any future state of emergency. For example, if a renter abandons his or her apartment, a rental provider can obtain legal possession only through the eviction process. There are more effective ways than eviction moratoriums to provide relief to those on both sides who have been financially impacted by COVID-19.

Jesse Brewer, Greater Cincinnati Northern Kentucky Apartment Association, stated that the Governor's mandate has created a burden on small business owners that have tenants refusing to pay rent. Mr. Brewer gave a breakdown of the expenditure for each dollar a landlord receives from rent. Mr. Brewer stated that the 44 percent of at-risk evictions cited in a letter to Governor Beshear from the Kentucky Equal Justice Center is grossly inflated and the actual number is closer to four percent. The four month moratorium could conclude that the eviction number is close to that of the pre-pandemic year. An eviction is expensive and a last resort. In response to a previous statement that landlords have access to other resources, if so, then owners would not be evicting, and some renters are on Social Security or unemployment and are exempt from execution. Mr. Brewer stated that some tenants on social security income are refusing to pay rent because the government said they do not have to pay. His association wants to work with those who are in true need, but wants to also address the gross abuse of these mandates.

Senator Nemes asked that Mr. Carter contact his office to work through Mr. Carter's reasons as to why the laws are unfair. Senator Nemes advised that changing the payment plan without changing the lease can make the lease void. Also, if utilities cannot be turned off and the landlord pays for utilities, this is an additional burden on a landlord who is not receiving rent. Landlords often know who is in need of help and who is taking advantage of a situation.

In response to Senator West, Mr. Brewer stated that the lower income areas will be most negatively affected by non-payment of rent. Raising rent on paying tenants to offset the missed revenue of non-paying tenants is another unintended consequence.

Representative Kulkarni stated that this does not need to turn into a reprimand on what the Governor did right or wrong, or into a battle between landlords and tenants. Focus needs to be on how to resolve the eviction conflict. Solutions in the upcoming should come from the point of view that landlords and tenants are both constituents and we need to resolve the issues in light of fairness to both parties.

**Regulations
Referred Administrative Regulation
Reviewed by the Committee Pursuant to KRS
13A.290:
Secretary of State**

030 KAR 008:005. Notary public applications and electronic and online registrations.

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

Interim Joint Committee on Licensing, Occupations, and Administrative Regulations Minutes of the 3rd Meeting of the 2020 Interim

August 25, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Tuesday, August 25, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Tom Buford, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Christian McDaniel, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Tom Burch, Al Gentry, Thomas Huff, Matthew Koch, Nima Kulkarni, C. Ed Massey, Chad McCoy, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Rachel Roberts, Sal Santoro, John Sims Jr, Susan Westrom, and Buddy Wheatley.

Guests: Marc Guilfoil, Executive Director, Jennifer Wolsing, General Counsel, Dr. Bruce Howard, Equine Medical Director, Kentucky Horse Racing Commission (KHRC); Senator Alice Forgy Kerr; Representative Lisa Willner; Dr. Bob Browning, Former Pastor, First Baptist Church, Frankfort; Daniel Mingo, Cole Cuzick and Joseph Backholm, Kentucky Family Foundation; Dr. Clara Fenger, North American Racetrack Veterinarian Association, and Zach Meiners, Chronicle Cinema.

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

Consideration of Minutes from the July 30, 2020, meeting

Representative Burch motioned to approve the minutes from the July 30, 2020, meeting, and Representative Huff seconded the motion. The minutes were adopted by voice vote.

Kentucky Lottery Corporation: New Method for Drawing Numbers

Chairman Schickel deferred the lottery discussion to another meeting as the number of individuals requesting to speak on the other topics on the agenda had increased and the committee's allotted time was limited. He apologized for the inconvenience.

Consideration of Administrative Regulations

Referred Administrative Regulations Reviewed by the Committee Pursuant to KRS 13A.290:

PUBLIC PROTECTION CABINET.

Kentucky Horse Racing Commission

810 KAR 002:090. Temporary unsuitability of licensed premises.

810 KAR 004:030. Entries, subscriptions, and declarations.

810 KAR 005:060. Entries and starters.

810 KAR 008:010. Medication; testing procedures; prohibited practices.

810 KAR 008:020. Drug, medication, and substance classification schedule and withdrawal guidelines.

810 KAR 008:030. Disciplinary measures and penalties.

810 KAR 008:070. Bisphosphonates.

Those in favor of the administrative regulations

Chairman Schickel said he is in support of the administrative regulations, and noted that they will go into effect upon conclusion of the meeting and before the Kentucky Derby.

Senator Thayer discussed the Equine Research Council's collaboration with Dr. Bruce Howard, Equine Medical Director, KHRC, on Kentucky's medication reform and the regulations. Over 16 years ago, Kentucky had a problem with stacking drugs in the thoroughbred industry. He noted the reform has occurred over numerous Horse Racing Commissions and several gubernatorial administrations. He fully supports the administrative regulations.

Senator Higdon said the Standardbred horse industry should be treated differently than the Thoroughbred horse industry. He emphasized that they should be categorically separate in all aspects.

Dr. Howard testified in favor of the administrative regulations and said they are starting a proposal towards a compromise. He said the regulations eliminate furosemide on race day for two-year olds in 2020, and will begin the elimination on stakes horses in 2021. By adopting this compromise, Kentucky can come into alignment with the rest of the racing world and help lessen the negative public perception that exists concerning medication issues in racing. It will also minimize the argument that furosemide enhances performance by causing fluid elimination, which reduces a horse's weight before a race by an estimated 10-20 pounds. He said the issue will continue to be monitored and findings reported to the Commission on a regular basis to see if changes need to be made.

Those against the administrative regulations

Senator Hornback is concerned, if Lasix is banned, other illegal drugs will be used in its place. He said Lasix is relatively safe and helps with bleeding. He feels the administrative regulations are being rushed and not many other states have this in place. It is hard to compare to European races as they race on grass and the United States races on dirt. He feels the administrative regulations need some more vetting and this could be a detriment to Kentucky's claiming races.

Dr. Clara Fenger, North American Racetrack

Veterinarian Association, urged the committee members to vote to find the administrative regulation deficient on behalf of two groups she is representing: the private practitioners in the Commonwealth who are gatekeepers for the health and welfare of the racehorses, and the majority of the horsemen and women of the Thoroughbred and Standardbred horse industry. She said science should drive policymaking. Data suggests that the banning of Lasix will increase horse deaths. She cited that if a horse breaks its leg, exercise-induced pulmonary hemorrhage (EIPH) is almost always present. She has been involved in the Kentucky Thoroughbred industry for over 28 years as a regulatory and practicing veterinarian, owner, and breeder.

Responding to a question from Senator Hornback, Senator Thayer said the regulation bans furosemide across the board for two-year old horses on race day. It will also ban furosemide in stakes races for the very best horses. Most young two-year old horses have not even bled yet and therefore do not need the Lasix treatment. There is a movement to remove it completely from all races, but this was a compromise. He said there is no Lasix ban from claiming races. Certain groups will block any sensible medication reforms because they refuse to compromise or acknowledge the change in public opinion.

Responding to a question from Representative Miller regarding the number of horse deaths in relation to the use of Lasix, Mr. Howard said he does not have the exact numbers. He said four horses were ruled to have died of EIPH, which is a low number out of 189,000 starters. He said he would share the raw data of the study period with Ms. Fenger and her colleagues. Ms. Fenger said she is interested in the raw data for the thresholds.

Representative Koch said this subject is very concerning. Kentucky is the horse capital of the world and it is important to keep its prime product competitive throughout the world. He said 80 percent of the yearlings raised in Kentucky will end up leaving the state.

Responding to a question from Representative Koch, Mr. Howard said he does not have wagering numbers available from Ellis Park. However, he has heard anecdotally the handle at Ellis Park has increased over previous years due to online and remote wagering.

Responding to a question from Senator McDaniel regarding the ability to accurately track the increased cases of EIPH with the absence of latex, Dr. Fenger said yes, it is possible to track with accuracy, but the KHRC does not provide them with all the information. Mr. Howard said the HRC publishes the mortality rate and reviews for every horse and disagrees with Dr. Fenger's assessment. If there is no comment in the mortality review on the lungs it is because the pathologist found no significant findings. Dr. Howard does not believe the number of horses

dying with EIPH will increase due to the absence of Lasix. Senator McDaniel asked the KHRC to keep everyone apprised of the updated statistics.

Responding to Senator McDaniel's question regarding a horse getting bumped from the Kentucky Oaks or Derby race this year due to a medication in its system, Dr. Howard said he provided the interested parties with the information of the regulation changes well in advance. He also noted the Lasix rule will not be effect for anything this year except two-year olds. Stakes race horses will not be affected by the regulation change until 2021. Dr. Fenger said there is published data that horses can test positive for steroids even if they were not administered to them. She said the sensitivity of the drug testing in horse racing can detect levels of drugs in horses from other horses through casual contact, and this increases the chance for a drug stacking violation.

Representative Meredith said there is a large divide among horsemen and regulators in the horse industry. He said we need to track the data closely to ensure legislators made the right decision. It is best to be leary of public opinion on livestock issues and do what is best for the horse.

Responding to a question from Representative Burch regarding drug testing in horses, Mr. Howard said it is a constant battle to detect new designer drugs on the market in the horse, but they are screened for over 1,500 substances. Representative Burch said a long-term study should be conducted on Lasix and its effectiveness and benefits in horses before banning. Dr. Howard said studies show different findings on both sides of the Lasix issue. Some studies find Lasix is not effective in helping the horse, and others say it helps to control the bleeding.

Discussion of Conversion Therapy

Senator Alice Forgy Kerr explained the proposed bill draft 21 RS BR 99 that she and Representative Lisa Willner have co-sponsored for the 2021 General Assembly session. Senator Kerr says she views the bill as a pro-life piece of legislation. Conversion therapy is the term used to describe therapy that claims to change a gay person into a straight person or to stop a person from being transgender. In actuality, it has no scientific basis. Instead, it is often based on outdated and false theories such as the false notion that being gay is caused by bad parenting. Most conversion therapists falsely blame parents for a child being gay or transgender, even though there is zero evidence for such claims. She noted the practice of conversion therapy has been outlawed in 22 states and in four countries. She noted while many people hope to "pray the gay away", homosexuality is something most believe people are born with. Research shows that children subjected to conversion therapy have a seven times higher suicide rate.

Representative Lisa Willner said she taught developmental psychology and is well versed in social and emotional development. She said the research is

robust and the evidence is clear. Efforts to change a person's sexual orientation or gender identity are not effective and these efforts are associated with severe and deadly consequences. Every leading medical and mental health organization in the country and Kentucky has concluded that conversion therapy is dangerous. It does not work, and it can cause life-threatening harm to minors. Other associated risks to minors include: drug use, engaging in unsafe sex, loss of faith, anxiety, panic attacks, depression, self-harm, and many others. She noted this is a bi-partisan effort supported by policymakers across the political spectrum, as well as religious leaders.

Representative Willner said the proposed legislation prevents state-licensed providers from engaging in conversion therapy with minors. It does not, however, keep all groups from practicing and engaging in these dangerous activities. It will prevent public dollars from being distributed to any agency in the Commonwealth offering conversion therapy practices. Finally, another important step is to provide evidence-based information to inform agencies of the risks associated with conversion therapy to minors.

Zach Meiners, Chronicle Cinema, testified before the committee about his experience of being a gay youth and conversion therapy. He said the therapist inflicted trauma upon him and he would beg God to make him straight. None of the therapists that he worked with in conversion therapy were actually licensed. The long-term effects of the practices are real and damaging. He experienced chronic depression and anxiety, being disconnected from your own sexuality and body, not being able to trust himself, or trust others. He feels lucky to be a survivor, and said conversion therapy is a shame-based practice that strips people of all of their identities. He urged the committee members to pass the proposed legislation in the 2021 Session of the Kentucky General Assembly.

Dr. Bob Browning, Former Pastor, First Baptist Church, Frankfort, said this is his 51st year in ministry, and he is opposed to conversion therapy. He said many people he has counseled and met over the years did not make a conscious decision to become gay. He urged the committee members to remember one lesson and always put a name, face, place, or story with an issue when confronted with making a big decision.

Daniel Mingo, Founder and Ministry Director of Abba's Delight, spoke in favor of conversion therapy. Abba's Delight is a Christian ministry which assists born-again believers and families and friends of those who are gay-identified, to resolve the conflict of the effects of homosexuality on their lives. Pastors and churches receive assistance as well in ministering to those in their congregations whose lives have been impacted by homosexuality. Mr. Mingo became a born-again Christian at age 17, yet for nearly 30 years secretly involved himself in homosexual activity through anonymous encounters.

Mr. Mingo said intensely pursuing discipleship in Jesus while dying to the temptations of same sex

attractions proved a monumental inner conflict, yet he neither took on a gay identity nor immersed himself in the gay culture. Realizing he had been feeding a sexual addiction for nearly 30 years, he went into recovery in 1993 through mentor counseling and attending support and recovery group meetings, and continues that overcoming process today.

Mr. Mingo discussed problems with the proposed legislation. He said the bill can hurt the people he counsels that no longer want to experience homosexual desires. As presented, it offers protections to minors and vulnerable adults from coercive practices and aversion therapies by licensed counselors, but these techniques have not been practiced by professionals for decades already, as is evidenced by the total absence of lawsuits or revocation of licenses.

Mr. Mingo said one of his primary concerns of this legislation is that it will censor counseling to only those with unwanted same sex attractions and gender dysphoria. These same individuals can receive help if they want to be gay, but if they want to lead a heterosexual life following their religious convictions, they are out of luck. He said this is discrimination. All people should have the choice to pursue counseling options that align with their personal life goals and not be under government control.

Mr. Mingo said if this bill is passed it would violate the guaranteed first amendment rights to free speech for secular counselors, pastoral counselors, and any professionals whose beliefs are not in agreement with this bill's one-sided makeup. The bill also takes away the basic rights of parents to freely choose the care they deem best for their children. Kentucky should not make it illegal for Christians to provide licensed, professional care.

Cole Cusick, Family Foundation, said the First Amendment of the United States Constitution states that Congress should make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech. He said passing the bill would violate both the United States and Kentucky Constitutions. It seems like it is promoting a ban on conversations of faith and for the minor to talk to a trusted person of leadership that shares their same religion.

Joseph Backholm, attorney, Family Research Council, said the legislature is not the best body to understand the best needs of a child. He has 13 years in Washington State dealing with this issue in a very different political climate. He said coercion and abuse of clients, regardless of their age, is inappropriate and should not be allowed. Public opinion cannot and should not determine public policy.

Mr. Backholm said the proposed legislation interferes with the right of self-determination for individuals. Parental rights should play an important part in determining the care and treatment for their children. He said the definition of conversion therapy includes sexual orientation and gender identity, which are radically different scenarios. Affirmation of gender

identify includes surgical intervention which in many cases could harm and eliminate the fertility of a child. He said the proposed legislation is just an attempt to regulate speech and hinders therapists from exploring different option in treating clients' desires.

Responding to a question from Representative McCoy regarding licensing boards, Representative Willner said boards have communicated to her that it would be very helpful to have clarifications in statute. They cannot write regulations unless there is a statute to provide the framework so the licensing board has limited tools if no statute is in place.

Representative Palumbo said she supports the bill and would like to see it pass the Kentucky General Assembly in the 2021 Session. She commended Mr. Meiners for this personal testimony.

Responding to a question from Senator Thomas regarding preventing parents and religious leaders from having discussions with their children about sexual identification and orientation, Mr. Mingo said the bill does not prevent conversations between parents and children, but it does prevent them from getting professional therapeutic help. Senator Thomas said he co-sponsored the bill in the 2020 Session with Senator Kerr. He supports the bill and would like to see its passage in 2021.

Senator Schickel said he has a concern about a double standard in the bill. He said children seeking heterosexual therapy is fine, but not homosexual. He is not an attorney, but he sees that language potentially being a double standard. All of the choices are deeply personal, and people are passionate about the issue on both sides.

Senator Raque Adams said parental rights can be taken away from any parent if they are not acting appropriately. For example, if a parent is a drug addict, he or she can lose the right to raise a child and make decision for the future. She plans to be a co-sponsor on the legislation with Senator Kerr.

Responding to a question from Senator Nemes regarding conversion therapy being an effective tool to treating homosexuality and the ramifications, Senator Kerr reiterated that studies show individuals subjected to conversion therapy are seven times more likely to commit suicide. She also noted that any minister can offer counseling to any person, whether they are gay or not. Mr. Mingo responded that conversion therapy has proven to be an effective treatment, although the mainstream media is unlikely to report it as such. Many people have walked away from a homosexual lifestyle utilizing conversion therapy.

With no further business before the committee, the meeting adjourned at 11:45 a.m.

Interim Joint Committee on Local Government

Minutes of the 3rd Meeting of the 2020 Interim

August 27, 2020

Call to Order and Roll Call

The third meeting of the Interim Joint Committee

on Local Government was held on Thursday, August 27, 2020, at 12:30 PM, in Room SWC 204-205 of the State Fair and Exposition Center in Louisville, Kentucky. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Ryan Quarles, Commissioner of Agriculture; Mark Iverson, Bowling Green Municipal Utilities; Gary Larimore, Kentucky Rural Water Association; Mike Gunn, Fulton City Manager; Bryanna Carroll and Nancy Yelton, Kentucky League of Cities; Kenneth Imes, Calloway County Judge/Executive; and Shellie Hampton, Kentucky Association of Counties.

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

Approval of Minutes

Upon the motion of Representative Reed, seconded by Senator Nemes, the minutes from the July 28, 2020 meeting were approved.

Governor's Executive Order 2020-323 relating to Utility Cutoffs

Mark Iverson, General Manager of Bowling Green Municipal Utilities (BGMU), told the Committee that he appreciated the opportunity to discuss the impact of the moratorium on utility disconnects and late fees as directed through the Governor's May 8th executive order. BGMU is a city-owned, not-for-profit utility serving the citizens, businesses and institutions of Bowling Green with electric, water, sewer and fiber-optic communication services.

As it relates to the disconnection of utility services, there are two opposing and unenviable options. The first is to allow for disconnections for non-payment to happen, with the concern that financial strain or household displacement for vulnerable persons may occur in the midst of the pandemic. The second is to suspend disconnections and let the balances accumulate to an unmanageable position for those same, targeted customers. At some point in time, there is a tipping point where one of the two bad options out-weighs the other, and we are at or near that point.

The May 8th executive order states that the suspension of disconnects and assessment of late fees will continue until the lifting of the emergency order. No one knows when the order may be lifted. The pandemic may last through the spring of 2021, and there may be customers who have accumulated a year's worth of unpaid utility bills.

Pre-COVID, the March balance of past due balances ran around \$150K to \$200K. Each month, April thru July, BGMU experienced a pay down followed by a peak towards month end ranging from an April peak of \$584K to a July peak of \$700K. Since July 31st, there has been a rapid escalation of total past due balances to \$921K as of Monday morning. That is four times the August balance in 2019 in amount and twice the number of accounts past due. There is a wide misunderstanding about the suspension of disconnection from the customers. There are many who feel that these balances are going to be written off and they will not be responsible to pay. Other utility managers have heard the same thing. Not all of these past due accounts are customers under financial strain. There are customers who are gaming the order. For example, there is an apartment complex where the property manager keeps each unit's utility services in its name, not the tenant's. They collect the utility amounts used from each tenant, but the manager has not paid BGMU since March. Their total past due balance is \$108,000. When asked about their balance, their response is they have the dollars, but since it doesn't cost them anything in late fees and BGMU cannot disconnect for non-payment, they are holding on to it. There are just under 800 residential accounts that are 90 days or more past due; the average amount is \$568. At that pace, they could be facing a balance of \$1,000 by year's end.

This growing balance of past due accounts is not good for customers. Some customers need structure; they wait until something becomes chronic, like a cut-off notice, before they react. Without the pressure of payment and disconnection, they are not seeking help from the many sources available to assist, like LIHEAP and TVA's Assistance Fund. BGMU has seen about one-half of the volume of vouchers from the LIHEAP program, and most of TVA's Assistance Fund remains untapped.

Other states are not necessarily mandating the suspension of disconnection. Twenty-six states never did mandate the suspension of disconnection. As of April 2, 14 state mandates will have expired, leaving only ten states with disconnection mandates. Of those ten, only four, including Kentucky, have orders that expire at the end of the declared emergency or until further notice. Contrasting the administration's approach, TVA, BGMU's regulator, allowed its local utility boards to make decisions as to how best to respond to their communities, including decisions on cut-offs and late fees.

A TVA study indicated that about 70 percent of the distribution power companies returned to a normal disconnection policy by June's end. Two companies had territory in both Kentucky and Tennessee. The customers in Tennessee did not experience household displacement, and both companies worked with customers to make payments, or the customers paid the balance in full.

No business, utility, or government can sustain itself without collecting the revenues and funding

needed to operate and pay obligations. Interestingly, the state is still pursuing and assessing businesses that owe taxes, and assessing late filing penalties as well. BGMU respectfully asks to set aside the order and let local utility boards and staff manage the situation. If the administration cannot see a need to lift the order now, then the following suggested modifications should be considered. Establishing a final end date, an end date that is sooner rather than later, would be a vast improvement. The administration could rework the order to only apply to residential accounts and let utilities return to disconnection and late fee assessment for commercial accounts. One other modification might be to let utilities return to assessing late fees. This would change the calculus for those that are gaming the order. Lastly, allocate and release sufficient CARES Act funds to local governments to apply to past due qualifying customer accounts.

In response to a question from Representative Brown, Mr. Iverson stated that Kentucky utility customers are at a tipping point: that of having the strain of having to pay utility bills immediately, or the added strain of having to pay deferred bills later. Assistance is available but is being underused in regards to the impact from disconnects. Representative Brown commented that he was concerned about people not being able to make payments and advocated for compassion in dealing with those people.

Representative Graviss noted that efforts were underway to assisting citizens and utility companies to get through the pandemic, urging people to reach out to federal congressional members to fund the huge needs of the state and local governments.

Representative Howard commented that there are people who do not intend to pay. Mr. Iverson agreed.

In response to a question from Senator Mills, Mr. Iverson replied that disconnections and late fee issues are happening all over the state.

Ms. Bryanna Carroll, Director of Governmental Affairs with the Kentucky League of Cities (KLC), told the Committee that the COVID-19 pandemic created several challenges for cities. The financial strain currently facing municipal utilities may be one of the most impactful. Nearly half of all Kentucky cities own at least one utility. Cities spend billions on their operation. \$2.3 billion was spent in FY 2018.

These utilities function on razor-thin margins. They are very capital-intensive, requiring a lot of funding for construction, maintenance and upkeep. In addition to providing vital services such as gas, electric, water and sanitation, these utilities also provide jobs. Municipal water utilities are responsible for roughly 1,600 full-time jobs and more than \$89 million in wages. Municipal wastewater systems employ nearly 900 people full-time and provide more than \$87 million in salaries. Several cities also provide gas and electric, generating a combined \$374 million in sales, and cities are responsible for around \$92 million in solid waste collection and disposal.

The Governor's May 8th executive order, in part, directs all utilities to cease cutoffs for nonpayment and mandates waiving of all late fees for the duration of Kentucky's state of emergency which began on March 6 and is still in effect. Nearly half of all utilities have suspended notifying delinquent customers of their past-due amounts during this public health emergency, and municipal utilities are working with customers to try and identify ways to keep up with their accumulating balances. However, the fact remains that many people are now facing a growing debt that they will struggle to pay, and utilities are facing a financial crisis that threatens their ability to operate.

A KLC survey conducted in conjunction with the Kentucky Municipal Utilities Association (KMUA) and the Kentucky Rural Water Association (KRWA) shows the prolonged abatement of on-time payments is having a significant impact on the operation of these utilities. The number of people not paying their bill is up significantly. Delinquent accounts increased 30% in the past year. From June 2019 to June 2020, the total amounts in arrears increased 34%. The average late payment penalties in June alone was more than \$14,000 per utility. Two-thirds of utilities surveyed reported that the current moratorium on on-time payments is having a negative impact on their operation, with 25% saying it has had an extremely negative effect. These systems have already slashed budgets, delayed capital projects, and have frozen hiring. A majority say they will have to take even more drastic steps, including pay freezes, furloughs and layoffs, if the executive order extends into the next year.

At minimum, municipal utilities need a modification to the Governor's executive order with collaboration on what can be reasonably be done to address the needs of people impacted by the pandemic while also recognizing the revenue reality local utilities face. Many utility operators say they are concerned that some customers falsely believe their bill has been forgiven, instead of delayed, and the misunderstanding has created the potential for abuse by people who simply don't want to pay what they owe. There are also very real revenue concerns in the local communities, due to the pandemic and the financial impact of the forced shutdown. Without additional funds to address these shortfalls, local governments are not in a position to shore up large losses in local utilities.

In closing, Ms. Carroll noted several responses to KLC's survey. The City of Hardin reported it will have to borrow money in order to continue operating if the executive order is extended. The City of Marion warned that the continued practice of delaying payment will only lead to a backlog of customers unable to ever catch up. The City of Caneyville stated that it has no more room to lay off any employees if it is to continue operating. The City of Crab Orchard summed it up by saying that it cannot survive the rest

of this year without being able to force customers to pay their bills.

Mr. Mike Gunn, Fulton City Manager, stated that this issue is real, and it is happening where the rubber meets the road—on the cities' streets. The City of Fulton runs a small water, sewer and natural gas utility for 1,724 accounts. The annual billed revenue for the utility is \$2.6 million. The city is currently running at a nine percent delinquency rate on utility accounts. Before the COVID pandemic, the city was running at a two percent delinquency rate. Total unpaid utility accounts dollars are presently around \$60,000. The city also, on average, makes about 18 percent of its revenue on late fees paid after the tenth of the month and then disconnect/reconnect fees on the 20th of the month.

During the pandemic, the city has not been charging late fees or disconnection and reconnection fees, as it has been following the executive order. Natural gas season is just around the corner for the city. Its natural gas sales on average are \$775,000 annually. If the city applies its current delinquency rate and lost revenue from late fees to just that natural gas number alone, it is devastating to the budget. The city's utility fund budget was already strained due to repairs to an aging infrastructure. In 2018, the city borrowed five million dollars on a 20 year bond to upgrade sewer and wastewater infrastructure, because the city was found to be in violation of its state issued permit.

A fact that is not unique to the City of Fulton alone is it has a high percentage of the population living in a rental property. In the City of Fulton, 63 percent of the community live in such a structure and therefore at the end of this pandemic, could simply leave, leaving unpaid utility balances. The city's bad debit write off annually is approximately 0.5 percent to one percent pre-COVID. That number could easily change when the city goes into or through a gas season with no disconnection allowed.

Mr. Gary Larimore, Executive Director of the Kentucky Rural Water Association (KRWA), told the Committee that KRWA joined with KLC and the Kentucky Municipal Utilities Association (KMUA) on the COVID-19 utilities survey mainly because they were getting a number of calls from their membership, which is mainly made up of cities of under 10,000 in population. Those cities were concerned, not only about the financial stability of their utilities, but also of their customers' financial stability. Most of KRWA's utilities are small in nature and have a personal relationship with their customers. They understand their plight, and are willing and wanting to help them out any way they can, and have been doing so on a regular basis.

In addition to the Governor's Executive Order, the Public Service Commission (PSC) issued an order on March 16 to those utilities under the PSC. The KRWA will be asking the Governor to consider ending this moratorium because it is concerned that

the longer it goes on, the worse it is going to be. The KRWA is concerned about a sector of its customers that might not ever be able to pay out the debt they are accumulating. The KRWA is also concerned about a sector of customers that they believe are gaming the system.

In response to a question from Representative Bentley, Ms. Carroll said KLC did not at present have the estimated delinquency costs statewide for cities with populations under 3,000, but that she would research that and provide Representative Bentley with that information.

State Agriculture Commissioner Ryan Quarles was recognized by the Chair and welcomed the Committee to the State Fair and told them about the different events being held.

Conservatorship for Abandoned Properties

Senator Robby Mills, sponsor of SB 225, which was filed in the 2020 Session, explained that communities of all sizes are dealing with a growing problem—blighted and abandoned properties. From homes to businesses and former industrial sites, these locations are often more than a nuisance. They can attract crime, bring down property values and create a fire hazard. How to approach the problem and finding the best way to rehabilitate these properties is an ongoing struggle.

Senate Bill 225 aimed to help communities deal with this problem. The bill permitted the court to appoint a conservator to bring blighted, abandoned and deteriorated buildings that have been vacant for at least one year into local government code compliance. The bill sets guidelines to help the court determine if a building is abandoned and blighted, and it makes local governments responsible for developing a plan for rehabilitation and identification of potential funding. The goal is to give local governments another option to ensure the financial and aesthetic value of the community.

Ms. Bryanna Carroll, Director of Governmental Affairs with the Kentucky League of Cities (KLC), stated that city leaders will say that one of the hardest things they deal with is blighted and vacant properties. KLC recently conducted a City Census, and this issue is one of the topics that was addressed. The survey found that almost all Kentucky cities have some type of abandoned or blighted property they are dealing with, and that within the past two years around half have taken local action. However, the problem grows as a city grows.

While cities have a few options to deal with these areas, many cities, especially those with a population below 1,000, which is a majority of cities in Kentucky, are less likely to utilize current methods. Currently, a city can use code enforcement procedures, create a vacant property review commission, levy higher tax rates on blighted properties, or use eminent domain.

The ability to create a conservatorship for blighted and abandoned properties gives cities a new way to address this problem. Twenty-two states have

implemented similar legislation, including six of Kentucky's seven contiguous states. Rehabilitation of an abandoned and blighted property benefits a community by providing for productive reuse, reinstatement of taxable property, and increased property values, in addition to the promotion of affordable housing.

Ms. Nancy Yelton, Legislative Counsel for KLC, told the Committee that KLC has worked for some time on developing the provisions of this legislation and held meetings throughout the 2020 Session with various stakeholders. The current proposed legislation is the result of those meetings.

The bill defines an abandoned and blighted property as a residential, commercial, or industrial building that has been continuously vacant for at least one year with repeated code violations. The building must experience at least three of the following conditions:

The building has not been brought into compliance with housing, building, or nuisance codes;

The building is unfit for human habitation or use;

The building is considered a fire risk;

Due to neglect or lack of maintenance, the building has become a collecting place for trash and debris, or a haven for rodents and other vermin;

The building could be used for illicit purposes;

The building is not secure; and

The condition of the building substantially negatively affects the economic well-being of neighboring residents or businesses.

Some properties are exempt depending upon factors such as recent acquisition or the existence of outstanding liens.

If these criteria are met, a local government could file a petition with the Circuit Court in the county in which the building is located for appointment of a conservator to take possession of and rehabilitate the property with notice provided to all interested parties. The petition must include copies of all code violations, a preliminary plan for rehabilitation to bring the building into compliance with code requirements, cost estimates, anticipated funding sources, and a timeline for completion. The petition must additionally include the person or entity recommended for appointment as conservator, including the qualifications of the person or entity. A conservator must have experience in the rehabilitation of residential, commercial, or industrial buildings and the ability to provide or obtain the necessary financing.

After a petition is filed, the court must hold a hearing and could appoint a conservator if it finds required conditions are met and the owner of the building has not come forward to make repairs. Following appointment, the conservator would

develop a final plan for abatement for submission to the court and all interested parties that could include everything from repairs to potential demolition. Any interested party could comment on or request a hearing on the final plan. The conservator must update the court and all interested parties every six months on the status of the project.

After implementation of the final plan, the conservator may petition the court for authority to sell the property. The court may order sale of the property if the conditions that were grounds for the petition have been corrected and the owner has not successfully petitioned the court for termination of the conservatorship. Any sale of the property would be subject to the supervision and approval of the court.

In response to a question from Representative Miller, Ms. Yelton said the legislation does not address the specific problem of a tax lien being bought at the courthouse door and then the deed of the property not being recorded with the county clerk because the property would not be profitable for them to flip. The issue has not come up but she will look into it.

In response to a question from Representative Koenig, Ms. Yelton stated that the main difference between this legislation and abandoned property legislation that is already on the books is that it would bring in more community involvement, bring more properties back on the tax rolls, and contribute to affordable housing.

In response to a question from Representative Brown, Ms. Yelton replied that the legislation would help prevent gentrification from occurring because the petition for conservatorship has to be first filed by a city or a county which are very aware of gentrification issues. In contrast, if a property goes through foreclosure auction, then anyone can buy it and do with the property as they please. Representative Brown suggested that the bill address displacement concerns. Senator Mills stated that some language may be added to the bill, and that he would be willing to talk to Representative Brown about his concerns. Ms. Yelton noted that the properties subject to conservatorship only need be brought up to building code standards pursuant to the bill's requirements.

Broadband Internet Resources

Ms. Shellie Hampton, Legislative Director for the Kentucky Association of Counties (KACo) told the Committee that as COVID-19 forced a transition to virtual work at all levels of daily lives, it has shed light on the pre-COVID issue of the significant stretches of unserved and underserved broadband access, at varying levels but certainly an issue for most every county. Government was no exception as fiscal courts adapted to virtual meetings to continue to be transparent and still follow CDC and state health and safety protocols. Broadband access has become the 21st century equivalent of the need for access to electricity in the 20th century. More people are teleworking, using non-traditional instruction (NTI) and virtual learning, and virtually attending General

Assembly meetings.

While some consider broadband a more rural issue, accessibility can be a challenge no matter where one lives. For example, parts of Boone, Kenton, Scott and Warren Counties do not have internet service.

Among issues brought up in every KACo Listening Session, directly from its members, was the need for broadband accessibility and affordability.

Calloway County Judge/Executive Kenneth Imes stated that adequate internet coverage in Calloway County is spotty—even in the city of Murray. There are problems with FCC census block data. One person with 25 Mbps/3 Mbps connectivity in a census block counts toward declaring the whole census block as having that level of connectivity. Calloway County is applying for a USDA matching grant to improve access.

Internet dependency is increasing whether it be telemedicine or entrepreneurship. The West Kentucky Telephone Cooperative has put up six hotspots around the county. Farm Bureau put a hot spot on their facility in Murray. People are trying to address the deficiency in many ways.

The 2013 General Assembly passed legislation to relieve big telecommunications of having to run the last mile for landline telephone service. In return they would take the savings and apply them to greater cell phone service and broadband expansion to more rural areas. They must be encouraged to be more participatory in the process.

Kentucky Wired was originally billed as a solution to Calloway County's internet connectivity needs, but after 100 of millions of taxpayer dollars and years later, the county is now finding out that it was just for the middle mile.

As circumstances pushes Kentucky's citizens more toward online communications, perspectives need to be changed. One of the Kenton County magistrates expressed recently, "we've got natural gas, electricity, and water—things we could get in some other way if need be, but there is no other way to get internet service." The General Assembly is encouraged to help move the issue forward as soon as possible.

Ms. Hampton noted that KACo's members will be surveyed to get more specific data on their broadband access, as well as working with other stakeholders to come to the legislature with solutions that will include reducing regulatory and statutory hurdles that will allow innovation and more options for access in less populated, and thus less financially lucrative areas of Kentucky's counties to provide this service. Funding for Representative Pratt's 2020 HB 362 is on the wish list.

Senator Mills commented that there will multiple bills filed to address the broadband issue.

Representative Bentley commented that there has to be broadband internet for Eastern Kentucky and the rural areas for economic development. Children do not have internet service on their two-hour long

bus commutes, in Greenup County for instance, and miss an opportunity to be doing homework. This is a primary concern for rural areas.

Senator Alvarado commented that the use of Medicaid dollars to subsidize internet costs for telehealth purposes is being explored.

There being no further business, the meeting was adjourned at 1:55 p.m.

Interim Joint Committee on Natural Resources and Energy Minutes of the 3rd Meeting of the 2020 Interim

August 20, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, August 20, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Jay Miller, Engineer, Nally and Hamilton, Enterprises (NHE); Jodi Joseph, Environmental Compliance, NHE; Les Williams, Senior Project Manager, NHE; Casey Ehorn, Chief, East Branch Regulatory Division, U.S. Army Corps of Engineers (USACE), Nashville District; and Joshua Frost, Chief, Technical Services Branch, USACE, Nashville District.

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

Nally and Hamilton, Enterprises

Les Williams stated Nally and Hamilton, Enterprises (NHE) has a project with two pending applications with the United States Army Corps of Engineers (USACE). The project began in 2004. In 2011, the project received a Surface Mining Control and Reclamation Act (SMCRA) permit and requested a jurisdictional determination. NHE began to develop a Protection and Enhancement Plan (PEP) and applied for a Kentucky Pollutant Discharge Elimination System permit.

USACE told NHE that their application cannot be reviewed without a PEP approved by the Kentucky Department of Fish and Wildlife Resources (KDFWR). The application was amended and the regulations for jurisdictional determination changed.

In 2019, the KDFWR PEP was approved and

NHE is still working with USACE to have applications approved.

In response to Senator Smith, Mr. Williams stated the project affects approximately 50 employees.

Jodi Joseph stated there is no regulatory certainty with jurisdictional determination, which has financial impacts on the company.

Jay Williams stated the site is Kelly Branch in Harlan County.

Joshua Frost stated USACE undergoes regulatory and jurisdictional changes and is operating under the Navigable Waters Protection Rule.

USACE is working on two components of the Kelly Branch mine application including an alternative analysis that is required to determine if the hollow fills are the least environmentally damaging and compensatory mitigation.

In response to Senator Smith, Mr. Frost stated the current application from the Kelly Branch mine that USACE is reviewing was submitted in September of 2019. The national goal is to process 70 percent of applications within 120 days. The remaining 30 percent are more complex and controversial. The Navigable Waters Protection Rule went into effect on June 22, 2020.

In response to Senator Webb, Mr. Frost stated in the last 10 years there has been at least three jurisdictional changes. The changes can occur due to changes in climate, weather patterns, and the watershed.

In response to Representative DuPlessis, Mr. Frost stated there are various grandfather provisions, but they do not apply if a permit has not been issued.

In response to Senator Smith, Mr. Frost acknowledged there are costs to a company when an application is under review. Since 2015, USACE has issued between 7 and 16 permits per year in the Upper Cumberland River Basin.

In response to Representative Bowling, Mr. Frost stated there are currently three pending permits in the Upper Cumberland River Basin. Economics is a public interest review factor that USACE utilizes in reviewing applications.

In response to Representative Fugate, Mr. Frost stated that USACE does not prioritize permit applications because all permits are urgent.

In response to Senator Wheeler, Mr. Frost stated there are no provisional permits issued by USACE.

United States Army Corps of Engineers Regulatory Overview and Permitting Update

Casey Ehorn stated the USACE regulatory mission is to provide strong protection of aquatic resources and navigation capacity while allowing for reasonable development, enhancing the efficiency of the regulatory program, and ensuring fair and balanced decisions.

The Nashville district boundaries are based on the Cumberland River Basin and the Tennessee River Basin. USACE regulates areas and activities within those boundaries. The United States Secretary of the

Army was given the authority to regulate waterways under two laws: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA) of 1972.

On June 22, 2020, the Environmental Protection Agency and the Department of the Army implemented the Navigable Waters Protection Rule. The rule establishes the scope of federal regulatory authority under the CWA. There are four categories of jurisdictional waters and specific exclusions for many water features that have not been regulated.

There are two types of permits USACE issues. First, standard permits are project-specific and the process involves public notice, public comment, and hearings. The second type of permits are general permits that are nationwide or regional.

The regulatory decision criteria to issue a permit are based on the following: the project is not contrary to the public interest, the project complies with the CWA, and the project complies with the Mitigation Rule. A permit is denied if there is a practicable alternative, violates water quality standards, results in significant degradation, or impacts aquatic resources.

In 2020, USACE has taken final action on 107 permits in Kentucky. There are currently four general permits pending and no standard permits pending.

In response to Representative Gibbons Prunty, Mr. Ehorn stated USACE implements the regulations that are enacted by the federal government.

There being no further business, the meeting was adjourned.

Interim Joint Committee on State Government

Minutes of the 3rd Meeting of the 2020 Interim

August 27, 2020

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on State Government was held on Thursday, August 27, 2020, at 8:30 AM, in Louisville, Kentucky, at the Kentucky Fair and Exposition Center in Room 201-203 of South Wing C. Representative Kevin D. Bratcher, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Lynn Hesselbrock, Spencer County Clerk; Gabrielle Summe, Kenton County Clerk; and Jared Dearing, Kentucky State Board of Elections.

LRC Staff: Alisha Miller, Daniel Carter, Roberta Kiser, and Peggy Sciantarelli

Approval of Minutes

A motion by Representative Miller to approve the minutes of the July 28, 2020, meeting was adopted without objection.

Welcome from Commissioner Quarles

Commissioner of Agriculture Ryan Quarles made an unscheduled appearance during the meeting to welcome the committee on behalf of the Kentucky State Fair Board. He thanked the legislature for its work that has led to improvements in the state fair facilities. He said that a video will be produced to provide contact information for 4H and Future Farmers of America members who might like to serve as poll workers in the general election.

Kentucky County Clerks' Association

Guest Speakers were Gabrielle Summe, Kenton County Clerk; and Lynn Hesselbrock, Spencer County Clerk. Ms. Summe said they would discuss the June primary, expectations for the November general election, and legislation that may be revisited in the 2021 legislative session—from the perspective of one of the smaller counties, Spencer, and the third largest county, Kenton. The mail-in process worked well in the primary. She is proud that the county clerks did what was best for their counties. Kenton County had its highest ever turnout for a primary—26 percent, with 22 percent being by mail. For the general election, more opportunities for in-person voting will be available in all counties. County clerks are in the process of studying how the regulation applying to that election will apply to their counties and how to make best use of staff. Communication to the public will be important, once plans are finalized for the general election.

Ms. Hesselbrock thanked the committee, on behalf of the Kentucky County Clerks' Association (KCCA) for allowing her and Ms. Summe to discuss their experience in the June primary and their thoughts regarding the upcoming general election. Spencer County is mid-size to small, with staffing and resources that differ from larger counties like Kenton. Clerks were tasked with a monumental job in the primary, but it was successful because of hard work and cooperation in the communities. The Spencer County Board of Elections appreciates the efforts of the Governor, the Secretary of State, and the State Board of Elections to ensure that voters can cast their votes in a safe and secure manner. She is proud that during the 2016 general election Spencer County had the highest voter turnout in the state—67.88 percent—with the state average being about 59 percent. During the June primary, turnout in Spencer County was about 32 percent, compared to about 28 percent in the state. During the 2016 general election Spencer County had less than 300 mail-in ballots—

approximately 3 percent. In the 2020 primary, there were 3,500 mail-in ballots—about 70 percent. Turnout for the November general election is predicted to be 75 percent or better. If that happens, Spencer County will have between 11,000 and 13,000 mail-in ballots. Ballots will not be available until mid-September. Spencer County already has 500 ballot requests and must have everything in place by September 15 for the ballot processing committee to begin its work.

Ms. Hesselbrock said that for the 2016 general election Spencer County had alternate precinct workers available who ultimately did not have to serve. For the 2020 primary, she lost about 25 percent of the regular precinct workers, many of whom were elderly and did not want to risk working at a precinct. For the 2020 general election she will have to recruit and train precinct workers who can commit to work an extended period of time, since the election will take place over a three-week period, plus three Saturdays. It will be a burden to try to recruit people to process ballots in a timely manner. Finding precinct locations was a challenge for the primary. The local high school served as a voting supercenter on election day. Social distancing was observed, and people were comfortable voting there.

Ms. Hesselbrock said that the concepts of web portals, ballot drop boxes, multiple deadlines, and delays in reporting final election results are new in 2020. She does not think anyone could have been prepared to process the number of mail-in ballots or recruit the number of workers that were needed during the primary. It will be worse for the general election, because clerks are expected to have more polling locations. The June primary was a first for many county clerks. Several seasoned clerks, as well as the Executive Director of the State Board of Elections, provided them assistance and good direction. County clerks want nothing more than to serve the public and enable people to confidently cast their votes safely and securely. The primary was a challenge to every county clerk on some level, but it was a success because of their dedication, commitment, resilience, and hard work.

Ms. Summe said that because Kenton County is close to Ohio, people's perceptions are often based on what they hear about Ohio elections. She believes the Commonwealth needs a more ongoing educational component. The KCCA feels that legislators should be offered a more understandable practical approach to how clerks' offices work. The public should also be educated about the duties of county clerks. The KCCA believes that "one size does not fit all." Statutes should allow for flexibility according to size and setup of each county, but also set strict standards for the intricate process of reviewing ballots. Perhaps a task force or working group could begin a conversation regarding standards and flexibility. Ms. Summe suggested that it is time to do an in-depth review of what works, not only theoretically but also practically, regardless of party affiliation. The KCCA also asks to be allowed

a seat at the table regarding future apportionment of counties, as part of the legislative redistricting process.

She said that some elements of HB 388—which failed to pass during the 2020 legislative session—will be proposed again in 2021. The use of poll workers who change political affiliation is of particular interest. Some provisions in HB 388 came to fruition in the emergency regulation and have already been vetted. One positive outcome is the implementation of bar codes to provide better election security and a more precise method for tracking voters in the system. Another positive outcome was creation of the web portal, which makes it much easier to identify voters. There are other positives to discuss, too, and the KCCA and county clerks look forward to working with the General Assembly.

Representative Miller asked about early voting percentages. Ms. Summe said that voters originally had to make an appointment to vote early in the two weeks prior to the primary. That did not work well from a practical standpoint. In Kenton County about five percent voted early. Eventually anyone was allowed to come to the office to vote early without an appointment. For the general election, Kenton County will not be requiring appointments, and early voting will be allowed during the three weeks prior—October 13 through November 2.

Ms. Hesselbrock said that in Spencer County about six percent voted early. People did not want to make appointments, and some did not keep their appointments. During the second week people were encouraged to come into the office and vote. She hopes to have more than one location open for early voting for the general election, as well as a mobile unit. Voters in Spencer County seemed to like the early voting option.

Representative Miller asked whether it is realistic to expect that one-third of voters might vote early in person if it is publicized appropriately. Ms. Hesselbrock said that if it is advertised aggressively, she thinks Spencer County could expect 20 percent to vote early. Ms. Summe said that statewide turnout could potentially be 80 percent for the general election. In Kenton County 30 percent voted in person and 70 percent voted by mail in the primary. She believes more people will want to vote in person for the general election if more options are available to them.

Representative Graham asked whether the counties have decided the number of voting centers. Ms. Summe said Kenton County has 138,000 voters and will definitely have more than one polling location. The 105 precincts are currently condensed into 60 locations, but there will not be enough equipment to accommodate that many in the general election. Kenton County will probably have about 20 locations—with two for early voting, hopefully. The setup in each county may differ, but the regulation

calls for a supercenter to be open on election day in every county. In Kenton County that will be her office. She has contacted the local mayors about possibly using community centers as voting locations. The county board of elections plans to mail information about voting locations to registered voters and also to advertise. The cities also will advertise. Ms. Hesselbrock said Spencer County will have at least two locations for early voting, with one possibly being mobile. Any voter in any precinct will be able to vote anywhere in Spencer County, both early and on election day. On election day she plans to have at least three precincts open, and all three will be equipped with ballots and machines that will allow any voter in the county to vote. She said the emergency regulation containing the guidelines was passed last week. Counties, along with local boards of election, are in the process of preparing voting locations and will submit those plans to the Secretary of State, the Governor, and the State Board of Elections for approval. She thinks most small and rural counties plan to have their voting locations serve as supercenters that can accommodate any voter.

Representative Graham asked when absentee ballots will go out. Ms. Hesselbrock said it is her understanding that ballots will be available around September 14 or 15 and that voters can likely expect to receive them in late September.

When asked by Representative Bratcher, Ms. Hesselbrock confirmed that the emergency regulation specifies that each county must have at least one voting supercenter where anyone who resides in the county can cast their vote on election day. In Spencer County the equipment can be programmed for absentees and will be able to handle any ballot face. Ms. Summe said that it would not work to have supercenters throughout Kenton County because she does not have enough equipment to print on demand in all locations. She agreed that the setup will differ in counties.

Representative Tipton complimented the work of the county clerks in his district—Ms. Hesselbrock, Jason Denny in Anderson County, and Kevin Mooney in Bullitt County. He asked whether any significant challenges are foreseen for the general election. Ms. Hesselbrock said that high turnout and the need to find more precinct workers will present a challenge in Spencer County. The emergency regulation allows for precinct workers to work six-hour shifts, and her county is already having difficulty recruiting precinct workers. She is grateful to the State Board of Elections for providing an online tool for persons to volunteer as precinct workers. The workers will have to be trained, and the training will have to be modified. Clerks are being encouraged to have more locations open and will need to purchase more physical ballots. The expense will be greater than for a normal election. Timewise, it will be more time-consuming. CDC pandemic guidelines must be followed, and personal protective equipment must be available in order to ensure the

safety of voters and precinct workers. Mail-in ballots will add to the expense. She said the use of bar codes was a tremendous savings for Spencer County in the primary. Ms. Summe said that turnout volume and staffing needs will definitely be a challenge in Kenton County. Thus far, she does not have a shortage of available poll workers.

Representative Tipton asked how spoiled ballots will be handled. Ms. Summe said the statutes are clear about how to review a ballot, but in practicality, different things can happen. For that reason, the emergency regulation provides for various scenarios to address voter error. Voters who have a ballot issue will automatically be sent a note by the State Board of Elections and will be advised to contact their county clerk so that the problem can be fixed. Therefore, a higher percentage of ballots will be accepted and processed.

Representative Bratcher expressed chagrin about the extent to which the emergency regulation is modifying existing statutes but said he is hopeful that the process will work correctly during the general election.

Representative Webber asked about the percentage of spoiled ballots that may occur in November and how much time will be needed to address them. Ms. Hesselbrock said that during the primary in Spencer County approximately 150 of the 3,500 mail in ballots had some error. Of those, 120 were rejected because there was no signature on the outer envelope. That part of the statute did not change for the primary, and those ballots were rejected. For the general election, that has been changed by the emergency regulation, section 17, which includes 12 scenarios for different errors that can occur on a ballot. No signature on the outer envelope is no longer grounds for rejection, for example. The processing committees will have to be educated regarding ballot acceptance. She and her staff are prepared to cure more ballots for the general election than they did for the primary. She thinks the modifications that have been made from the primary to the general election will help ensure that more votes are counted. The envelopes in which the ballots are mailed to voters will be highlighted to indicate where the voter needs to sign. Ms. Summe said Kenton County sent out 32,000 ballots for the primary. Approximately 26,000 were returned, and eight percent of those were rejected because they were missing a signature on the outside or the inside. The working group felt that county boards should be consistent in how they review absentee ballots. That is why the different scenarios are identified in the emergency regulation. Ballots are stored for 22 months and can be retrieved if a question should arise later.

Senator Thayer expressed thanks to the KCCA for being on the front lines in a difficult situation, and he complimented all county clerks for doing a great job in the primary. He said he represents one-third of the people in Kenton County, mostly in rural

areas, and he appreciates Ms. Summe's work to make sure everyone has access to the polls. He said he is a strong advocate of the current statutory requirements for voting in Kentucky. He favors in-person voting on election day—as much as possible—and limited absentee voting, with excuses. That system was developed over a number of years and has worked well. He understands the current difficulties but does not agree with everything that was done during the primary, and he does not agree with everything that is going to be done in the general election. He finds no fault with clerks, of course; their job is just to implement the changes. He said he heard a lot of complaints and concerns that counties had only one voting location for in-person voting on primary day. Thankfully, that will change in the general election.

Senator Thayer asked what is going to be done to educate voters regarding locations for in-person voting. Ms. Summe said that Kenton County does not have a lot of newspapers, and the media market is mainly controlled by Ohio. She is still working on a plan and has enlisted the help of mayors and city councils to help educate citizens about where to vote. It is hoped that the county board of elections will also mail information to every voter. She believes it is going to be a struggle to try to educate voters in all the counties. Ms. Hesselbrock said that in Spencer County advertising and communication was a big problem in the primary. The newspaper is published once a week. She ordered two full-page ads and a half-page ad in the newspaper, but people told her they do not read the newspaper. The use of social media became more a negative than a positive. For the general election, flyers are going to be distributed, and there are plans to include voting information on water bills. Newspaper ads will be used again. It will also be helpful that two of Spencer County's three locations are current or past polling locations.

Senator Thayer said his biggest concern with the voting system for the general election is disenfranchisement of rural voters, who may have to drive farther than usual to reach their polling place. That is why he does not favor supercenters. He said that most of the voting practices that took place in the primary and will take place in the general election were decided by two people. When the General Assembly passed the emergency bill at the last minute during the 2020 legislative session, it abdicated its ability to influence how an election takes place. He strongly believes that during the 2021 session the legislature needs to act to ensure that major changes to elections must be approved by the elected members of the General Assembly. Although the 2020 changes were in reaction to the pandemic, he thinks they went too far. He hopes that the general election goes well, does not disenfranchise voters, and does not result in voter fraud due to prevalence of absentee ballots.

Senator Thayer asked Ms. Summe whether she was consulted by Secretary Adams regarding the plan

for the general election. She said the working group, of which she was a member, included four county clerks and a representative from the Governor's office. The Secretary of State attended, as well as two members from the State Board of Elections.

Representative Koch asked about the role of the National Guard, which was used in 40 counties during the primary. Ms. Hesselbrock said Spencer County did make use of the National Guard on election day to help with crowd control and adherence to CDC guidelines. They did a wonderful job but did not serve as precinct workers. They also helped with traffic control and sanitation of voting equipment. Two guardsmen also assisted at the early voting center, and she hopes the National Guard will be able to help again during the general election. Ms. Summe said Kenton County also used the National Guard during the primary. They did a good job, but they will not be called on for the general election because there will be too many polling locations.

Representative Miller asked about the situation of a voter not receiving an absentee ballot and then deciding to vote in-person on election day. Ms. Summe said that happened a lot in Kenton County because the portal shut down close to the primary, and people did not receive their ballots on time. As long as the ballot has not been accepted, poll workers are able to cancel it in the computer system and allow the person to vote in person. If a voter calls and asks to vote in person on election day rather than by absentee ballot, they will be told to cast the ballot they received in the mail. But if a voter has not received the ballot by October 28 due to postal delay, and it has not been returned to her office, the ballot can be cancelled and the voter allowed to vote in person on election day. That is currently allowed by statute and applies to all counties. On the last day of the portal 6,000 people requested an absentee ballot in Kenton County for the primary, and it was difficult to get them mailed in a timely fashion. It is those voters who likely did not receive their ballots on time and were allowed to vote in person. Ms. Summe also said drop boxes for depositing absentee ballots were helpful and worked well during the primary.

Responding to Senator Mills, Ms. Summe said that voter identification statistics for the general election will be maintained by the State Board of Elections. Because it is convenient, a higher percentage of voters are using driver's licenses to identify themselves. Ms. Hesselbrock said that in Spencer County, poll workers are trained to ask for a driver's license. Although photo ID was not required during the primary, she estimates that probably 99.7 percent of voters presented a driver's license automatically.

Representative Sheldon said he appreciates the efforts to minimize the number of ballots that are not counted. He also emphasized that most rejected ballots are mail-in ballots rather than in-person ballots, and Ms. Summe agreed. Representative

Sheldon asked whether the process for reviewing mail-in ballots will be consistent across the state. Ms. Summe said that prior to the primary, there was not true consistency statewide. After the primary the working group agreed that the process should be the same in all counties, as outlined in Section 17 of the emergency regulation. Ms. Hesselbrock said that prior to implementation of the emergency regulation there were statutory guidelines for rejecting ballots that were followed by most county clerks. The emergency regulation made some changes and now includes very specific guidelines to follow.

Representative Marzian expressed thanks to all county clerks for their flexibility and hard work to ensure that ballots are counted. She said Jefferson County Clerk Bobbie Holsclaw did a great job, although the county had only one in-person polling location. The Governor and the Secretary of State worked together to make really good plans to allow everyone to be able to vote during this COVID environment. She asked whether any instances of fraud were detected during the primary. Ms. Summe said she did not detect any in Kenton County.

There were no further questions, and Representative Bratcher thanked Ms. Summe and Ms. Hesselbrock for their testimony.

Kentucky State Board of Elections

The guest speaker was Jared Dearing, Executive Director of the State Board of Elections. Mr. Dearing said that a little over a month ago he was asked by the U. S. Elections Assistance Commission how the Commonwealth was able to enact and implement a successful primary. His response was that the success was in large part based on a bipartisan effort, through the leadership of Governor Beshear, Secretary of State Adams, members of the bipartisan State Board of Elections, and the contributions of the General Assembly. Ensuring bipartisan oversight of the election system guaranteed that Kentuckians of all political persuasions had ownership in its implementation and ultimate success. He said the employees of the State Board of Elections are exemplary public servants, and he cannot adequately express how much he appreciates their work. He concluded by saying that he is grateful for the work of the General Assembly, the Governor, the Secretary of State, and members of the State Board of Elections—and that all Kentuckians should be grateful for the tireless work of the 120 county clerks, whose dedication and service helped keep voters safe and elections secure during unprecedented challenges.

Representative Graviss thanked today's speakers for their unselfish and dedicated service to Kentucky. He asked Mr. Dearing about the tracking process for monitoring mailed ballots for the general election and the cutoff date for those ballots to be counted if there are mail delays. Mr. Dearing said the emergency regulation specifies that absentee ballots must be postmarked no later than election day, November 3. The portal to request an absentee ballot will close

a little earlier than it did for the primary. This will allow the counties more turnaround time to effectively deliver ballots to the voters. Voters are being asked to return the ballots immediately. Early in-person voting is also being encouraged. The goal is to make sure that ballots are counted effectively and that the clerks have time to process them appropriately. He said the U. S. Postal Service does an amazing job and is a key and crucial partner in the election process, but voters who apply for an absentee ballot are urged to cast that ballot early to ensure that it is delivered on time.

Representative Bratcher expressed reservation about the 3-day extension beyond November 3 for receipt of absentee ballots. Mr. Dearing said that was the methodology for returning ballots for the primary, and to alter or change it would create more confusion.

Senator McDaniel expressed thanks for the work of the counties and the State Board of Elections. He inquired about the process for cleaning the voter rolls. Mr. Dearing said that both federal and state statutes govern the process. Every four years, after completion of two federal election cycles, the State Board of Elections examines the system to determine whether any voters did not vote during the two previous federal election cycles—or touch the system in any way. Someone may not have voted but perhaps updated their information in the voter registration system. That voter would not be removed. It is not only a matter of voting but also whether there has been contact with the system. According to federal statute, a mailer is sent to individuals who are identified as having not touched the system in four years. Once that mailer is sent, a voter would traditionally be labelled inactive, but because of a lawsuit that was filed, they are no longer termed “inactive.” A voter who is determined to be inactive in the system is still an eligible voter. Voters who are flagged to receive the mailer are given four more years—or two more federal election cycles—a total of eight years—to touch the system again. If they vote, poll workers are to ask that voter to update their information in the system. Enfranchisement is an important element of the process. Voters may move, and if they subsequently vote in the wrong location, they would not be voting for the candidates who represent them. If a person has not voted or touched the system during the eight-year period, they are then removed from the voter registration system. On a weekly basis the State Board of Elections removes people after receiving notice of death. If someone dies out of state, it is harder to track that information, and some deceased people are still listed on the rolls.

Mr. Dearing said that the Board of Elections sent a postcard to every registered voter to notify them of changes in the process for the primary. That also provided an opportunity to help clean the voter registration rolls. When the postcards are returned, they are scanned into the system with a return mail date; after that return mail date is set, per federal law, a Section 8(d)(2) mailer is sent and those individuals would be allowed two federal election cycles to touch

the system before being removed. The June primary postcards will greatly help clean the rolls effectively and appropriately—not based only on whether someone voted but also whether they still reside at their registered address. The State Board of Elections believes Kentucky has a healthy system, and board members and staff are actively working to clean the rolls appropriately, and in a way that provides for secure elections without disenfranchising voters.

Representative Willner asked whether a voter whose ballot is disqualified is contacted. Mr. Dearing said that inclusion of bar codes on absentee ballots has helped the process logistically and also enhanced security. If the clerk scanning a ballot identifies an irregularity, they push a button in the voter registration system. Pushing the button notifies the State Board of Elections, which the same day mails a “cure” form to notify the voter of the issue. The cure form is a security mechanism that improves detection of voter fraud. Voters who vote in person also can make mistakes and spoil ballots. The election process tries to preserve the rights of the voters, while maintaining a secure system. The cure form is part of that process. Mr. Dearing said he knows the General Assembly cares deeply about the process, and he offered to make himself available after the meeting to answer questions.

Representative Bratcher said that Mr. Dearing and the county clerks have given excellent testimony, and he thanked them. There were no additional questions, and the meeting was adjourned at approximately 10:20 a.m.

Task Force on Electronic Recording of Official Documents by County Clerks

Minutes of the 1st Meeting of the 2020 Interim

August 20, 2020

Call to Order and Roll Call

The 1st meeting of the Task Force on Electronic Recording of Official Documents by County Clerks was held on Thursday, August 20, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joseph M. Fischer, Co-Chair; Senator Morgan McGarvey; Representative Brandon Reed; Don Blevins, Debbie Donnelly, Mark Ladd, John McGarvey, Debra Stamper, and Michael Wilson.

Guests: Michael Nickles, Staff Assistant, Office of the Secretary of State; and Johnna Ballinger, Notary Program Coordinator, Office of the Secretary of State.

LRC Staff: Randall Roof and Yvonne Beghtol.

Chairman Fischer began the meeting by stating that SB 114 from 2019 requires the Electronic Recording of Official Documents by County Clerks Task Force to continue meeting this interim and

submit a report to the General Assembly before the 2021 Session begins.

Regulations in Effect as of January 01, 2020 and E-Regs from July 2020

Michael Wilson, Director of Business and Deputy General Counsel, Office of the Secretary of State, began his presentation by outlining the differences in SB 150 and SB 114. SB 150 does not alter the provisions of SB 114. SB 150 authorizes the use of “counterparts” in the notarizing of documents. SB 150 authorizes witnesses to satisfy the “presence” requirement remotely. These provisions are effective only for the duration of the COVID-19 pandemic.

Mr. Wilson stated that 30 KAR 8:005 outlines the notary public application, requirements for notarial acts performed with respect to electronic records and for remotely located individuals, and notary public discipline. Mr. Wilson clarified the notary public application process and the notary discipline provisions. The four methods of notarization include in-person tangible, in-person electronic, remote tangible, and remote electronic recording. Remote tangible record notarization is also referred to as remote ink notarization (RIN). Mr. Wilson stated that RIN has become a popular method among notaries and the legal community and is now formally recognized under 30 KAR 8:005 section 7. The term “tangible record” is defined under 30 KAR 8:005 section 1 to include duplicates of an original that do not require electricity. The term “digital certificate” is defined under 30 KAR 8:005 section 1 as a means of electronic record, issued by a third-party certificate authority, which certifies the ownership of a public key, rendering an electronic document as tamper-evident. Mr. Wilson presented a list of third party certificate authorities who can verify the ownership of a public keys and private keys to assure the identity of an individual who has a certificate. Mr. Wilson remotely shared his computer screen to show how an electronic stamp can be verified by clicking on the stamp to open properties.

In response to Mark Ladd, Simplifile, Johnna Ballinger, Office of the Secretary of State, clarified that you can also trace the path of the certificate from the certificate provider to the technology provider by clicking on the stamp. Mr. Wilson stated that the most important feature is that the digital certificate indicates that it has not been tampered with, and was issued by a trusted certificate authority. Mr. Wilson noted that an electronic document is only valuable in its electronic format. Once printed, the verification information is no longer available.

Mr. Wilson described the standards for performing notarial acts with respect to electronic records and remote electronic notarization under 30 KAR 8:005 sections 4 and 5. Mr. Wilson noted that section 6 of 30 KAR 8:005 provides guidelines for the length of time records of notarial acts must be maintained.

In response to Mr. Ladd, Mr. Wilson stated

that some of the electronic notarization technology providers include maintaining video recordings in their package.

Mr. Wilson reviewed the remote tangible identification requirements under KRS 423.455(2)(a) and 423.325. Mr. Wilson provided a list of approved technology providers for remote electronic notarizations, and reviewed potential amendments should the Securing and Enabling Commerce Using Remote and Electronic Notarization Act of 2020 (SECURE) be enacted. Mr. Wilson proposed legislative amendments such as changing the statutory defined term “electronic notarization” to “remote electronic notarization”, replacing “notarial act with respect to electronic records” with “in-person electronic notarization”, repealing the Uniform Acknowledgements Act, and repealing KRS 423.110.

In response to Don Blevins, Fayette County Clerk, Mr. Wilson stated that the Office of the Secretary of State is considering providing training for notaries public.

County Clerk e-Filing Operations Update

Debbie Donnelly, Hardin County Clerk, described the steps required for her office to transition to e-recording. Ms. Donnelly reviewed an example of the County Clerk’s office e-recording banking report, the daily detail receipts report, and the e-recording document labels that need to be on the first and last pages of recorded documents. A rejection document is used if a document is rejected for any reason, and returned to the submitter for correction. Ms. Donnelly testified that e-recording has gone well in Hardin County and is being used more during the COVID-19 pandemic. The passage of SB 114 has made the process easier for individuals and companies to submit their documents for recording.

Don Blevins, Fayette County Clerk, added that Fayette County has not begun accepting e-filings and would like the ability to receive payment for copies given online.

Debra Stamper, Kentucky Bankers Association, commented that the pandemic has proven how difficult it would be if e-recording and e-filing were not an option, and would like to see a mandatory plan for all clerks to be able to work from home.

In response to Chairman Fischer, Ms. Donnelly stated that counties that already have a vendor setup can go online quickly. The initial changeover can be anxious, but it is much less time consuming and efficient. In regards to the cost, Ms. Donnelly confirmed that the new fee schedule helps to cover the cost of the technology upgrade and vendor fees. However, it will take time for the fee to accumulate enough to cover the cost for some counties. Mr. Blevins stated that Fayette County will have to obtain approximately \$300,000 to make the conversion.

In response to John McGarvey, Morgan Pottinger McGarvey, Mr. Blevins agrees that all counties should be capable to begin e-recording by the end of 2021. Mr. Ladd added that Simplifile is tracking 12 counties

in Kentucky that have begun e-recording and will supply the committee members with the list.

In response to Mr. McGarvey, Ms. Donnelly stated that Hardin County currently has online searchable deeds dating back to 1950. Copies of deeds from 1793 and forward have not been merged into the system. Hardin County does not charge for an online search as it saves the office in the cost of copiers, ink/toner, paper, maintenance, and time. Mr. Blevins does not think it is possible for all counties in Kentucky to have searchable deed databases by the end of 2021 due to financial and personnel constraints.

There being no further business the meeting adjourned at 4:38 PM.

Interim Joint Committee on Tourism, Small Business, and Information Technology Minutes of the 3rd Meeting of the 2020 Interim

August 27, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, August 27, 2020, at 2:00 PM, at the State Fair and Exposition Center in Louisville, KY. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair and Representative Phillip Pratt, Co-Chair; Senators Karen Berg, Rick Girdler, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Terri Branham Clark, George Brown Jr, Deanna Frazier, Chris Freeland, Chris Fugate, Jim Gooch Jr., David Hale, Richard Heath, Kim King, Michael Meredith, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Rachel Roberts, Bart Rowland, Steve Sheldon, Maria Sorolis, Cherlynn Stevenson, Ashley Tackett Laferty, and Richard White.

Guests: David Beck, President and CEO, Kentucky Venues; Secretary Mike Berry, Tourism, Arts, and Heritage Cabinet; Commissioner Michael Mangeot, Department of Tourism, Tourism, Arts, and Heritage Cabinet; Secretary Larry Hayes, Cabinet for Economic Development; Anthony Ellis, General Counsel, Cabinet for Economic Development; and Commissioner Katie Smith, Department of Financial Services, Cabinet for Economic Development; Commissioner Jeff Taylor, Department of Business Development, Cabinet for Economic Development.

LRC Staff: Andrew Manno, Chip Smith, Audrey Ernstberger, and Kirsten Parker.

Approval of Minutes

A motion to approve the minutes of the July 30, 2020 meeting was made by Co-Chair Phillip Pratt, seconded by Representative Richard Heath, and approved by voice vote.

Update on State Fair and Fairgrounds

David Beck, President and CEO of Kentucky Venues, gave an update about the status of facilities throughout Kentucky. He first discussed updates to the Exposition Center and Fairgrounds in Louisville, which now allows more events to occur at the same time. Recent improvements include new signs, more lanes, and new pavement. The Expo Center usually has over 200 shows in a normal year. Some of the shows include the Farm Machinery Show, the North American Livestock Exhibition, the State Fair, and the World Championship Horse Show. Cardinal Stadium was torn down, which provides additional parking. The old Transportation Cabinet building was also demolished so to have more land to use for outdoor events. The facilities in downtown Louisville have around 130 events. Health and safety is a primary objective. Kentucky Venues hired a compliance officer and is working with Louisville Tourism to obtain a good housekeeping approval, which is a star rating to handle infection, sanitization, and being in compliance with health measures. COVID-19 forced changes to the State Fair this year and the Fair Board Committee met each Monday afternoon to discuss the changes. The committee submitted a plan to have the fair and were busy booking and rebooking events and vendors. The State Fair is closed to guests this year and the fair lost between \$10.5 and \$11 million in business. They are seeing both leisure and business travel change because of COVID-19.

Responding to a question asked by Co-Chair Danny Carroll, Mr. Beck explained that their plan for next year’s fair is to return to the original format while still being open to new ideas. The plans for this year were completely changed because of COVID-19. They also want to focus on economic development by providing a space for new entrepreneurs so they can demonstrate their new ideas and provide them with opportunities to attract investors, markets, and employees.

Tourism Update

Mike Berry, Secretary of the Tourism, Arts, and Heritage Cabinet, and Michael Mangeot, Commissioner of the Department of Tourism, gave an overview of the impact of COVID-19 on Kentucky Tourism. Secretary Berry began by explaining that before COVID-19, an economic survey was completed and reported that spending and visitation growth increased in 2019 as trips topped \$73.8 million and spending reached \$7.9 billion. This growth also created more than 95,800 jobs and \$823 million in state and local taxes. When COVID-19 began in March, weekly travel spending declined by 40 percent from the first week of March to the last week of April. Overall, \$2.9 billion in travel spending and \$26 million in tax revenue has been lost. Outdoor activities are increasing and leading indicators, but the season is coming to an end. In July, state park occupancy was 43.9 percent and overall was 56 percent. There have been gradual increases in travel

spending since the end of April, putting Kentucky in a good position to recover.

Commissioner Mangeot explained that tourism was hit hard by COVID-19, but Kentucky has many opportunities to be active while being safe. Longwoods International conducted a census of participants in the travel industry which revealed that 67 percent of respondents have travel plans in the next 6 months and 27 percent will drive instead of fly because of health concerns. Therefore, more people will be travelling through the state because of the increase in the length of time travelers are willing to drive. It was also revealed that 61 percent of respondents would visit or are more likely to visit destinations that require a mask. The cabinet is being conservative in their approach and is trying to conserve funds. Because Kentucky has an opportunity for in-state travel, a new ad campaign has been created to inspire and encourage in state vacations, increase state travel, and increase spending and tax revenue. The digital campaign will be advertised on TV and radio. The ad includes the catch line “Stay Close. Go Far” and includes activities to travel to in the state. The campaign was created with existing footage so no money was spent. Secretary Berry concluded that it is estimated by experts that the state will not recover until 2024, but they are dedicated to making a quicker recovery.

Responding to a question by Co-Chair Danny Carroll, Commissioner Mangeot explained that national recreational vehicle sales are 90 percent ahead of last year. Around the nation, other states are seeing the same increase in outdoor activities as people are wanting to get out, but the season is over next week so there will be a drop off. Answering another question by Co-Chair Danny Carroll, Secretary Berry responded by saying that they were made aware of the new fee on the shipment of Asian Carp by their business partners in Western Kentucky. He has had a conversation with Health and Family Services.

Addressing a question by Representative Kim King, Secretary Berry discussed the decision about the operation of the State Fair by describing the proposal process for the plan. The State Fair Board submitted suggested guidelines for having the State Fair to the Healthy at Work portal. The Healthy at Work Taskforce, the Cabinet, Kentucky Venues Management, and the State Fair Board worked together to come up with a plan that was the safest for Kentuckians. The plan received approval but additional adjustments were made. The executive branch made the decision along with the State Fair Board. It was a joint effort, but it was highly influenced by the executive order requiring masked gatherings and requirements of large events.

Replying to Representative Chris Freeland, Secretary Berry said he was not aware of the need for upgraded camping sites at Kenlake State Resort Park, but he had completed a visit to Kentucky Dam Village. It had similar issues as Kenlake such as the spaces being too small and the hookups being too old to be

used by newer campers. He has found that hookups must be replaced and is aware there are places that need upgrades in order to make use of all spaces.

Answering a question from Representative Chris Fugate, Secretary Berry was aware of a group of rally race cars that brought in a lot of revenue for Representative Fugate’s area. Representative Fugate commented that the group is looking to return in September 2020 and wanted to know if the Secretary would help support this event. Secretary Berry responded by saying he would be happy to meet with Representative Fugate to discuss.

Responding to Co-Chair Russell Webber, Secretary Berry responded that it was the decision of Kentucky Venues in conjunction with the State Fair Board and the Cabinet to have no spectators at the Fair this year. To his knowledge, the initial plan did not exclude spectators, but the plan later was changed to no spectators. It was not his suggestion, but the plan had his support. Co-Chair Webber asked that records and information of the plans that he had submitted to all co-chairs.

Steve Wilson, the Chairman of the State Fair Board, stated that the plan that limited attendance at the Fair was made before he was made chairman. Over 23 states, including Kentucky’s surrounding states, had cancelled their fairs. The Board had three options which included cancelling the Fair, having general admission, or continuing with the plan. It was recommended to exclude spectators. Co-Chair Webber asked for Mr. Wilson to forward all records regarding approval of the plans to the co-chairs.

Answering a question from Co-Chair Phillip Pratt, Mr. Wilson stated that Governor Beshear appointed him chairman of the State Fair Board. Mr. Wilson made the decision about the Fair being held with no spectators without the State Fair Board’s vote. When asked if this was proper under the bylaws of the Fair Board, Mr. Wilson responded that he felt that it was the proper thing to do.

Inquiring about the public’s reception of the fair being open by Senator Reginald Thomas, Mr. Wilson responded by saying that everyone at the Fair has been very appreciative. He was not aware of any COVID-19 cases at the Fair thus far.

Responding to Representative Rachel Roberts, Mr. Wilson stated that he did not have information about viewing the fair online. Representative Roberts commented that the public could watch the fair’s live activities online at Kystatefair.org.

Representative George Brown commented on the nature of questions that have been asked regarding the decisions about the State Fair.

Answering Co-Chair Danny Carroll’s question, Mr. Wilson responded that there were discussions about guests being allowed at the Fair before he was named chairman. He said he had relayed to the Governor of the possibility of closing the fair.

Representative Jim Gooch made the comment that people in leadership positions who are making

COVID-19 related decisions should take responsibility for those decisions.

Representative Al Gentry thanked Mr. Wilson for taking the leadership role of chairman at a difficult time and for making the right decision about closing the Fair to spectators.

Co-Chair Carroll concluded the Tourism update by stating that it would be a good idea for Secretary Berry and Commissioner Mangeot to be featured on the Governor’s live updates to spread positive tourism news.

Economic Development Update

Larry Hayes, Secretary of the Cabinet for Economic Development, described the difficulties the business world is facing and said he was confident of people adapting to a post COVID-19 lifestyle. There was a drop off for the total business announcements for the first seven months as compared to other years. There are numerous projects happening, many including foreign direct investments. For foreign direct investment, Kentucky is at 8 percent, while the nation is at 5 percent. The Cabinet is looking for new ways to communicate, and one way has been through webinars.

Jeff Taylor, the Commissioner for Business Development, explained the development opportunities in the state through the salesforce and marketing. Sixty one expansions and new-location projects have been announced, with 3,314 new full-time jobs and \$1.18 billion in investment. Despite the decline in projects, jobs, and investments due to COVID-19, it could have been worse and the Commonwealth still remains strong in long-term investment and job creation.

Anthony Ellis, General Counsel for the Cabinet for Economic Development, explained two new state programs to assist the economy. The Regional Innovation for Startups and Entrepreneurs (RISE) Program through KY Innovation supports entrepreneurs and startups throughout the state by offering comprehensive services and connections to regional resources. \$2.6 million has been invested into six regional support offices to provide this support through coaching and connecting companies to those in the community. The Kentucky Commercialization Ventures (KCV) Program which is a public-private partnership that creates products, services, and businesses from research and intellectual property developed at Kentucky’s public universities. Nearly \$1.16 million has been invested into KCV. The goal is to provide more resources to small businesses and entrepreneurs.

Commissioner Katie Smith explained 2020 expenditures and the budget for 2021. For expenditures, the biggest difference is all grant funding was not exhausted. They want to abide by the budget and do everything to administer programs while not spending money they do not have to spend.

In response to a question by Senator Wil Schroder, Secretary Hayes discussed the process of

naming a permanent Cabinet Secretary.

Addressing Representative Travis Brenda's inquiry about the increase in jobs at locations being temporary, Commissioner Taylor responded by explaining the job increases are a result of permanent expansions that have been through the approval process.

In response to a question from Representative Steve Sheldon, Commissioner Taylor and Secretary Hayes responded by saying that the Governor came up with the guidelines when businesses were closed in March 2020. It was the decision of each business whether they could operate under the guidelines. The Cabinet was consulted by many of the larger companies that wanted to be deemed essential and the Governor took that information into consideration. The Cabinet officials relied heavily on recommendations from Dr. Steven Stack, Commissioner of the Department for Public Health. There were regular, continuous discussions on impacts and opportunities with the Governor's Office.

Secretary Hayes responded to Representative Chris Fugate's question by saying that he would meet with him to discuss the economic impact of establishing a regional ATV trail modeled after the Hatfield and McCoy system in West Virginia.

Replying to concerns raised by Co-Chair Danny Carroll, Secretary Hayes stated the Cabinet is also concerned about the impact of COVID-19 on economic incentives and the Cabinet wants the state to stay competitive.

Answering a question from Senator Wil Schroder, Secretary Hayes said the Cabinet's plan regarding its emphasis on economic development is going to be discussed on Monday. The Cabinet would also like to meet with judge executives and senators to align everyone together.

There being no further business, the meeting adjourned.

Interim Joint Committee on Transportation

Minutes of the 3rd Meeting of the 2020 Interim

August 18, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Transportation was held on Tuesday, August 18, 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. The minutes for the Committee's July 7, 2020 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, Karen Berg, C.B. Embry Jr., Stephen Meredith, Gerald A. Neal, Brandon Smith, and Johnny Ray Turner; Representatives Terri Branham Clark, Randy Bridges, Chris Fugate, Al Gentry, Robert

Goforth, David Hale, Chris Harris, Samara Heavrin, Kathy Hinkle, Thomas Huff, Derek Lewis, Savannah Maddox, Bobby McCool, Sal Santoro, Maria Sorolis, Cheryl Lynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, and Walker Thomas.

Guests: Jim Gray, Secretary, Kentucky Transportation Cabinet (KYTC); Robin Brewer, Budget Director, KYTC; Mark Wilson, Partner, Top Shelf Lobby, LLC; Grant Gabbard, Executive Vice President, The Allen Company, Executive Chair, Kentuckians for Better Transportation (KBT); Mark Day, Director of Development and Facilities, Blue Grass Airport; William Downey, Director of Government Affairs, R.J. Corman Railroad Group; Greg Pritchett, Director, Henderson Riverport.

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

Opening Remarks

Jim Gray, Secretary, KYTC, stated KYTC came into the year with a substantial backlog of uncompleted work, and that last year, almost \$1.5 billion worth of new construction was let by KYTC. Historically \$800 million worth of construction would be let. Because of this, Secretary Gray stated a substantial cash balance is needed in order to pay the contractors for completion of backlogged work. He added that the uncompleted backlog of work, totaling approximately \$1.9 billion, coupled with revenue challenges due to the COVID-19 pandemic, it is surprising that KYTC's revenue concerns are not as severe as the Consensus Forecasting Group (CFG) predicted. The Consensus Forecasting Group stated KYTC could be down approximately \$160 million in the FY 2020 revenues. In actuality, KYTC revenues are only down approximately \$60 million. He added August lettings were planning to be approximately \$60 million, and they have not yet been able to let as many pavement projects.

Secretary Gray stated that lettings were suspended in May and June of 2020 because of COVID-19 and were renewed in July with approximately \$35 million worth of new lettings. He added there have not been as many "quick spend" or pavement projects that have been able to be let, but 99 pavement contracts that have been suspended have been released. They are planning to release more in the September and October lettings. Secretary Gray stated the revenue sharing for August is in the process of being released to the counties.

In moving forward, Secretary Gray stated there are two things to keep in mind; COVID-19 is not over, and also it is uncertain if a federal transportation budget will be reached by October 1, 2020. He also reminded the committee that it is not just a matter of Congress appropriating the funds, but that the funds also must be allocated and obligated. In closing, he encouraged members to stress to Congress the critical urgency and high priority of reauthorization of the continuation of the transportation act by Labor Day.

Final FY 2020 Road Fund Report

Robin Brewer, Budget Director, KYTC, gave a brief update on the Final Fiscal Year 2020 Road Fund Report. Director Brewer stated the total Road Fund revenue estimate made in December 2019 by the CFG was approximately \$1.572 billion. When the General Assembly enacted the KYTC Budget during the 2020 Regular Session, it used a more pessimistic revenue estimate of approximately \$1.551 billion, leaving a \$21 billion deficit between the two. Director Brewer stated that in May 2020, the CFG issued a revised revenue estimate of \$1.39 billion for FY 2020, a \$161.8 million deficit in the enacted revenue estimate.

Director Brewer stated that fortunately revenues came in higher in 2020 than the May CFG estimates, but still some \$60 million less than the enacted number upon which the budget was based. This number included a \$31.6 million shortfall in motor fuels tax, and a \$19.3 million shortfall motor vehicle usage tax. She also added that due to reduced spending and statutory reduction in revenue sharing due to the decline in motor fuel tax revenue, the Road Fund ended with a positive balance of \$140,000 for the year.

Director Brewer stated that because of COVID-19, the growth of the FY 2020 fourth quarter Road Fund revenue was down to -23.6 percent from its growth of 4.6 percent in the third quarter.

Director Brewer stated in FY 2020 the total Road Fund revenues collected were \$1,491.5 million compared to the FY 2019 total revenues collected of \$1,566.1 million, a difference of -\$74.6 million or -4.8 percent. In FY 2020 there was \$741.6 million collected in Motor Fuels Tax compared to \$773.2 million collected in FY 2019, a difference of -\$31.6 million or -4.1 percent. In FY 2020 there was \$499.3 million collected in Motor Vehicle Usage Tax compared to \$514.5 million collected in FY 2019, a difference of -\$15.2 million or -3.0 percent. Director Brewer added there were other revenues collected in FY 2020 in the amount of \$250 million compared to \$278.3 million collected in other revenues in FY 2019, a difference of -\$27.7 million or -10 percent.

Director Brewer gave the official enacted Road Fund revenue estimates for FY 2021, including \$786.6 million in Motor Fuels Tax revenue, \$494.8 million in Motor Vehicle Usage Tax revenue, \$118.8 million in Motor Vehicle License revenue, \$81.2 million in Weight Distance Tax revenue, \$41.3 million to be collected in other revenue, \$18.3 million in motor vehicle operators revenue, and \$2.4 million to be collected in investment revenue, for a total of \$1,543.4 million to be collected in FY 2021. A chart was also provided that compared the total Road Fund revenues starting from FY 2014 to FY 2020.

In response to a question by Co-Chair Higdon, Director Brewer stated the 6.5 cent difference between the historical high for the gas tax rate versus where it is now would have resulted in approximately \$195 million received annually if collected. She added a portion of that would have to be revenue shared.

In response to a question asked by Co-Chair Higdon, Secretary Gray stated KYTC is going to try to incorporate state funds in the September and October pavement lettings.

In response to a question asked by Chairman Upchurch, Secretary Gray stated the cabinet plans to be cautiously aggressive in paying back deferred payments on resurfacing projects and small new construction projects.

Alternative Non-Highway Modes of Transportation

Mark Wilson, Partner, Top Shelf Lobby, LLC introduced Grant Gabbard, Executive Vice President, The Allen Company, Executive Chair, KBT. Mr. Gabbard stated that KBT was founded in 1977 by individuals that represent the rail, barge, aviation, and public transit industries, as well as the highway, road, and bridge industry. He stated KBT's mission is to educate and advocate for all modes of transportation to promote a safe, sustainable, transportation network that brings economic growth and improved quality of life to all Kentucky communities. Mr. Gabbard stated that KBT has grown to approximately 300 members that continue to represent all modes of transportation as well as local governments, chambers of commerce and many other businesses that depend on safe transportation networks. Kentuckians for Better Transportation is also a founding member of the Kentucky Infrastructure Coalition.

Mr. Gabbard highlighted the lack of sustainable transportation funding and the threat that poses to Kentucky's transportation networks, especially after the pandemic. He stated increased investment in transportation is necessary in order for Kentucky to recover from the pandemic and thrive in the years to come. He stated KBT, their partners, and the Kentucky Infrastructure Coalition look forward to continuing to lead and educate on transportation funding in hopes to be able to accelerate transportation recovery. He added KBT has members available to speak on transportation issues in any district.

Mark Day, Director of Development and Facilities, Blue Grass Airport, spoke to the committee on aviation systems. Director Day stated there are 59 public use airports in Kentucky and over half of those airports are members of KBT. A map was provided to showcase the locations of the airports. He stated in addition to those 59 public use airports, there are 203 registered heliports, private airstrips, and military fields. There are also 2,517 registered aircrafts to date in Kentucky.

Director Day stated each airport is different and there are a variety of airport categories and services. The airport categories include commercial and/or cargo service, general aviation with limited commercial service, and general aviation. Airport services include passenger, cargo, economic development, business headquarters, flight schools, maintenance, and military services.

Director Day stated it is important to note that

there is an international pilot shortage that occurred even before COVID-19. He stated it is important to maintain flight schools and to have active and safe airfields to maintain those flight schools for training of future pilots.

Director Day stated the types of infrastructure in Kentucky's airports fall under four major categories which are safety, security, buildings, and pavement. He stated from the safety perspective, they must maintain their Federal Aviation Administration certifications. Security is vital to keep everyone safe. Buildings include things such as the terminals and the hangers. Director Day stated pavement is an airport's number one capital asset.

Director Day stated the major sources of funding for Kentucky's airports are the Federal Aviation Administration, the Kentucky Department of Aviation, and the city and county governments. He stated the federal matching dollars are a key funding source.

Director Day stressed the importance of pavement in aviation. He stated the runways, taxiways, and ramps all must be safely maintained, free of debris, and marked properly with lighting and signage.

Director Day stated there is an update to the state's Airport Pavement Maintenance Program which was available for distribution to members. The Airport Pavement Maintenance Program has a seven-year projection with an estimated \$120 million in maintenance needed. He added that there are 12 general aviation airports alone that have projects needed with an estimated cost between \$3 million and \$13 million. In addition to the maintenance cost, it is projected that there is an annual need of \$10 million to prevent further decline. He also added the "big three" airports in Louisville, Lexington, and Cincinnati are not part of this dollar figure, and that other funding sources are typically utilized for them such as funding from FAA due to passenger and cargo traffic.

In response to a question asked by Chairman Upchurch, Director Day stated he is unsure of how many flight schools there are in Kentucky.

William Downey, Director of Government Affairs, R.J. Corman Railroad Group briefed the committee on Kentucky's railway systems. Director Downey stated there are seven major class one railroads in the United States. Class one railroads consist of railroads that include long distance hauling and high-density traffic areas. He stated there are over 600 short line and regional railroads in the United States. Short line railroads focus on "first and last mile" of rail car delivery and connectivity to the transportation network.

Director Downey stated the U.S. freight railroads have become the best rail network in the world since the Staggers Act of 1980, which allowed for balanced regulation. Class one railroads could divest in abandoned properties and lines that were no longer strategic for their overall operations. This allowed for

entrepreneurs such as Rick Corman to invest in these small branch lines and develop business.

Director Downey stated that railroads are federally regulated. He stated the Federal Railroad Administration was established in 1966 by the Department of Transportation Act, one of ten agencies within the United States Department of Transportation (USDOT) that is focused on intermodal transportation. The Surface Transportation Board (STB) is an independent federal agency that is charged with the economic regulation of various modes of surface transportation, primarily freight rail. The STB was created in 1996 as a successor to the Interstate Commerce Commission (ICC) and was aligned with the USDOT until 2015 when Congress reauthorized the STB and established it as an independent federal agency.

Director Downey stated that there are 12 freight railroads in Kentucky with 2,624 miles of freight railroad mileage. There are 3,208 freight rail employees with average wages and benefits per freight rail employee of \$120,480. There are 13,778 railroad retirement beneficiaries with approximately \$308 million in railroad retirement benefits paid out. Director Downey stated nationwide, in 2017, major U.S. railroads supported approximately 1.1 million jobs (about eight jobs for every railroad job), nearly \$219.5 billion in annual economic activity, \$71 billion in wages and almost \$26 billion in tax revenues. He also stated in 2017, America's railroads moved a ton of freight an average of 479 miles on one gallon of fuel. On average, railroads are four times more fuel efficient than trucks. Moving freight by rail instead of truck reduces greenhouse gas emissions by on average 75 percent. One train can carry as much freight as several hundred trucks. It would have taken approximately 12.6 million additional trucks to handle the 227 million tons of freight that originated in, terminated in, or moved through Kentucky by rail in 2017.

Director Downey gave an overview of CSX railroad, a class one railway company. He stated they are the largest railroad in Kentucky and have over 2,000 track miles and over 1,300 public grade crossings. In 2018, CSX moved over 357,000 carloads. The major commodities that they haul are agriculture and food, automotive parts, chemicals, coal, intermodal parts, metals and equipment, minerals, paper and forest products, and phosphates and fertilizers. He stated CSX has a mega site in Glendale, Hardin County, and Henderson, Kentucky.

Director Downey gave an overview of Norfolk Southern Railway, which is the second largest railway company in Kentucky. They operate over 400 miles of railway and have over 600 grade crossings. They have a lot of intermodal traffic inbound and outbound. Norfolk Southern Railway carries a substantial amount of automotive and automotive parts with facilities in both Georgetown and Louisville. Director Downey stated that Norfolk Southern Railway has

carried a train full of automobiles for Toyota, adding there can be up to 750 automobiles in a single Norfolk Southern train.

Director Downey gave an overview of the Paducah and Louisville Railway, Inc., a full-service railroad that operates over a 280-mile main line from Paducah to Louisville. The railway connects directly to five class one carriers: BNS, CSX, CN, NS, and Union Pacific. These connections allow for reach to virtually any destination in the U.S. with one switch. Their service is enhanced by the geographic proximity to the interstate highway system and inland waterways. Their reach also extends beyond rail served customers by serving multiple rail-barge and rail-truck transloading facilities. Paducah and Louisville Railway, Inc. employs 226 employees with annual payroll and benefits of \$35 million. Their annual capital investment is \$28 million, and over 100 shippers are served.

Director Downey gave an overview of the R.J. Corman Railroad Company, LLC, a holding company for 14 short line railroad companies with a combined total of over 1,000 miles of track. R.J. Corman has operations in ten states and moves approximately 80,000 carloads per year. There are 708 R.J. Corman employees and 388 customers. R.J. Corman has 327 total miles of track, 820 bridges, and 341 crossings. Their main commodity moved is metal. They also move agriculture products, chemicals, plastic, wood and paper products, and construction materials. There are more than 12,500 carloads moved per year on the Central Kentucky lines, 8,000 carloads moved per year on the Memphis line, and over 400 carloads per year moved on the Bardstown line.

Director Downey briefed the committee on products shipped via rail. He stated in 2019 there were approximately 6,000 carloads shipped for Nugent Sand, and 6,200 aluminum ingots shipped for Novelis via RJC and CSX from Berea to Russellville. Smuckers plants in Lexington have had 1,700 cars of peanuts and some oil shipped via rail in 2019. Over 100 carloads of spirits have been shipped from Florida and Mexico to Jim Beam in Frankfort. Approximately 680 carloads of plastics have been shipped to Washington Penn for multiple uses but primarily used in the automotive industry.

Director Downey stated there are railroad funded programs in Virginia, Mississippi, Ohio, North Carolina, and Pennsylvania. In Virginia they have a Rail Reservation Fund and Rail Industrial Access fund with a 70/30 match with a \$450, 000 maximum. In 2018, Mississippi they had a Mississippi Rail Grant Program of \$30 million with a 75/25 state and local match. Ohio has the Ohio Rail Development Commission, which annually funds about \$2 million of rail infrastructure and economic development projects with a match between 65/35 to 50/50. North Carolina has the Short line Infrastructure Assistance

Program and industrial access funds that have a 50 percent match and as of March 2019, there was \$7 million invested. In Pennsylvania, there is the RTAP and RFAP funds with a 70/30 match which consists of approximately \$30 million annually.

Mr. Downey stated that an infrastructure investment is needed to stay competitive with other states. Safe, reliable, efficient transportation is needed to make KY a logistical hub that allow business and industry to locate and expand in the Commonwealth.

Co-Chair Higdon highlighted the asset that My Old Kentucky Dinner Train in Bardstown is to Kentucky.

In response to a question asked by Co-Chair Higdon, Mr. Downey responded that there is a Kentucky Rail Crossing Improvement Program focused on rail crossings, which typically has approximately \$1.6 million allocated to it every year.

Greg Pritchett, Director, Henderson Riverport, gave an overview of Kentucky Public Riverports. He stated Kentucky Public Riverports are organized under Kentucky Revised Statutes by cities and counties across the state as necessary or desirable to promote freight transportation via water, and to attract industrial or commercial operations to the property held as riverport industrial parks in Kentucky. Just recently, the Kentucky Water Transportation Advisory Board met and reviewed this list of grant applicants from Riverports across the state. The board recommended the funding of certain projects to Secretary Jim Gray.

Kentucky Public Riverports appreciate the willingness to provide funds for improvements. It is important to note that Kentucky is competing with surrounding states all desiring to enhance economic development activities. During 2020, the Ohio and Illinois legislative sessions set aside \$11 million and \$40 million respectively to develop and expand public riverports in their states. Indiana has announced a plan to develop another Ohio River port in direct competition with Ohio and Kentucky for future business opportunities.

Director Pritchett stated a few years ago while attending a freight conference in New York, he listened as a senior official with a major freight transportation company presented their vision and business expansion plan to Wall Street. A map was shown denoting the projected population growth in the Carolina's, Georgia, and Tennessee, to the south then Ohio, Indiana, and Illinois to the north. Director Pritchett stated what he found disturbing about the map was there was no significant growth projections for Kentucky and that it was just a land bridge between the projected growth centers of the

east, north, and south of the Commonwealth.

Director Pritchett stated that supporting and growing Kentucky's economy builds stability, strong jobs and retains the next generation of Kentucky families and citizens. He added he hopes Kentucky is mindful of the work the riverport network is doing to facilitate commerce and grow with the past and future financial support to maintain and upgrade the riverports as needed.

In response to a question asked by Representative Thomas, Director Pritchett stated the fullest lock in Kentucky is near Illinois and is up and running. He added that the locks in general are way beyond their capacity.

In response to a question asked by Representative Hinkle, Director Pritchett stated the proposed new port in Indiana, will not have much effect on Louisville.

Chairman Upchurch informed the committee of the next meeting on Tuesday, September 15th and reminded members they can attend remotely. With no further business to come before the Committee, Chairman Upchurch adjourned the meeting at 2:17 P.M.

Interim Joint Committee on Veterans, Military Affairs, and Public Protection

Minutes of the 3rd Meeting of the 2020 Interim

August 26, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Wednesday, August 26, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Walker Thomas, Co-Chair; Senator C.B. Embry Jr., Co-Chair Designate; Senators Karen Berg, Denise Harper Angel, Jimmy Higdon, Stan Humphries, Dennis Parrett, Wil Schroder, Brandon Smith, Whitney Westerfield, and Mike Wilson; Representatives John Blanton, Myron Dossett, Jim DuPlessis, Chris Fugate, Al Gentry, Mark Hart, Samara Heavrin, Kathy Hinkle, Matthew Koch, Scott Lewis, C. Ed Massey, Patti Minter, Dean Schamore, Buddy Wheatley, and Lisa Willner.

Guests: Sergeant Major Jesse S. Withers; Shawn Butler, Executive Director, Kentucky Association of Chiefs of Police, Pat Crowley, Legislative Affairs, Kentucky Association of Chiefs of Police; Brian C. O'Neill, Legislative Director, Kentucky Professional Firefighters; Drew Chandler, President, Kentucky Emergency Management Association; Brigadier General Hal Lamberton, The Adjutant General,

Kentucky Department of Military Affairs

LRC Staff: Jessica Zeh, Elizabeth Hardy, and Kirsten Parker

Approval of July 29, 2020 Minutes

Representative Koch moved to approve the July meeting minutes. Senator Higdon seconded the motion. The minutes were approved.

Distinguished Veteran

Command Sergeant Major Jesse. S. Withers has been enlisted the Kentucky Army National Guard (KYANG) for over 30 years. In December 2019, he retired as a lieutenant and EMT from the Paris City Fire Department with 20 years of service. His current responsibilities with the KYANG include but are not limited to, maintaining the wellbeing of the enlisted soldiers of the Kentucky Army National Guard and the Kentucky Air National Guard as well as communicating questions and needs the soldiers may have with Brigadier General Hal Lamberton.

He stated that his most memorable time in the KYANG was the time he spent in Afghanistan in 2008 and 2009 as the first sergeant of the headquarters company for the 201st engineer battalion located in Ashland, Kentucky. During the deployment his battalion worked with Afghan partners and demining contractors to clear Russian mine fields in several areas of Afghanistan.

Chairman Thomas awarded Command Sergeant Major Jesse S. Withers and Brigadier General Hal Lamberton with a Challenge coin.

Kentucky Association of Chiefs of Police

Shawn Butler, Executive Director of Kentucky Association of Chiefs of Police stated that members of the department quickly acclimated to changes that the pandemic brought law enforcement. Many police departments in Kentucky are in need of reliable and accurate testing as officers have had questionable results or false positives, which can be harmful to smaller police departments.

Governor Beshear's administration issued more than \$23 million in federal funds to compensate local communities including police departments for payroll and overtime expenses, personal protective equipment (PPE), sanitizing, and telecommunicating supplies. At the beginning of the pandemic, Director Butler noted that a great deal of the PPE was not satisfactory and hopes that the state can better prepare for future outbreaks.

Lastly, Executive Director Butler thanked distilleries and churches for donating hand sanitizer, water, and other items to first responders.

Representative Blanton commented that he knows several police departments that are composed of only 3-4 people and would not be able to function if even one police officer was out sick for 2 weeks so it's important for police departments to have adequate PPE.

In response to Senator Higdon's question, Director Butler stated that each department is different when it comes to how often officers are tested and

how long turnover is to receive those test results. He went on to say that it generally seems departments are testing based on the level of exposure to COVID-19.

Kentucky National Firefighters

Brian O'Neill, Legislative Director of Kentucky National Firefighters, stated he felt many fire departments were generally well prepared for the outbreak. All departments were already equipped with gear to help combat the pandemic because many double as Emergency Medical Technicians or Emergency Medical Services. Because of donations made by churches and distilleries, fire houses were disinfected more often. Their parent organization, the International Association of Firefighters also pushed out training to help better educate firefighters during the pandemic.

A drawback firefighters have experienced is if one member tests positive, the whole crew then has to quarantine because of close quarters in the firehouse and firetruck. This puts a hindrance especially on smaller departments that have limited crews to fill in for those quarantined. Test availability and test turnover depends on location of the departments across the state. Mr. O'Neill stated there are concerns about supplies being low come fall.

Representative Wheatley commented he was grateful for the symbiotic relationship between the Fire Commission, the fire chiefs, the professional firefighters, and the volunteer firefighters during the pandemic.

In response to Senator Berg's question, Brian O'Neill stated that quarantine procedures related to exposure have changed throughout the pandemic and that is also depends on the municipality.

Kentucky Emergency Management Association

Drew Chandler, President of the Kentucky Emergency Management Association (KEMA), noted that his comments were generalized and that each community's capabilities may differ. KEMA develops plans, trainings and exercises, and response to incidents to help protect communities on a local level. During the pandemic, emergency management still responded to flooding and severe weather, search and rescue missions, car accidents, and civil unrest.

Preparedness for emergencies is endless, as communities can never be prepared enough for dangerous situations. Local departments were as prepared as they could have been with the resources that were accessible. In regards to PPE, the gear was insufficient. Some communities had extra stock, while others did not.

Emergency responders depend on an adequate emergency declaration process. The state has received over \$1 billion in federal recovery programs since 2010. He also stated that there are 6 prefiled bills for the 2021 regular session to change emergency declarations, to limit power and require justifications. The prefiled bills intend to add checks and balances to a chief elected official's executive order.

Mr. Chandler noted several areas for improvement. A large number of local management programs depend on funding from the Federal Emergency Management Agency (FEMA) grant. While jurisdiction relies only on this grant, there will be little change in the readiness of communities during emergencies. He also anticipates turnover in emergency personnel which will cause communities to suffer. The Certified Kentucky Emergency Manager program will help standardize personnel. Sustaining critical resources also needs improvement. Much of the equipment used by emergency management needs to be updated. A committed preparedness funding mechanism is needed to help readiness for future emergencies.

Kentucky Department of Military Affairs

Brigadier General Hal Lamberton, stated that the Kentucky National Guard was deployed to Louisville, Kentucky on May 30, 2020 in response to civil unrest. They were able to respond with about 100 soldiers in six hours, and had close to 500 soldiers and airman on site within 48 hours. The National Guard Reaction Force (NGRF) brings an organized, disciplined, and well equipped force who are trained for that kind of response. He indicated that he cannot go into detail of the shooting incident that happened the first week of June in Louisville because there are several ongoing investigations.

Next, Brigadier General Lamberton said that the National Guard worked closely with Emergency Management, who are subordinate to the Adjutant General's office, during the pandemic. An Emergency Operation Center, Joint Operations Center, and a State Health Operation Center were set up in March in response to COVID-19. Combating the pandemic is a collaborative effort referred to as an Emergency Support Function. A few of the concerns the National Guard had during the pandemic included whether there was enough PPE, enough hospital beds for infected, and enough medical transportation in rural areas. He stated that there is enough PPE stored for 120 days, but there is a concern that if the number of COVID-19 cases rise again, that supply will run out. At one point, there were 900 guardsman who were involved in different aspects of the ongoing pandemic.

Representative Blanton commented that he has worked with the National Guard while being a trooper and noted they were always professional and dedicated to the people of Kentucky. He continued by saying it is unfortunate what happened in Louisville, but is confident there will be a thorough investigation.

The National Guard was involved with the June 2020 election, which had not been asked of them to do before. Kentucky was one of three states that have used the National Guard during an election. They operated in 44 of the 120 counties during this time. This was mainly due to health concerns, as elderly people often times work voting centers on Election Day.

Lastly, Brigadier General Lamberton commented that the National Guard has a Cyber Protection Teams (CPT). There are more formally trained for CPT than any other government body in the state. Several months ago a memorandum of understanding was signed between the National Guard, the Commonwealth Office of Technology (COT), and the Kentucky Office of Homeland Security. If there are problems that COT cannot address, such as downtrace governments being susceptible to things like ransomware with no protection, CPT can assist with these problems.

In response to Representative Wheatley, Brigadier General Lamberton stated that a NGRF is required in all 54 states and territories by the National Guard Bureau. Each NGRF may differ because of demands from that particular state or territory.

Senator Higdon commented that he was proud that the Kentucky National Guard is equipped with the best air guards in the country with modern C130s and Blackhawk helicopters. He also stated that he would love to see the committee tour Boone Center.

Representative Hinkle commented that she was thankful for their service to their state and country. She also noted that it was also Women's Equality Day.

The meeting adjourned at 11:45 AM.

Capital Planning Advisory Board Minutes of the 2nd Meeting of the 2020 Calendar

September 9, 2020

Call to Order and Roll Call

The 2nd meeting of the Capital Planning Advisory Board was held on Wednesday, September 9, 2020, at 11:00 AM, in Room 171 of the Capitol Annex. Representative John Blanton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative John Blanton, Co-Chair; Senator Whitney Westerfield, Representative Derek Lewis, Rocky Adkins, Charles Byers, Laurie Dudgeon, John Hodgson, Patsy Jackson, Holly Johnson, Ryan Neff, Mark Overstreet, and Katie Shepherd.

Guests (Virtual): Scott Baker, Certified Energy Manager, and Andrew Carter, Energy Management Program Manager, Division of Facility Efficiency, Finance and Administration Cabinet.

LRC Staff: Shawn Bowen, Julia Wang, and Jennifer Luttrell.

Representative Blanton welcomed everyone to the meeting, both in person and those attending via videoconference.

Approval of Minutes

A motion to approve the minutes of the July 22, 2020 meeting was made by Representative Lewis, seconded by Mr. Overstreet, and approved by voice vote.

Information Item

Ms. Bowen discussed the 2022-2028 Capital Planning System Instructions and the tentative 2021

board meeting schedule. State agencies must submit their capital plans in each odd-numbered year no later than April 15, and the board must publish a Statewide Capital Improvements Plan no later than November 1 of the same year. The board will hold five meetings next year, with the first meeting to commence in May. The meetings will include the review of agency capital plans, discussion of capital-related issues, and testimony from agencies that prepare specialized reports for the board. The September meeting will include approval of the draft capital plan, and will complete the board's work for 2021.

Advancing Energy Efficiency in State Facilities During the COVID-19 Pandemic

Mr. Carter and Mr. Baker discussed the COVID-19 pandemic and Kentucky's response to the virus from a facilities and energy standpoint. They reported energy and utility data in state-owned buildings, and future plans for reducing infection in the workplace as more state buildings reopen.

Energy and utility data is collected utilizing a software platform known as the Commonwealth Energy Management and Control System (CEMCS). The CEMCS project was included in the Finance and Administration Cabinet's 2020-2026 capital plan at a total cost of \$6 million (\$2 million per biennium.) The project will continue the implementation of CEMCS across all state general-funded agencies. There are four major components to CEMCS: utility monitoring and analysis; building automation integration and diagnostics; centralized, automated utility bill paying; and work order generation and tracking. The current implementation includes 860 buildings in excess of 16 million square feet. The annual energy spending last year was \$32 million, and the yearly cost savings (avoidance) were \$9.5 million.

In response to a question from Representative Blanton, Mr. Carter said overall energy savings for state agencies is about 9.5 percent, 19.5 percent for the Finance Cabinet, and over 20 percent for KCTCS. The goal of reducing energy consumption 25 percent by 2025 is part of a 7-step strategy and is not mandated by statute or executive order. The reporting of energy usage and savings, which is done through the Kentucky Energy Savings Dashboard, is mandated by statute.

In response to another question from Representative Blanton, Mr. Carter said the planned structural changes to state office building ventilation systems are due to COVID-19, and will provide cleaner air. He agreed that the structural changes could also be beneficial during flu season to help further reduce the spread.

Senator Westerfield said he served on an NCSL task force on cyber security, and one of the major issues discussed was the lack of security on Internet-connected devices such as building automation systems. He asked what protocols are in place to secure building automation systems and other Internet-

connected devices from potential hackers. Mr. Carter said the security team at the Commonwealth Office of Technology (COT) is continuously working to ensure that building automation systems, as well as other Internet-connected devices, are protected from hackers. The systems and devices are protected by fire walls, and only authorized IP addresses may access those systems. Mr. Carter added that COT is currently testing the security systems in one of the state buildings to ensure all that security standards are in place.

Representative Blanton thanked Mr. Carter and Mr. Baker for their presentation and for the ongoing efforts by Finance and Administration Cabinet officials to save the Commonwealth money.

Other Business

Representative Blanton read a resolution honoring retiring Senator Stan Humphries. Senator Humphries has served as co-chair of the Capital Planning Advisory Board since his appointment to the board in 2013. Senator Westerfield made the motion to adopt the resolution, it was seconded by Representative Lewis, and adopted by voice vote.

Representative Blanton announced that the board will hold its next meeting in May 2021.

Adjournment

There being no further business, Mr. Adkins made a motion to adjourn the meeting. The motion was seconded by Representative Lewis, and the meeting adjourned at 11:45 AM.

Capital Projects and Bond Oversight Committee Minutes

August 19, 2020

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Wednesday, August 19, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Walker Thomas, 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; Representative Maria Sorolis.

Guests: Elizabeth Baker, Planning Director, University Budget Office, University of Kentucky; Bart Hardin, Director of Government Relations, University of Kentucky; Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority; Katie Smith, Commissioner, Department for Financial Services, Cabinet for Economic Development; and Ryan Barrow, Executive Director, Office of Financial Management.

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

Approval of Minutes

Senator Girdler moved to approve the July 22, 2020 meeting minutes. Senator Mills seconded the motion, and the committee approved without objection.

Information Items

Pursuant to KRS 45.760(9), the Office of State Budget Director transmitted its annual report detailing the financial status of open capital projects as of June 30. The report includes executive branch agencies, Kentucky State University, the Kentucky Community and Technical College System, as well as several Eastern Kentucky University and Morehead State University legacy capital projects. The Administrative Office of the Courts and postsecondary institutions managing their own capital construction under KRS 164A.580 are anticipated to report prior to the October 1 deadline.

Pursuant to KRS 45.812(1), ten school districts reported refunding debt issues, seven of which were taxable advance refundings: Barren County, Fayette County, Hardin County, Harlan County, Kenton County, Oldham County, Paducah Independent (McCracken County), Perry County, Pike County, and Russell Independent (Greenup County).

Public-Private Partnership Report from the University of Kentucky

Ms. Baker and Mr. Hardin submitted the Construct Research/Incubator Facility (Coldstream High-Tech Building) development agreement. Ms. Baker and Mr. Hardin said the project supported the economic development and research enterprise components of UK's, the land grant research university of the commonwealth, mission. Ms. Baker stated that the project is the construction of a \$14 million, 46,000 square foot facility on UK's Coldstream Research Campus for wet laboratories, offices, and flex space for early stage high-tech companies. UK will sign a ground lease with Bull Lea Run, LLC, the partner and developer. Kentucky Technology, Inc., owned by UK Research Foundation, will lease about half of the facility and sublease about half of its space to UK users, including a few offices and the equestrian lab, which provides drug testing for standardbred, with preparations to expand to thoroughbred, horses. Bull Lea Run's rental rate to KTI will be \$31.32 per square foot, which is around the same rental rate that UK pays for other leased laboratory space.

Mr. Hardin said this project was an example of the UK's collaboration not only with the city but also the state and referenced the legislature's expansion of the state's tax increment financing program to include mixed-use development projects in a university research park [House Bill 310 – 2011 Regular Session]. This project is a component of the Coldstream Research Campus Mixed-Use TIF project that was approved for a \$4.6 million rebate. [The Kentucky Economic Development Finance Authority gave final approval to Lexington-Fayette Urban County Government on May 30, 2019 under KRS 154.30-060 for the \$199 million redevelopment

project (KRS 154.30-060 limits capital investment to \$200 million)].

Mr. Hardin mentioned three Coldstream success stories. Summit Biosciences started with ten employees in a small incubator space and now employs one hundred and ten people. Piramal Pharma purchased Coldstream Labs, which manufactured sterile intravenous medications, for \$31 million and employs one hundred and twenty-five people at Coldstream. Exstream Software was initially purchased by Hewlett-Packard, and then by OpenText.

UK's Advanced Science and Technology Commercialization Center houses smaller incubator space with some ten by ten offices occupied by two to three employees. The Coldstream High-Tech Building is for companies to house between five and twenty employees prior to occupying their own facility. UK recruited about forty companies with the state's Small Business Innovation Research/Small Business Technology Transfer match funding. However, UK will be unable to recruit more companies until project completion as there is no appropriate incubator space in Lexington. Mr. Hardin clarified that Bull Lea Run was a single purpose limited liability corporation specifically created by MAG Partners and Woodbury Corporation for this project.

Representative Thomas said the committee will be excited to monitor the project's progress.

Senator Mills moved to approve the project, seconded by Senator Girdler, and approved by unanimous roll call vote.

Project Report from the Finance and Administration Cabinet

Ms. Tomes submitted three new federally funded projects and reported a pool allocation. The first of the new projects was the \$4.8 million Unemployment Insurance System Citizen Improvements - Response to COVID-19 information technology project, utilizing Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) payments. This project will improve the claims/benefit processing areas of the UI system including citizen-facing platform, security, operating, and capacity upgrades; citizen access through mobile devices; scalability based on claims; and out-of-date legacy voice response system replacement. This project was requested separately from the active \$48 million [restricted funds] Replace Unemployment Insurance System project since the CRF only covers expenditures through December of this year. The \$48 million project was to be funded from a surcharge set aside by the general assembly [House Bills 252 and 487 – 2018 Regular Session]. The [Service Capacity Upgrade Fund] has about \$15.4 million and, due to the status of the UI Trust Fund, is not expected to accumulate enough funds for the \$48 million project. The current UI system, built in the 1970's, uses outdated codes and is overburdened.

Ms. Tomes confirmed to Representative Thomas that the \$4.8 million project will not eliminate the

current system's COBOL programs, yet would still be helpful.

Ms. Tomes confirmed to Senator McDaniel that the \$4.8 million project is the commencement of the House Bill 352 [2020 Regular Session] \$48 million project, which was a reauthorization of \$10.4 million [from the original 2018 authorization] with \$37.6 million additional expenditure authority.

Senator Girdler moved to approve the project, seconded by Senator Mills, and approved by unanimous roll call vote.

Ms. Tomes next submitted two new Department of Military Affairs (DMA) projects. The first was the \$1.996 million Harold L. Disney Training Site Mobile Operations Urban Training Site Enhancement; utilizing Department of Defense Cooperative Army Operations and Maintenance funds to construct an urban assault training mini-city for the Kentucky National Guard, state and local law enforcement, and SWAT teams from multiple states.

Senator Carroll moved to approve the project, seconded by Senator Girdler, and approved by unanimous roll call vote.

The second DMA project was the \$2.5 million Kentucky Emergency Management Conditioned Storage/Multi-Purpose Building; utilizing CARES Act CRF payments to construct a facility with restrooms, showers, open space, and storage. The facility will eliminate the need for temporary office trailers or leased space, as it will also be used for Kentucky Emergency Management Operations supply distribution, during major events such as earthquakes, pandemics, and tornadoes.

Senator Mills moved to approve the project, seconded by Representative Sorolis, and approved by unanimous roll call vote. Representative Thomas commented that both DMA projects were important endeavors.

Ms. Tomes reported pool allocations for the \$1,716,944 Justice and Public Safety Cabinet, Department of Corrections, Green River Correctional Complex Security Control for Buildings project; using about \$1.4 million from the 2020-2022 [Adult Correctional Institutions] Maintenance Pool and \$280,300 from the 2018-2020 [Adult Correctional Institutions] Maintenance Pool to replace the security control system. The control system, outdated with discontinued parts, consisted of cameras, door access and lighting controls, fire alarms, intercoms, and smoke evacuation.

Report from the Office of Financial Management

Kentucky Infrastructure Authority

Ms. Bridwell submitted one Clean Water State Revolving Fund (Fund A) Program loan and one Drinking Water State Revolving Fund (Fund F) Program loan. Rates for both applicants have been effective since 2016.

The City of Bedford, Trimble County, requested a \$909,500 Fund A loan for its \$1.819

million Wastewater System Improvements project; replacement of three pump stations and various rehabilitations. A Community Development Block Grant will cover the remaining half of the project costs. For 4,000 gallons, the monthly sewer rate is \$44.85. The term is thirty years at a 0.50 percent rate.

In response to Representative Thomas, Ms. Bridwell said that one of the pump stations serves the county [elementary] and high school and that the school district revenues help keep rates stable.

Senator Mills moved to approve the Fund A loan, seconded by Representative Sorolis, and approved by unanimous roll call vote.

The Lyon County Water District requested a \$2,094,675 Fund F loan for its Water System and Storage Tank Improvements project; which includes rehabilitation of two tanks and looping and upsizing of lines. For 4,000 gallons, the monthly water rate is \$46.24 and the district will need Public Service Commission approval of an eighteen percent rate increase. The term is twenty years at a 2.50 percent interest rate.

Senator Mills moved to approve the Fund F loan contingent upon applicable PSC approvals, seconded by Senator Girdler, and approved by unanimous roll call vote.

Cabinet for Economic Development

Ms. Smith submitted two Economic Development Fund (EDF) grants. Senator Mills moved to roll the grants into one roll call vote, seconded by Representative Sorolis, and approved without objection. Both EDF grants were for projects among the eight recommended by an independent site consultant to receive Kentucky Product Development Initiative program funds for industrial site upgrades, administered in conjunction with the Kentucky Association for Economic Development. Disbursements of grant funds will occur on a reimbursement basis to local governments after the Cabinet for Economic Development reviews the required supporting documentation.

The first EDF grant was \$500,000 to the City of Hopkinsville for the benefit of the Hopkinsville Industrial Foundation. The Industrial Foundation and the Southwestern Kentucky Economic Development Council plan to construct a speculative building on a 22-acre Build-Ready site in Commerce Park. The Industrial Foundation, which owns the site, funded site preparations and will, along with the city and county, collectively guarantee the associated \$2.3 million bank loan interest payments. [A \$400,000 TVA grant will also cover project costs].

The second EDF grant was \$250,000 to the County of Knox for the benefit of the Southeast Kentucky Industrial Development Authority, extending water and sewer to Speculative Building #4 in the industrial park [Southeast Kentucky Business Park in Corbin]. SKIDA has committed funding for the match.

Senator Girdler moved to approve the two EDF

grants, seconded by Senator Mills, and approved by a roll call vote of five yes votes and one no vote.

Senator McDaniel cast a no vote, referencing increased judicial facility construction costs discussed in an earlier committee meeting that day; stating that with the pandemic, it is premature to approve speculative buildings.

Senator Girdler moved to approve the two EDF grants, seconded by Senator Mills, and approved by a roll call vote of five yes votes and one no vote.

Office of Financial Management New Kentucky Housing Corporation Conduit Debt Issues

Senator Mills moved to roll the two new KHC conduit debt issues into one roll call vote, seconded by Representative Sorolis, and approved without objection.

Mr. Barrow submitted two new KHC conduit debt issues with mid-September projected sale dates. KHC conduit debt issues are applied towards the state's private activity volume cap but affect neither the commonwealth's nor KHC's financials as the developer pays the debt service. The first was the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Christian Towers), Series 2020; 142 units in Fayette County (Versailles Road), net proceeds of around \$19.8 million, and a just over \$54 million project cost. The second was the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Overlook at Elkhorn Creek Apartments), Series 2020; 156 units in Scott County, net proceeds of \$21 million, and a just over \$33.8 million total project cost.

Senator Mills moved to approve the two new KHC conduit debt issues, seconded by Senator Girdler, and approved by unanimous roll call vote.

Previous Debt Issue

Mr. Barrow reported the State Property and Buildings Commission Revenue Bonds, Project No. 124 Series A; general fund supported debt with \$150 million in proceeds deposited in the capital projects account administered by the Office of State Budget Director to fund ongoing projects authorized by various acts of the general assembly over a number of budget cycles [\$491.3 million remaining projects authorized, with general fund supported debt, in the 2010 through 2020 appropriations bills before this debt issuance]. Capital projects [from tax-exempt general fund supported debt proceeds] are typically funded on a pooled basis about once a year. This was the first tax-exempt debt issue [OFM reported a completed taxable debt issue to finance the \$35 million KEDFA loan to UofL Health to the committee last month] after the commonwealth launched its investor relations site. With a historically low interest rate environment, the true interest cost was just over 2.38 percent and, even with uncertain revenues, the state maintained its credit ratings.

Representative Thomas said that OFM's previous debt issue report segues into the School

Facilities Construction Commission's submittal as many school districts are planning refinancings [low interest rate environment].

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

Senator Mills moved to roll the SFCC debt issues into one roll call vote, seconded by Representative Sorolis, and approved without objection.

Mr. Barrow submitted six SFCC debt issues, one for a new project and five to refinance debt. The Bowling Green Independent (Warren County) school district, which did not need an additional tax levy to pay debt service, submitted an estimated \$17.7 million debt issue for high school improvements with less than one percent SFCC and over ninety-nine percent district debt service. Five school districts submitted refunding debt issues, four of which were taxable advance refundings, totaling just over \$59 million with around twenty percent SFCC and eighty percent district participation: Campbell County, Eminence Independent (Henry County), Fayette County, Henry County, and Pulaski County. With the historically low interest rates, more taxable advance refundings will meet SFCC parameters [which include seventy percent efficiency ratio (gross undiscounted savings less negative arbitrage (the loss on the escrow)), then divided by gross undiscounted savings) and five percent net present value savings].

Senator Mills moved to approve the SFCC debt issues, seconded by Senator Girdler, and approved by unanimous roll call vote.

With there being no further business the meeting adjourned at 3:50 p.m.

Administrative Regulation Review Subcommittee

Minutes of the September Meeting

September 8, 2020

Call to Order and Roll Call

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 8, 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; Representative David Hale, Co-Chair; Senators Julie Raque Adams, Alice Forgy Kerr, and Reginald Thomas; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Kathryn Gabhart, Executive Branch Ethics, Stephen McMurray, University of Kentucky Agriculture Experiment Station; David Trimble, Board of Podiatry; Bryan Morrow, Dr. Shawn Oak, Board of Licensure of Marriage and Family Therapists; Carson Kerr, Elizabeth Morgan, Board of Medical Imaging and Radiation Therapy; Clint Quarles, Department of Agriculture; Amy Barker,

Jennifer Bogard, Department of Corrections; Jon Akers, Todd Allen, Whitney Crowe, Matt Ross, Ben Wilcox, Department of Education; Heather Dearing, Terry Manuel, Alicia McGrath, Beth Milburn, Department for Libraries and Archives; Laura Begin, Julie Brooks, Kara Daniel, Wes Duke, Lisa Lee, Adam Mather, Jonathan Scott, Miranda Stocker, Emily Tamas, Todd Trapp, Cabinet for Health and Family Services; Sheena Burch, Angie Clemons, Joan Geohegan, April Sexton McKinney, Brenda Packard, Karen Pendleton, Deanna Picklesimer, Tricia Oliver, Heidi Schissler, Kimberly Turner, Chris Weist, and Tony Wheatley.

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

The Administrative Regulation Review Subcommittee met on Tuesday, September 8, 2020, and submits this report:

Effective Administrative Regulation Reviewed by the Subcommittee Pursuant to KRS 13A.030(3) and 13A.290(1)(b)3.:

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

902 KAR 2:210E. Covering the face in response to declared national or state public health emergency. Wes Duke, general counsel, represented the division. Sheena Burch, Angie Clemons, Joan Geohegan, April McKinney, Brenda Packard, Jenny Patten, Karen Pendleton, Deanna Picklesimer, Tricia Oliver, Kimberly Turner, Tony Wheatley, and Chris Weist appeared in opposition to this administrative regulation.

In response to questions by Co-Chair West, Mr. Duke stated that this emergency administrative regulation was promulgated to replace the previous emergency administrative regulation requiring face coverings. The previous emergency administrative regulation's requirements expired thirty (30) days after filing. This emergency administrative regulation was substantively the same as the previous version, except that it established an exception for the deaf, hard of hearing, and those actively communicating with the deaf or hard of hearing. Individuals exercising this exemption were to maintain at least six (6) feet of distance from those who were not members of that person's household. Mr. Duke was unsure as to why Secretary Friedlander and Dr. Stack were not present to testify. He was also unsure as to why Dr. Stack had not submitted the data regarding face covering efficacy, which Dr. Stack agreed to submit at the July 13 subcommittee meeting. Mr. Duke stated that he had emailed the subcommittee the legal analysis for the statutory authority for this emergency administrative regulation, to which he had agreed at the July meeting. He apologized to the members if it had not been received and stated that he would investigate why the subcommittee had not received that communication. He agreed to follow up with

the subcommittee regarding the legal analysis for the statutory authority for this emergency administrative regulation and Dr. Stack's face covering efficacy data. Mr. Duke stated that, because of the nature of the pandemic, this emergency administrative regulation did not allow for the traditional public comment period. The public hearing was scheduled for October 26 at 9 a.m. While the requirements of this emergency administrative regulation would expire thirty (30) to sixty (60) days before the public hearing, the public hearing date was a statutory requirement. Mr. Duke stated that he was uncomfortable speculating whether or not the cabinet could hold an additional public hearing outside of the KRS Chapter 13A process. He believed that the current hearing was timely and that the cabinet made the right choice. The citation form being used by Local Health Departments was compliant with this current emergency administrative regulation but was not incorporated by reference in this emergency administrative regulation. There was a first-violation warning and a fine for a second violation. Mr. Duke stated that it did not seem necessary to incorporate the citation by reference. He was unaware that there was a citation circulated on the internet that showed the wrong administrative regulation number. The cabinet believed that several statutes and administrative regulations established authority for fines for more than one (1) violation, including from KRS Chapters 211 and 212 and KRS 214.020 and 214.990. This emergency administrative regulation was officially filed with LRC on August 10, 2020, at 8 a.m. An emergency administrative regulation would not become effective before being officially filed with LRC. Co-Chair West stated that, although this emergency administrative regulation was filed on August 10, language within this emergency administrative regulation included an effective date of 5 p.m., August 7.

In response to a question by Representative Frazier, Mr. Duke stated that cited individuals and businesses could appeal through the KRS Chapter 13B hearing process. To Mr. Duke's knowledge, no one had sought an appeal at this time.

In response to a question by Senator Raque Adams, Mr. Duke stated that, as of today, there had been sixty-seven (67) citations for violations issued. Sixty-six (66) of those were first-violation warnings, and there had been one (1) second-violation citation with a fine.

Co-Chair Hale stated that, while he appreciated Mr. Duke's availability for testimony, the subcommittee would have been grateful to also hear from Dr. Stack and Secretary Friedlander. Like Co-Chair West, Co-Chair Hale also did not receive Mr. Duke's email with his legal analysis of the authority for this emergency administrative regulation. Mr. Duke stated that he would continue searching for the email.

In response to questions by Senator Thomas, Mr. Duke stated that Kentucky had authority to

issue administrative regulations through its policing powers, and this was a safety-based emergency administrative regulation. KRS 214.020 authorized the cabinet to take action to prevent the spread of infectious diseases. KRS Chapter 39A and other grants of authority through the cabinet authorized this action. Mr. Duke stated that Dr. Stack had stated on multiple occasions that he was an advocate for face coverings because the science demonstrated efficacy in reducing the spread of coronavirus (Covid-19).

Co-Chair West stated that KRS 214.020 established penalties to be misdemeanors, which provided due process through the court system. In response to a question by Senator Thomas, Co-Chair West stated that a fine might be statutorily considered a violation, rather than a misdemeanor; however, the statute seemed to require misdemeanors. Co-Chair West allowed those appearing in opposition to this emergency administrative regulation to begin their testimonies.

Mr. Weist stated that some citations for face covering violations were being contested in the Kentucky Supreme Court and he represented some of the litigants involved. One (1) of his clients, April McKinney, was the owner of the Richmond Athletic Club, which had received a citation for a face covering violation from the Local Health Department, because a client had walked from one (1) piece of exercise equipment to another in the active act of exercising. Upon requesting a hearing, he was told by a Local Health Department representative that there was no right to a hearing. If the KRS Chapter 13B hearing process was being used, that message had not been received by all of the Local Health Departments. This emergency administrative regulation did not properly incorporate material by reference, in contravention of statutory requirements. This emergency administrative regulation did not contain the cost analysis required by KRS 13A.240(1)(f)2. This emergency administrative regulation did not include the number and types of entities affected, as required by KRS 13A.240(1)(e). This emergency administrative regulation did not include a reference to the KRS Chapter 13B hearing process. There was no statutory authority that allowed the issuance of a citation.

Ms. McKinney stated that Richmond Athletic Club was cited for a face covering violation by the Madison County Health Department. No due process was offered. Active exercise was taking place, which was supposed to be an exemption. She was told by an inspector that there were no exemptions and that fines for her business would be payable directly to the Local Health Department, based on one (1) person's interpretation of this emergency administrative regulation. This was in violation of the American's with Disabilities Act and HIPPA. The business was threatened with closure unless a violator submitted proof of exemption. After contact with the inspector's supervisor, the interpretation was reversed and the business was told that there was no proof that the

Executive Order could override federal law for those unable to wear facial coverings.

Ms. Packard stated that she was a disabled veteran, former business owner of thirty (30) years, and the single mother of a disabled child. The measures taken during the pandemic were affecting people more negatively than coronavirus (Covid-19) itself. After spinal surgery that made her pain worse, telehealth was her only option for seeking pain relief. There was basically no follow-up care because of the shutdown. Laser eye surgery services had also been shut down. Abortion clinics never shut down during the pandemic. Wearing a mask caused Post Traumatic Stress Disorder symptoms for her because of past trauma. The government made those unable to wear a facial covering seem less patriotic and unsympathetic. Even going to the grocery store resulted in public shaming, occasional photographing, and reports to the Governor's hotline. This situation exacerbated depression in some. A veteran in Pendleton County passed away, and his family was forced, because of the pandemic, to bury him in a rogue cemetery, with the goal of exhumation and reburial in a veterans' cemetery after the pandemic issues were resolved.

Mr. Wheatley stated that these mandates were about more than just masks. His friend, Mary Howard was involved in the unemployment situation that resulted from the pandemic shutdown. Claims were at an all-time high, and Kentucky experienced 451,000 claims during a forty-five (45) day period. Half of those remained unemployed at this time. 7,500 claims from that initial group had still not received processing. Civilian labor had decreased, while unemployment had increased. Mary Howard was out of money and was about to lose her home. These statistics represented real people like Mary Howard, who were suffering under these mandates. Kentucky's economy was deteriorating. Forty-eight (48) percent of those with the initial 451,000 claims had exhausted the allowed length of time for unemployment relief.

Ms. Oliver stated that she was the mother of a son with epilepsy and autism. On July 10, when the face covering emergency administrative regulation became effective, the struggle to keep a mask on her son began. On July 28, he removed his mask and began to have a seizure while in a restaurant. Restaurant employees stated that they would refuse service if her son did not put the mask on; therefore, she removed her son outside of the restaurant. Medical data determined that, during the two (2) weeks of wearing the mask, her son had experienced over 1,000 seizures. Wearing the mask seemed to have significantly exacerbated his medical condition. This situation caused his cognitive development to be severely set back. Her daughter was hearing impaired and had also experienced difficulty in public settings. A local restaurant demanded that her daughter disclose her medical condition in front of the public in order to prove that she was exempt from the face covering mandate.

Ms. Clemons stated that her six (6) year-

old grandson represented the devastation of many Kentucky citizens because of the pandemic shutdown. Her grandson had lost his friends due to the social distancing mandates, isolation, and fear. The Governor was dividing people due to their political affiliations, which led to an elementary school teacher committing a hate crime against her grandson. The teacher ostracized him and inflicted emotional and mental abuse on him because his parents were Republicans. Her grandson was afraid to get near her because of fear that he would cause her to die from coronavirus (Covid-19). Despite new evidence confirming that most of those who had died had not died from coronavirus (Covid-19), the Governor threatened to again shut down Kentucky if citizens did not wear face coverings or if infection cases increased. The Governor's mandates had lost in the courts; therefore, why did these requirements remain in place? The Governor had set up a "snitch" hotline to encourage citizens to tell on each other. As a result, children were being harmed. One (1) of her grandson's friends tried to drown him in a pool, because his parents taught him to hate. Governor Beshear had infringed on citizens' civil rights and civil liberties. Law-abiding citizens were being denied due process. When did it become acceptable to force children to wear a mask, especially if those children did not have the mental capacity to understand the purpose? Any child under ten (10) did not have the capacity to grasp this situation. Children should not be denied the right to attend school. Many families were unequipped to school children from home, and the result was children showing signs of anxiety and emotional distress. Some children were having emotional outbursts as a result. When did it become acceptable for a teacher to ostracize a young child? When did it become acceptable to force parents to choose between staying at home to supervise their child who was unable to attend school or going to work, especially when paychecks were desperately needed? When did it become acceptable to tell a child that he could not go near his grandmother but that he could go to a hardware store to buy paint? When did it become acceptable to isolate children at home for months, potentially exposing them to abuse? Some households were abusive. When did it become acceptable to psychologically abuse our children by telling them that they might kill their grandparents? This is child abuse. The new normal is to abuse our children. This trauma will follow these children throughout their lives. Many will never feel safe again in America. You could end this suffering and save Kentucky children by stopping our Governor.

Ms. Pendleton stated that she appreciated the subcommittee allowing public comments on this emergency administrative regulation. In the beginning of the pandemic, there was much that we did not know. Now we knew more, and it was clear that the government got some things wrong. We had never passed this way before. Now we knew about coronavirus (Covid-19). We knew how to treat it

and that it was not very lethal. It was time to allow Kentuckians to follow the dictates of their own consciences. The time for restrictions was over, and the government of the Commonwealth of Kentucky needed to acknowledge that so that Kentucky could thrive. The government should be as good as its people.

Co-Chair West stated that he had deliberately made as much time available as possible for public comments pertaining to this emergency administrative regulation because, up until this time, no opportunity for public comments had been provided.

Ms. Burch stated that this emergency administrative regulation was supposed to enhance the prevention of the spread of the so-called infectious disease, coronavirus (Covid-19). There was no double-line evidence that wearing any old cloth over the nose and mouth did anything to enhance the prevention of the spread of coronavirus (Covid-19) or other so-called infectious diseases, including the disease called flu. There was no evidence that it was even healthy or safe to wear a face covering during an eight (8) hour shift for a workday, for children all day during school, or for CDL drivers, such as bus drivers. Wearing a face mask in public was only for specific religions, Halloween, or for criminal activity. This statement was corroborated by 200 KAR 3:020, Section 3(1)(j). Face masks and coverings promoted and supported criminal activity, such as child abductions, human trafficking, shoplifting, looting, and other criminal activity. This was a planned attack on our freedoms and the Constitution. The Centers for Disease Control (CDC) planned prior to 2010 to get states to implement their fascist laws in accordance with their Social Distancing Law Project, but thankfully the CDC was not the law of the land. This emergency administrative regulation was highly unscientific and was, most importantly, in violation of federal and state constitutionally protected rights. Sixteenth Amendment (2)(d) {sic} jurisprudence concluded that no emergency had just cause to suppress the Constitution. This emergency administrative regulation was an example of severe government overreach. She requested that this emergency administrative regulation be hastily denied, removed, and stricken.

Ms. Turner stated that she was here on behalf of her people, family, community, and church. She had a disability, and the disability-related inability to wear a face covering caused her to lose her job. She had been shamed in public for not wearing a face covering. People should not be denied public accommodations because of a pandemic. We were prepped for this. On April 29, WDRB stated that citizens should treat each other as enemies if not in uniform, which was the face covering.

Ms. Patten stated that the decisions made today would affect us into the future. She filed an open records request in July for face covering supporting data referenced by the Governor in a press conference. The Office of the Governor's response was that zero

records were available. She then filed an appeal with the Office of the Attorney General, which also resulted in a response that zero records were available. How was this not a violation of our constitutional rights because the mandate was unsupported by evidence? All claims must be substantiated by evidence and not just opinion, but we had nothing supporting the efficacy of mask wearing. In fact, numerous studies indicated otherwise. Zero peer-reviewed data indicated that masks prevented viral spread. Masks were nothing more than a symbolic gesture pursuant to the New England Journal of Medicine, which also stated that focusing on universal masking might paradoxically result in more transmission of coronavirus (Covid-19). The Center for Infectious Disease Research and Policy stated that cloth masks rated very low in efficiency in preventing very small particles from being inhaled by the wearer, even if the cloth mask was well fitted. The Journal of Orthopedic Translation's research indicated that cloth masks were intended to keep particles from one (1) micron from being inhaled. Coronavirus (Covid-19) particles were 0.125 microns in size; therefore, wearing a mask with the expectation of avoiding infection was irresponsible at best. Mask wearing could cause a condition called mask mouth, which could cause an increase in cavities, inflammation in the mouth, gum disease, and risk of stroke and heart attack. Studies demonstrated that mask use could increase fear response in wearers due to increased inhalation of CO₂, especially those who experience panic attacks or have trauma-related conditions. Stop looking at citizens as viruses. She stated that her rights did not end where others' fears began. Decisions must be based on evidence, proof, and scientific data.

Ms. Picklesimer stated that she was a Christ follower foremost and a wife and mother of two (2) children. Remote learning was not working for her elementary-aged children. As a former state employee, the government should serve the people through their collective representatives and for the common good. This was a democracy and a commonwealth. People were using science to substantiate their own personal opinions and feelings to defend these mandates; this was worldly thinking, not Kingdom thinking. The government was infringing on personal liberty and freedom. People should do what each believed was personally best, and the government should not try to control their decisions. This began as flattening the curve in order to not overwhelm medical facilities, but had become a perversion of the Christian concept of loving your neighbor as yourself. Kentuckians did not need protection of this level because only a very small percentage of infected people died. Insinuating that those who did not wear a mask did not love their neighbor was foolish and divisive. Everyone should be allowed to express their viewpoints. The people should have the choice of wearing a mask and of in-person schooling. She did not think masks were effective, but she was following the rule. Coronavirus

(Covid-19) had high recovery rates. We should face this virus fearlessly with love and should not worry unless medical facilities began to be overwhelmed. There should not be a mandatory vaccine.

Ms. Geohegan, a registered nurse and certified diabetes education specialist, stated that it had been emphasized that patients had the right to self-determination. The citizens of Kentucky should all have the right to self-determination and all have the right to choose to wear a mask or go without. We could help those with underlying health conditions through education, but that was not happening. The information on the Administrative Reference Web site regarding how to manage diabetes was very outdated.

In response to a question by Co-Chair West, Mr. Duke stated that the legal analysis he had agreed to send to the subcommittee in July had been sent by messenger mail and must have been lost in transit. He apologized and stated that he would resubmit that information by email immediately after this subcommittee meeting. This emergency administrative regulation was properly promulgated by all applicable statutes. KRS 214.020 authorized the cabinet to prevent contagious diseases and enforce quarantine powers. This was a proper extension of Executive Branch power in accordance with KRS Chapter 39A.

Representative Marzian stated that wearing a mask was a small measure for our citizens and commonwealth to protect each other. Representative Marzian was a registered nurse who believed in and used science. We had passed this way before during the Spanish influenza of 1918. We have had approximately 200,000 people die from coronavirus (Covid-19) in this country. In the 1940s and 1950s, we experienced a tuberculosis epidemic in which her mother was quarantined for nineteen (19) months. Her grandmother was also quarantined and died from tuberculosis. At that time, tuberculosis was a deadly disease without a cure, just as coronavirus (Covid-19) was a deadly disease without a cure. She did not believe that our children were being abused due to these mandates. These measures would protect children and each other.

Co-Chair Hale stated that he appreciated those testifying today and the opportunity for their testimony. The administration did not give any opportunity for public comments regarding this emergency administrative regulation. Subcommittee members had received many emails from the public regarding this emergency administrative regulation. He wore his face covering, as most Kentuckians did; however, the majority of Kentuckians did not want to be ordered to wear face coverings. He respected the Governor, Dr. Stack, and Mr. Duke, but this seemed like an unconstitutional mandate. If given a choice, most Kentuckians would continue to wear the face coverings without an order.

Senator Thomas stated that, in many southern states, the incidence of coronavirus (Covid-19) deaths

had increased. Kentucky led the way with the fewest cases and deaths due to the Governor's leadership and commitment to prevent infection spread through these mandates, including face covering requirements. This mandate had saved countless lives. We all wanted to save lives, although we disagreed on how to achieve that. Science supported this policy. Wearing a face covering was the right thing to do for Kentucky.

A motion was made by Co-Chair Hale and seconded by Representative Frazier, to find this emergency administrative regulation deficient. Co-Chair West initiated discussion on the motion.

In response to a question by Mr. Duke, Co-Chair West stated that a motion of deficiency was the vehicle the subcommittee used to request that the Governor withdraw this emergency administrative regulation in accordance with KRS 13A.190.

Co-Chair West stated that this motion was not preplanned but was the natural result of the testimony. The subcommittee had had a thorough discussion of this emergency administrative regulation which affected every Kentuckian on a daily basis. This emergency administrative regulation seemed to arbitrarily single out specific businesses for the mandate. There were arbitrary exceptions to the mandate. This emergency administrative regulation mandated business practices and put businesses in the position of enforcing hastily promulgated requirements. Penalties in this emergency administrative regulation were arbitrary, and there was no provision for due process. There was inconclusive evidence of the efficacy of face coverings to prevent the spread of infection. No evidence had been provided to the subcommittee after an agreement at the July subcommittee meeting to provide evidence. The authorizing statutes did not provide for fines or business closures. The most egregious failure was the lack of opportunity for public comments. KRS Chapter 39A cited fifty-one (51) reasons for these powers; however, a pandemic was not a listed reason. The list did include "other biological occurrence"; therefore, Co-Chair West would give the Governor the benefit of the doubt regarding this issue. It was clear that the Governor had no intent of working with the legislature on these issues. The legislature had been entirely left out of the development of these policies. The legislature expected there to at least be an opportunity for public comments, but there had not been.

A roll call vote was taken. There being three (3) votes to find this emergency administrative regulation deficient, and five (5) votes against a finding of deficiency, the motion failed.

Senator Raque Adams explained her no vote. Jefferson County was very heavily populated, and most citizens had accepted mask wearing. Today's testimony demonstrated that this emergency administrative regulation was not flexible enough. There was no due process provided. Exempted individuals were experiencing public shaming. A public comment process was needed sooner,

rather than later. It was possible that, due to lack of coordination, the courts would have to settle this matter.

Representative Frazier explained her yes vote. This vote was not political or about the safety of masks. This emergency administrative regulation was a problem, because due process was not provided.

Senator Thomas explained his no vote. We were still learning about coronavirus (Covid-19). The safest way to deal with this pandemic was through face coverings. Approximately 200,000 US lives had been lost, and six (6) million US citizens had been infected. In many southern states, the incidence of coronavirus (Covid-19) deaths had increased, but Kentucky led the way with the fewest cases and deaths due to the Governor's leadership and commitment to prevent infection spread through these mandates, including face covering requirements.

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION
CABINET: Executive Branch Ethics Commission

9 KAR 1:010. Statement of financial disclosure. Kathryn Gabhart, executive director, represented the commission.

9 KAR 1:040 & E. Executive agency lobbyist, employer of executive agency lobbyist, and real party in interest registration and expenditure statements; financial transactions and termination forms; and enforcement.

AGRICULTURAL EXPERIMENT STATION:
Seed

12 KAR 1:116. Sampling, analyzing, testing, and tolerances. Stephen McMurry, program director, represented the Agricultural Experiment Station.

12 KAR 1:120. Noxious weed seed.

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

12 KAR 1:125. Identification of seed not for sale.

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

12 KAR 1:130. Labeling of seed mixtures.

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

12 KAR 1:140. Permits, reports, and fees for

persons using own tags.

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

12 KAR 1:155. Schedule of charges for samples submitted for testing.

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

12 KAR 1:160. Seed not required to be labeled by variety name.

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

12 KAR 1:170. Germination standards for flower seed.

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

12 KAR 1:175. Seed certification in Kentucky.

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

BOARDS AND COMMISSIONS: Board of Podiatry

201 KAR 25:011. Approved schools; licensure application; fees. David Trimble, counsel, represented the board.

In response to a question by Representative Frazier, Mr. Trimble stated that requirements regarding educational venues had not changed with these amendments.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4 through 6 to comply with the drafting requirements of KRS Chapter 13A; and (2) to update the Application for Podiatry License to include the increased fee amount of \$300. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 25:021. Annual renewal of licenses, fees.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to update the Application for Annual License Renewal to include the increased renewal fee amount of \$200. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 25:031. Continuing education.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 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 Licensure of Marriage and Family Therapists

201 KAR 32:110 & E. Telehealth. Dr. C. Shawn Oak, chair, and Bryan Morrow, counsel, represented the board.

In response to questions by Co-Chair Hale, Mr. Morrow stated that treatment may be provided to a minor pursuant to KRS 214.185. The treatment included life-saving interventions. Dr. Oak stated that life-saving interventions included situations in which a minor exhibited suicidal ideation and a guardian was not accessible.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Medical Imaging and Radiation Therapy

201 KAR 46:010. Definitions for 201 KAR Chapter 046. Carson Kerr, counsel, and Elizabeth Morgan, executive director, represented the board.

201 KAR 46:035. Practice standards, scopes of practice, and ethical standards.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2, 3, 6, and 7 for applicants who qualify for licensure pursuant to KRS 12.245, 12.354, or 12.357, and for consistency with KRS 311B.140; (2) to amend Sections 3 and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to update KBMIRT Forms 1 and 2 to: (a) update the question on the forms relating to KRS 12.245; and (b) clarify that, pursuant to KRS 311B.140, licensure fees

shall be waived if the conditions were met; and (4) to add a new Section 9 to: (a) clarify that a licensee shall not allow a credential to lapse while the license is active; (b) require that if a licensee's credential is suspended, revoked, or otherwise discontinued by a national organization, the licensee shall immediately notify the board; and (c) establish what a licensee seeking reinstatement following a lapse in credential shall submit. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:050. Provisional training license for medical imaging technologists, radiographers, nuclear medicine technologists, and radiation therapists.

201 KAR 46:060. Continuing education requirements.

201 KAR 46:070. Violations and enforcement.

201 KAR 46:081. Limited X-Ray machine operator.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3, 4, and 11 through 13 for applicants who qualify for licensure pursuant to KRS 12.245, 12.354, or 12.357, and for consistency with KRS 311B.140; (2) to add a new Section 5 to establish the requirements for an Initial limited X-ray machine operator license; (3) to amend Sections 3 and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A; (4) to update KBMIRT Forms 4 through 6 to: (a) update the question on the forms relating to KRS 12.245; and (b) clarify that, pursuant to KRS 311B.140, licensure fees shall be waived if the conditions were met; (5) to amend Section 1 to delete what limited diagnostic radiography shall include, which is established in Section 8 of this administrative regulation pertaining to approved procedures; (6) to amend Section 7 to clarify the curricular standards for programs for general limited x-ray machine operators, limited podiatry x-ray machine operators, and limited bone densitometry x-ray machine operators; and (7) to add material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.

In response to questions by Co-Chair Hale, Ms. Morgan stated that the Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund would be funded through licensing fees after other daily operating expenses and appropriations had been made. This was a new fund.

A motion was made and seconded to approve the following amendments: (1) to amend Section 5 to establish: (a) that repayment may be deferred if an active duty member of the US Armed Forces; and (b) what a request for deferral required; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 through 7 to comply with the drafting requirements of KRS Chapter 13A;

and (3) to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Office of Agriculture Marketing

302 KAR 60:010. Produce safety. Clint Quarles, counsel, represented the department.

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

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

501 KAR 6:220. Treatment for sex offenders. Amy Barker, assistant general counsel, represented the department.

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

EDUCATION AND WORKFORCE DEVELOPMENT: Board of Education: Department of Education: Charter Schools

701 KAR 8:020. Evaluation of charter school authorizers. Todd Allen, general counsel, represented the department.

In response to a question by Senator Thomas, Mr. Allen stated that, while no appropriation had been made, the authorizing statute required the department to promulgate this administrative regulation. Despite the lack of funding, the department had received one (1) application; however, that school did not open.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 4 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of District Support Services: General Admission

702 KAR 1:180. School security risk assessment tool.

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department for Libraries and Archives: Division of Library Services:

Libraries

725 KAR 2:060. Certification of public librarians. Terry Manuel, commissioner, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

725 KAR 2:070. Certification renewal of public librarians.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Certificate of Need: State Health Plan

900 KAR 5:020. State Health Plan for facilities and services. Kara Daniel, deputy inspector general, and Adam Mather, inspector general, represented the division.

Department for Public Health: Division of Maternal and Child Health

902 KAR 4:140E. Enhanced HANDS services in response to declared national or state public health emergency. Julie Brooks, regulation coordinator, represented the division.

Kentucky Early Intervention System

902 KAR 30:010E. Enhanced early intervention services in response to declared national or state public health emergency.

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:604 & E. Recipient cost-sharing. Lisa Lee, commissioner, and Jonathan Scott, regulatory and legislative advisor, represented the division.

In response to questions by Co-Chair West, Ms. Lee stated that the agency amendment changed the division's initial policy regarding eliminating copays. The initial policy to eliminate copays was due to administrative burden to providers and due to the lack of federal funding the copays created. There was concern that this policy was in conflict with KRS 205.6312, which required copays. An actuarial analysis calculated that the cost would be approximately \$20 million, with \$16 million in the form of federal funds and \$4 million in the form of state funds. The copays would cause Kentucky to lose the \$16 million in federal matching funds. Providers were prohibited from refusing treatment for Medicaid patients who did not pay their copayments; therefore, providers were the primary entity losing funds. Providers had a substantive administrative burden regarding collecting copays, and providers were losing the federal matching funds. The implementation of copays would cause Kentucky to lose federal matching funds; therefore, it would cost the state more with the copays than without.

Senator Thomas stated that he supported this administrative regulation. Copays were a barrier to healthcare accessibility. Eliminating barriers to healthcare accessibility was especially important

during this coronavirus (Covid-19) pandemic.

In response to questions by Co-Chair Hale, Mr. Scott stated that the copay prior to the initial amendment averaged three (3) dollars, with some prescription copays as high as eight (8) dollars and a fifty (50) dollar copay for inpatient hospitalization. Ms. Lee stated that the average copay prior to the initial amendment averaged three (3) to four (4) dollars. There were approximately 250,000 individuals who qualified for these copays.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 6 to: (1) establish one (1) dollar copayments for: (a) non-emergency uses of the ER; (b) prescription and over-the-counter drugs; and (c) ambulance transportation for non-emergency health services; (2) exempt certain types of medication from the copayment requirement; (3) exempt all other copayments for the calendar year after a recipient has paid an initial copayment for any product or service; (4) exempt certain categories of recipients, such as foster children and pregnant women; (5) prohibit an unpaid copayment from being considered a debt to the provider; (6) authorize the department to waive all cost-sharing if there is a declared health-related emergency; and (7) authorize an MCO to impose a lower copayment or no copayment. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Family Support: Energy Assistance Program/Weatherization

921 KAR 4:116 & E. Low Income Home Energy Assistance Program or “LIHEAP.” Laura Begin, regulation coordinator, and Todd Trapp, assistant director, represented the division.

Community Action Agencies

922 KAR 6:010 & E. Standards for community action agencies.

Division of Protection and Permanency: Rape Crisis Centers

922 KAR 8:010. Standards for rape crisis centers. Laura Begin, regulation coordinator, and Emily Tamas, program coordinator, represented the division. Heidi Schissler, legal director, Kentucky Protection and Advocacy, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Ms. Begin stated that the division was under the impression that Ms. Schissler’s concerns were statutory, rather than regulatory.

In response to questions by Co-Chair West, Ms. Schissler stated that Kentucky Protection and Advocacy requested that this administrative regulation include as part of background check provisions, a check of the Caregiver Misconduct Registry. After investigation, there did not seem to be statutory authority to add that at this time. A statutory change was needed and recommended. Ms. Begin stated that the division was not seeking deferral. Adding this registry would be a good amendment, but was

not currently possible due to statutory constraints. The division would not oppose a future statutory amendment to make this change.

The following administrative regulations were deferred or removed from the September 8, 2020, subcommittee agenda:

AGRICULTURAL EXPERIMENT STATION: Fertilizer

12 KAR 4:075. Licenses and fertilizer product registration.

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

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

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

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

12 KAR 4:130. Investigational allowances.

12 KAR 4:140. Monetary penalties.

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

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:050. Licenses and permits; fees.

201 KAR 2:105. Requirements for wholesalers, medical gas wholesalers, wholesale distributors, and virtual wholesale distributors.

201 KAR 2:106. Licensed or permitted facility closures.

201 KAR 2:240. Special limited pharmacy permit- charitable.

201 KAR 2:311. Compounding for veterinary use.

201 KAR 2:320. Requirements for manufacturers and virtual manufacturers.

Board of Chiropractic Examiners

201 KAR 21:041. Licensing, standards, fees.

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

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

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:201. Emergency Medical Responders.

202 KAR 7:301. Emergency Medical Technician.

202 KAR 7:330. Advanced Emergency Medical Technician.

202 KAR 7:401. Paramedics.

202 KAR 7:601. Training, education and continuing education.

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

501 KAR 6:120. Blackburn Correctional Complex.

PUBLIC PROTECTION CABINET: Department of Charitable Gaming

820 KAR 1:050 & E. Raffles.

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

902 KAR 2:020 & E. Reportable disease surveillance.

Division of Maternal and Child Health

902 KAR 4:030. Newborn Screening Program.

Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:160. Chemical dependency treatment services and facility specifications.

902 KAR 20:440. Facilities specifications, operation and services; residential crisis stabilization units.

Department for Public Health: Division of Public Health Protection and Safety: Food and Cosmetics

902 KAR 45:110. Permits and fees for retail food establishments, vending machine companies, and restricted food concessions.

902 KAR 45:180. Permits and fees for food manufacturing plants, food storage warehouses, salvage processors and distributors, cosmetic manufacturers, and certificate of free sale.

Department for Medicaid Services: Division of Policy and Operations: Behavioral Health

907 KAR 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

907 KAR 15:080. Coverage provisions and requirements regarding chemical dependency treatment center services.

The subcommittee adjourned at 3:25 p.m. The next meeting of the subcommittee is tentatively scheduled for October 13, 2020, at 1 p.m.

Education Assessment and Accountability Review Subcommittee Minutes

July 7, 2020

Call to Order and Roll Call

The July meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, July 7, 2020, at 3:00 p.m., in Room 171 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Brandon Reed, Co-Chair; Senators Gerald A. Neal, and Mike Wilson; and Representative Tina Bojanowski.

LRC Staff: Joshua Collins, Committee Analyst, and Maurya Allen, Committee Assistant.

Approval of the minutes was tabled until the next meeting.

OEA Annual Report

David Wickersham, Deputy Director, Office of Education Accountability (OEA), gave a brief overview of the OEA Annual Report. He explained

that OEA only conducts investigations following a written complaint, but assured members that there are multiple avenues for filing a complaint in writing including mail, fax, and email. Only approximately six to seven percent of complaints are investigated, largely based on the ability to perform an investigation and whether an alleged infraction is against the law. All complaints are logged, however, and if a pattern begins to emerge in a district, that may prompt an investigation as well. There are also instances where OEA refers the complaint to another agency for investigation, such as the Department for Community Based Services, if it falls outside of their jurisdiction.

During an investigation, OEA speaks with any witnesses that are available, which often includes school administration, staff, or occasionally parents. However, OEA never interviews children as part of an investigation. OEA also does not investigate complaints regarding disciplinary issues or special education; these are referred to other appropriate agencies. Following interviews, a preliminary investigative report is prepared and supplied to the accused and other relevant individuals. This report will include suggestions for remediation activities but OEA has no authority to administer any penalties. In approximately two-thirds of cases, there is no response to the preliminary investigative report. School personnel will occasionally seek guidance from school board counsel and subsequently a response is made, but it is not required. A majority of complaints and investigations are resolved through a remediation method, but the executive branch has the authority to administer penalties such as suspension or revocation of teaching licenses if they are warranted.

There were 414 written complaints in 2019, and approximately two-thirds were anonymous, which is a typical pattern. So far this calendar year, there have been 50 percent fewer complaints and currently there are 45 pending cases. Many of those are residual cases that were begun at the end of 2019. Among the complaints currently being received, a majority are regarding school responses to the novel coronavirus pandemic, changes to graduation activities, and allegations of occupational health and safety violations (employees feeling unsafe at work). A majority of complaints regarding health and safety violation allegations were referred to the Department of Public Health. There have also been concerns about site based decision making body elections that were impacted due to COVID-19. Lastly, concerns regarding superintendents exceeding their authority, particularly in matters related to hiring, have remained stable.

During the novel coronavirus pandemic, OEA has prioritized health of investigators while endeavoring not to sacrifice workflow and timely investigation of complaints. Investigators have performed virtual interviews instead of making site visits to school, as would normally occur. Mr. Wickersham credited the Office of Computer and Information Technology for

their assistance in getting the technology in place to allow virtual interviews to take place. He said they will continue with virtual investigations until it is safe for OEA personnel to visit schools in-person. They are aware that for OEA to perform in-person interviews it would place additional burden on the schools that are already facing immense challenges just to have students back in classrooms. In conclusion, Mr. Wickersham said OEA will continue to provide for the research projects that were requested by this committee for 2020 and will also be assisting with a staff study investigating Kentucky's Public Health Emergency Preparedness.

There were no questions from members and acceptance of the report was tabled until the next meeting.

District Data Profiles

Dr. Bart Liguori, Research Division Manager, OEA, was present to give a brief overview of the 2018-2019 District Data Profiles. This report received a Notable Document Award from NCSL in 2012. He cautioned that when comparing data in the new District Data Profiles with previous reports, as changes have occurred to graduation requirements (affecting graduation rate), accountability system (affecting student achievement data), and fund balance rate. The District Data Profiles allow easy access to commonly used education data. It provides an overview of state education as well as providing a way to compare individual districts to the whole and compare Kentucky with surrounding states. Data for the report comes from the Kentucky Department of Education (KDE) and the Kentucky Center for Statistics (KYStats). Much of this data is also found in the school report cards published by KDE. Dr. Liguori recognized the work of Albert Alexander, OEA Research analyst, on the assembly of the print version of the report.

The print version of the report includes a data dictionary, 173 district profiles in alphabetical order, a single report for the state as a whole, and several tables. The tables are useful for comparing districts as well as seeing where individual districts rank. An online, interactive version is also available on the LRC website for members as well as any member of the public wishing to access it. The interactive report allows for even greater accessibility and for more robust analysis. The tools have been made more mobile friendly, more user intuitive, and now allows for more comparisons as a result of feedback from the committee last year.

The digital report is structured into three visualizations: data from the 2018-19 school year; heat maps for selected variables; and 10-year trend data. Visualizations are then further divided into tabs for demographics, staffing, finance, performance, and accountability. It is also possible to filter the data based on a variety of categories. District websites are also embedded in the profiles for each individual district. Dr. Liguori chose to illustrate some of the features by

highlighting Marion, Larue, and Green Counties. He started by looking at staffing differences, using the appropriate filters, for these districts in comparison to the state as a whole. Teacher turnover was specifically discussed as OEA presented a report last year to the committee concerning teacher shortages. Green County was shown to have average turnover when compared to the state, however, Marion and Larue counties had slightly lower turnover. Tabs for performance and finance were also demonstrated, as was the ability to return to the LRC webpage.

A heat map illustrating the differences visually was shared with the committee. These are a good way to display data about a geographic area, such as the state, or to make quick visual comparisons across school districts. Dr. Liguori demonstrated with a map of the state illustrating free/reduced price lunch data by district. He explained that free/reduced price lunch data is frequently used as a proxy for low income status of districts. The heat map illustrated showed that the darker districts had higher percentage of students using free/reduced price lunch. Changing the data on the map is achieved through a drop-down menu.

In speaking on district finance, Dr. Liguori selected a map of per-pupil current expenditures by district. He pointed out that by changing the measure, the legend and colors were also changed to accommodate the new data. From this heat map, it was evident that two very small districts, Southgate Independent and Anchorage Independent, were outliers with significantly higher expenditures. These have the ability to skew the data so can be removed from the maps through the use of a drop-down menu. With these removed, Owsley County became the next highest expenditure, and itself appeared to be an outlier in its region. While it is above the state average, it is possible to break down the expenditures by per-pupil local revenues. These remain consistent with other eastern Kentucky counties. When looking at per-pupil state revenues, it was illustrated that all of eastern Kentucky has higher per-pupil state revenues. However, Owsley County is not the highest in the state or even in the region. Next, looking at federal per-pupil revenues, Dr. Liguori showed Owsley County receives over \$7,000 per-pupil and is almost twice the next highest district. He shared that Owsley has the highest poverty rate of any district in the state, as illustrated in the earlier free/reduced price lunch data heat map. In fact, Owsley County has the second highest percentage of childhood poverty in the nation. This high level of poverty has led to greater investment by both the state and federal governments.

In November, OEA will present a report on facilities upgrades. One important aspect of facility upgrades is funding. Looking at the previous editions of the District Data Profiles, ten years ago there were 20 districts that levied a recallable nickel (a 0.05 cent tax for building needs). A heat map is also available to see that 49 districts have issued that tax as of 2019. It is necessary to keep this data in mind when

considering the report later in the year.

Finally, Dr. Liguori illustrated the multi-year trend line visualizations. As in all other visualizations, it is possible to select multiple districts, but the default is state-level data. To illustrate comparison of selected districts, Dr. Liguori highlighted Paducah and Pikeville. Because the default value is average daily attendance, the state is shown with much higher values than the individual districts selected. The graph is less informative because the selected scale, necessary to include the state-wide data, is too large. Removing the state from the selections, automatically adjusts the scale and allows for more direct comparison between the two districts. Measures are in the same order as they are in the print version of the report, however, not all variables from the print version are available online. For example, salary schedules are not available, but minimum salary (Rank 3 with 0 years experience), average salary, and maximum salary (Rank 1 with 30 years experience). Selecting average salary showed that teachers in Pikeville make more than teachers in Paducah. Paducah teacher salary, however, is consistent with the state average. Part of the difference may be because of the structure of the workforce. Rank 1 teachers have a master's degree with other graduate study or national board certification. They are further along in their career and subsequently get paid more. Looking at the percent of teachers in each district who are Rank 1, it is evident that there are more Rank 1 teachers in Pikeville than in Paducah.

With any of the visualizations, they can be exported as a picture or slide for inclusion in a presentation by selecting the download button. There is an abundance of data in the District Data Profiles, but the existence of outliers should always be kept in mind when accessing and utilizing it. Also, the print edition has more details and data definitions, which could be helpful in interpreting the visualizations. There were no questions from members regarding this report.

Acceptance of the reports was tabled until the next meeting of the committee. With no further business to come before the committee, the meeting adjourned at 3:33 p.m.

Government Contract Review Committee

Committee Minutes

August 11, 2020

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, August 11, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and Phillip Wheeler;

Representatives Chris Fugate, and Mark Hart.

Guests: Greg Woosley, Jay Hartz, Jane Fitzpatrick, Harold Nally, Heather Dearing, Melissa Aguilar, Amy Cubbage, Tina Messer, Ashley Hooker Lane, Mike Mangeot, Gordon Rowe, Sharon Burton, Donna Shelton, Alan Hurst, Tracy Gritton, Astrud Masterson, Lisa Lee, Stephanie Craycraft, Jennifer Moore, and Robert Putt.

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

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

JUNE DEFERRED ITEM:

WESTERN KENTUCKY UNIVERSITY

Environment of Care, 202202. A motion was made by Senator Hornback to defer the contract to the September meeting of the committee. Senator Wheeler seconded the motion, which passed.

JULY DEFERRED ITEMS:

DEPARTMENT OF MILITARY AFFAIRS

Escape Training, LLC, 2000001459. A motion was made by Senator Hornback to approve the contract as reviewed. Senator Wheeler seconded the motion, which passed.

PERSONNEL - OFFICE OF THE SECRETARY

Cannon Cochran Management Services, Inc., 2000002973. Gordon Rowe, Sharon Burton, Donna Shelton, Alan Hurst, and Tracy Gritton discussed the contract with the committee. A motion was made by Representative Hart to disapprove the contract. Senator Hornback seconded the motion, which passed with Senator Carroll voting no.

CHFS - OFFICE OF THE SECRETARY

University of Kentucky Research Foundation, 2000003082. Robert Putt, Lisa Lee, and Astrud Masterson discussed the contract with the committee.

A motion was made by Representative Hart to approve the contract as reviewed. Senator Wheeler seconded the motion, which passed.

A motion was made by Representative Fugate 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 Representative Fugate 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 Representative Fugate 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 Representative Fugate 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 Representative Fugate to consider as reviewed the Additions List. Representative Hart seconded the motion, which

passed without objection.	LLC, 21-008; Ai-Media, Inc., 21-009.	<u>BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES</u>
<u>THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:</u>	<u>NORTHERN KENTUCKY UNIVERSITY</u>	Steve Sparks, Ph.D., 2000001536.
<u>ADMINISTRATIVE OFFICE OF THE COURTS</u>	Intrinzie, Inc., 2021-122; Vitamin Collective, LLC, 2021-123; Ruffalo Noel Levitz, 2021-125; Patricia Bills, 2021-126.	<u>BOARD OF MEDICAL LICENSURE</u>
Dinsmore & Shohl, LLP, 2100000202.	<u>SECRETARY OF STATE</u>	Multi, 2000001945.
<u>DEPARTMENT OF HIGHWAYS</u>	Landrum & Shouse, LLP, 2000004394.	<u>DEPARTMENT FOR PUBLIC HEALTH</u>
Stantec Consulting Services, Inc., 1700000166-	<u>TRANSPORTATION - OFFICE OF THE SECRETARY</u>	Multi, 2000003220.
1.	Dentons Bingham Greenebaum, LLP, 2000004371-1.	<u>DEPARTMENT OF HIGHWAYS</u>
<u>DEPARTMENT OF JUVENILE JUSTICE</u>	<u>UNIVERSITY OF KENTUCKY</u>	E A Partners, PLC, 0600001849; Tunnel Management, Inc., 1000002437; QK4, 1400001951; Cultural Resource Analysts, Inc., 1500000058; Palmer Engineering, 1600002564; Northrop Grumman Systems Corporation, 1700001007; American Engineers, Inc., 1800001540; Vaughn & Melton Consulting Engineers, Inc., 1800002226; Burgess and Niple, Inc., 1900002041; S&Me, Inc., 1900002090; HRV Conformance Verification Associates, Inc., 1900002383; GRW Engineers, Inc., 1900002525; QK4, Inc., C-04536741.
Locumtenens.Com, 2000003921.	Sibson Consulting, A Division of Segal Company, K21-166.	<u>ECON DEV - OFFICE OF THE SECRETARY</u>
<u>DEPARTMENT OF MILITARY AFFAIRS</u>	<u>UNIVERSITY OF LOUISVILLE</u>	Tri-County Economic Development Corporation, 2000003605.
Tetra Tech, Inc., 2000003427.	Snell & Wilmer, LLP, 21-051.	<u>FACILITIES & SUPPORT SERVICES</u>
<u>DEPARTMENT OF VETERANS AFFAIRS</u>	<u>WESTERN KENTUCKY UNIVERSITY</u>	Omni Architects, 1800000919; Ross Tarrant Architects, Inc., 1900002454; Omni Architects, 1900002613; Wood Environment & Infrastructure Solutions, Inc., 1900003530; Redwing Ecological Services, Inc., 2000000086; Strand Associates, Inc., 2000000293; Riverine Systems, LLC, 2000000378.
Multi, 2000002484; Baptist Healthcare System, 2000002485; Baptist Healthcare System, 2000002486; Baptist Healthcare System, 2000002487; Owensboro Health Medical Group, Inc., 2000002488; Mark Tackett MD, 2000002489; 360care, LLC, 2000002493; Premier Integrity Solutions, 2000002494; Symphony Diagnostics Services No1., LLC, 2000002497; Multi, 2000004034.	Contemporary Services Corporation, 2021-14; Kerrick Bachert, PSC, 2021-15; Segal, 2021-17; Sturgill Turner Barker Moloney, PLLC, 2021-18; Sublime Media Group, 2021-19.	
<u>EASTERN KENTUCKY UNIVERSITY</u>	<u>THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:</u>	
Kentucky Association of School Administrators, 209-2021; Summit Health, LLC, 22-034.	<u>ADMINISTRATIVE OFFICE OF THE COURTS</u>	
<u>KENTUCKY STATE POLICE</u>	Dean Dorton Allen Ford, PLLC, 1900004747; Greenebaum Doll and McDonald, 2000001336; Dentons, Bingham, Greenebaum, LLP, 2000001423.	
<u>MOREHEAD STATE UNIVERSITY</u>		
Interpreting Service of the Commonwealth,		

<u>KY INFRASTRUCTURE AUTHORITY</u>	2100000079.	City of Stanton, 2100000028; City of Flemingsburg,
Dean Dorton Allen Ford, PLLC, 2000002461.	<u>DEPARTMENT FOR LOCAL GOVERNMENT</u>	2100000034; Carroll County Fiscal Court,
<u>UNIVERSITY OF KENTUCKY</u>	Knott County Fiscal Court, 2000002225; City	2100000046; City of Crab Orchard, 2100000048;
Champlin Architecture, A191070; JRA	of Lewisburg City Treasurer, 2000002311; Owen	Christian County Treasurer, 2100000049; City
Architects, A191080; Staggs & Fisher Consulting	County, 2000002389; Harlan County Fiscal Court,	of Whitesburg, 2100000051; City of Shelbyville,
Engineers, A191140.	2000003284; Nelson County, 2000003960; City	2100000062; City of Owenton, 2100000065;
<u>THE FOLLOWING MEMORANDA OF</u>	of Wilmore, 2000004012; City of Georgetown,	McCreary County Fiscal Court, 2100000070; City of
<u>AGREEMENTS WERE REVIEWED WITHOUT</u>	2000004017; City of Brownsville, 2000004059;	Jackson, 2100000086; City of Wilmore, 2100000087;
<u>OBJECTION:</u>	Elliott County, 2000004137; City of Taylorsville,	Menifee County Fiscal Court, 2100000088; City of
<u>BEHAVIORAL HEALTH, DEVELOPMENTAL</u>	2000004140; City of Catlettsburg, 2000004149;	Edgewood, 2100000100; Webster County Fiscal
<u>& INTELLECTUAL DISABILITIES</u>	Henderson County Fiscal Court, 2000004189; City	Court, 2100000101; Breathitt County Fiscal Court,
Uspiritus, Inc., 2100000118.	of Villa Hills, 2000004254; Crittenden County	2100000102; City of Bellevue, 2100000105;
<u>COMMISSION FOR CHILDREN WITH</u>	Treasurer, 2000004277; Livingston County Fiscal	Jackson County Fiscal Court, 2100000109; City of
<u>SPECIAL HEALTH CARE NEEDS</u>	Court, 2000004332; Bullitt County Fiscal Court,	Clay, 2100000112; Lawrence County Fiscal Court,
University of Louisville Physicians, Inc.,	2000004364; Jessamine County, 2000004395;	2100000113; City of Bloomfield, 2100000114;
2000002631.	City of Princeton, 2000004445; City of Somerset,	Henderson County Fiscal Court, 2100000116; City
<u>COUNCIL ON POSTSECONDARY</u>	2000004453; Pike County Treasurer, 2000004454;	of Benton, 2100000121; City of Jeffersontown,
<u>EDUCATION</u>	Knott County, 2000004455; City of White Plains,	2100000122; City of Covington, 2100000131; City
Kentucky Community and Technical College	2000004464; Grant County, 2000004469; Lee County	of Murray, 2100000138; Logan County Treasurer,
System, 2100000080.	Treasurer, 2000004470; Trimble County Treasurer,	2100000142; City of Hodgenville, 2100000145;
<u>DEPARTMENT FOR ENVIRONMENTAL</u>	2000004473; Fleming County Treasurer, 2000004482;	City of Pewee Valley, 2100000148; Magoffin County
<u>PROTECTION</u>	City of Florence Kentucky, 2000004483; City of	Fiscal Court, 2100000150; City of Beattyville,
Madison County, 2000002583; Kentucky	Russellville, 2100000003; Allen County Treasurer,	2100000151; City of Warsaw, 2100000161; Princeton-
Medical Services Foundation, Inc., 2000003258.	2100000004; City of Lebanon, 2100000008; Martin	Caldwell County Industrial Development Authority,
<u>DEPARTMENT FOR INCOME SUPPORT</u>	County Treasurer, 2100000009; Livingston County	2100000162; Wayne County Treasurer, 2100000164;
Kentucky Administrative Office of the Courts,	Industrial Development Authority, 2100000012;	Bell County, 2100000168; City of Lawrenceburg,
2000004474.	City of Prestonsburg, 2100000014; Boyd County,	2100000170; Ohio County Treasurer, 2100000175;
<u>DEPARTMENT FOR LIBRARIES &</u>	2100000016; Franklin County Treasurer, 2100000017;	Gallatin County, 2100000176; City of Berea,
<u>ARCHIVES</u>	Bell County Treasurer, 2100000020; City of Meadow	2100000194; Pulaski County Treasurer, 2100000195;
Council On Postsecondary Education,	Vale, 2100000022; City of Franklin, 2100000024;	Monticello-Wayne County Industrial Development

Authority, 2100000225; Hickman County Industrial Development Authority, 2100000227.	<u>DEPARTMENT OF AGRICULTURE</u> Feeding Kentucky, Inc., 2000004452.	of Education, 2000003900; Leslie County Board of Education, 2000003901; Marion County Board of Education, 2000003906; Martin County Board of Education, 2000003910; Montgomery County Board of Education, 2000003916; Knox County Board of Education, 2000003989; Grayson County Board of Education, 2000004062; Henry County Board of Education, 2000004071; Jackson County Board of Education, 2000004072; McCracken County Board of Education, 2000004077; Heuser Hearing & Language Academy, Inc., 2000004078; Jefferson County Board of Education, 2000004089; Kenton County Board of Education, 2000004091; Hart County Board of Education, 2000004094; Madison County Board of Education, 2000004098; Marshall County Board of Education, 2000004100; Lexington Hearing and Speech Center, 2000004111; Bath County Board of Education, 2000004112; Bowling Green Independent School District, 2000004113; Christian County Board of Education, 2000004116; Franklin County Board of Education, 2000004123; Grayson County Board of Education, 2000004125; Jessamine County Board of Education, 2000004128; Lawrence County Board of Education, 2000004132; McCreary County Board of Education, 2000004138; Powell County Board of Education, 2000004143; Scott County Board of Education, 2000004144; Simpson County Board of Education, 2000004145; Taylor County Board of Education, 2000004146; Union County Board of Education, 2000004148; Kentucky Community
<u>DEPARTMENT FOR NATURAL RESOURCES</u> Kentucky KYTC Capital City Airport, 2000003075.	<u>DEPARTMENT OF CORRECTIONS</u> Spalding University, 2000003368; Seven Counties Services, Inc., 2000003727; University of Louisville Research Foundation, 2000003950.	
<u>DEPARTMENT FOR PUBLIC HEALTH</u> University of Louisville Hospital, 2100000278.	<u>DEPARTMENT OF EDUCATION</u> University of Louisville Research Foundation, 2000003034; Eastern Kentucky University, 2000003178; Barren County Board of Education, 2000003252; Bowling Green Independent School District, 2000003274; Campbell County Board of Education, 2000003332; Carter County Board of Education, 2000003335; Board of Regents of the University of Wisconsin System, 2000003347; Clark County Board of Education, 2000003369; Cognia, Inc., 2000003390; Allen County Board of Education, 2000003441; Fayette County Board of Education, 2000003497; Harlan County Boys and Girls Club, 2000003688; Historic Pleasant Green Missionary Baptist Church, 2000003713; YMCA of Greater Cincinnati, 2000003723; Boys and Girls Club, Inc., 2000003763; CHS Department for Public Health Food Safety Branch, 2000003843; Covington Independent School District, 2000003851; Floyd County Board of Education, 2000003884; Garrard County Board of Education, 2000003886; Daviess County Board of Education, 2000003891; Elliott County Board of Education, 2000003892; Johnson County Board of Education, 2000003899; Larue County Board	
<u>DEPARTMENT FOR WORKFORCE INVESTMENT</u> Kentucky Chamber Foundation, Inc., 2000001636; University of Kentucky Research Foundation, 2000002006; Kentucky Community and Technical College System, 2000002008; Redwood School and Rehabilitation Center, 2000002792; Wendell Fosters Campus for Developmental Disabilities, 2000002939; Multi, 2000003214; Multi, 2000003218; Southeast/Southcentral Educational Cooperative, 2000003307; University of Kentucky Research Foundation, 2000003600; University of Kentucky Research Foundation, 2000003752; West Kentucky Educational Cooperative, 2000003827; University of Kentucky Research Foundation, 2000003852; Northern Kentucky Cooperative for Educational Services, Inc., 2000004048; University of Kentucky Research Foundation, 2000004468; Jefferson Community and Technical College, 2100000019; University of Kentucky Research Foundation, 2100000041; Hope Center, 2100000077; University of Kentucky Research Foundation, 2100000089.		

and Technical College System, 2000004206; Meade Valley, 2000002063; Governors Scholars Program, 2000004250; Kentucky Entrepreneurship Inc., 2000004250; Kentucky Entrepreneurship Education Network, Inc., 2100000085.	<u>THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:</u>
County Board of Education, 2000004429; Wolfe County Board of Education, 2000004436; Scott County Board of Education, 2000004438; Shelby County Board of Education, 2000004440; Woodford County Board of Education, 2000004441; Warren County Board of Education, 2000004442; Whitley County Board of Education, 2000004443; Scott County Board of Education, 2100000011; Scott County Board of Education, 2100000026; Lyon County Board of Education, 2100000057; Hazard Community and Technical College, 2100000083; Green County Board of Education, 2100000104; Visually Impaired Preschool Services, Inc., 2100000127; Nelson County Board of Education, 2100000129.	<u>JUSTICE - OFFICE OF THE SECRETARY</u> <u>VOLUNTEERS OF AMERICA MID-STATES, INC.,</u> 2100000042. <u>KENTUCKY DEPARTMENT OF PARKS</u> Breaks Interstate Parks Commission, 2000003833. <u>KENTUCKY FISH AND WILDLIFE RESOURCES</u> Marina At Rowena, LLC, 2000000024; United States Fish and Wildlife Service, 2000001582; University of Kentucky Research Foundation, 2000004007. <u>KENTUCKY STATE POLICE</u> Kentucky Medical Services Foundation, Inc., 2000004357.
<u>DEPARTMENT OF JUVENILE JUSTICE</u> Franklin County Board of Education, 2000003940.	<u>OSH REVIEW COMMISSION</u> Attorney General, 2100000111. <u>UNIVERSITY OF KENTUCKY</u> Morehead State University, 003-21; Northern Kentucky University, 004-21; Bluegrass Community and Technical College, 005-21; Murray State University, 006-21.
<u>DEPARTMENT OF MILITARY AFFAIRS</u> Multi, 2000003849.	<u>BOARD OF VETERINARY EXAMINERS</u> Department of Insurance, 2000002670.
<u>DEPARTMENT OF VETERANS AFFAIRS</u> Department of Medicaid Services, 2000004481.	<u>DEPARTMENT FOR COMMUNITY BASED SERVICES</u> Community Action Kentucky, Inc., 2000001658.
<u>EDUCATION - OFFICE OF THE SECRETARY</u> Madison County Public Library, 2000002044; Ohio Valley Educational Cooperative, 2000002052; Kenton County Public Library, 2000002054; Corbin Public Library, 2000002062; United Way of the Ohio	<u>DEPARTMENT OF AGRICULTURE</u> Multi, 1900003210. <u>DEPARTMENT OF EDUCATION</u> Fayette County Board of Education, 2000002703.

THE FOLLOWING PERSONAL SERVICE
CONTRACTS WERE SELECTED FOR
FURTHER REVIEW:

BEHAVIORAL HEALTH, DEVELOPMENTAL
& INTELLECTUAL DISABILITIES

Jackson & Coker Locumtenens, LLC, 2000001572. Astrud Masterson, Stephanie Craycraft, and Jennifer Moore discussed the contract with the committee. A motion was made by Representative Hart to disapprove all two (2) year contracts that were selected for additional review. Representative Lee seconded the motion, which passed with Senator Carroll and Representative Fugate voting no.

The following two year contracts / agreement were disapproved by the committee:

BEHAVIORAL HEALTH,
DEVELOPMENTAL & INTELLECTUAL
DISABILITIES
Jackson & Coker Locumtenens, LLC
2000001572

BOARD OF CERTIFICATION FOR
MARRIAGE AND FAMILY THERAPISTS
DPJ Consulting, LLC 2100000146

BOARD OF EXAMINERS OF SOCIAL
WORK
Scanlan Associates, LLC 2000004055

DEPARTMENT FOR INCOME SUPPORT
Christine Booth 2100000139

DEPARTMENT FOR PUBLIC HEALTH
Maximus Human Services, Inc.
2000002367

DEPARTMENT FOR WORKFORCE
INVESTMENT
Deloitte Consulting, LLP 2000001648

DEPARTMENT OF EDUCATION
Hands On Therapy, PSC 2000003176
Hands On Therapy, PSC 2000003179
Brian P. White 2000004392
Allied Instructional Services, LLC
2000004424
DPJ Consulting, LLC 2000004471

DEPARTMENT OF HIGHWAYS
Aecom Technical Services, Inc.
2000004278
Stantec Consulting Services, Inc.
2000004378
Corradino Group 2000004389
Stantec Consulting Services, Inc.
2000004390
HDR Engineering, Inc. 2000004391
Cultural Resource Analysts, Inc.
2000004476
Lynn Blue Print and Supply Company
2100000155

DEPARTMENT OF JUVENILE JUSTICE
Locumtenens.Com 2000003903
Locumtenens.Com 2000003920
Locumtenens.Com 2000003925
Locumtenens.Com 2000003929
Locumtenens.Com 2000003930
Locumtenens.Com 2000003932
Locumtenens.Com 2000003935
Kinder Haven 2000004316
Necco, Inc. 2000004359
Gateway Juvenile Diversion Project, Inc.
2000004361

DEPARTMENT OF MILITARY AFFAIRS
Kenneth Roy Henson 2000004451

FACILITIES & SUPPORT SERVICES
Brown and Kubican, PSC 2000004009

FINANCE - OFFICE OF THE SECRETARY
Multi 2000002249
Embry Merritt Shaffar Womack, PLLC
2000003100
Smith Cashion & Orr, PLC (Senator
Meredith) 2000004397

WESTERN KENTUCKY UNIVERSITY
Lockett and Farley 2021-16

Bowling Green Warren County Community
Hospital Corporation 2022-08
BOARD OF LICENSURE FOR NURSING
HOME ADMINISTRATORS
Department of Professional Licensing
2000001773

DEPARTMENT OF JUVENILE JUSTICE
Boyle County Board of Education
2000002972
Father Maloney's Boys Haven, Inc.
2000003276
Foothills Academy, Inc. 2000003277
The Methodist Home of Kentucky, Inc.
2000003278
Ramey Estep Homes, Inc. 2000003279
TRANSPORTATION - OFFICE OF THE
SECRETARY
Miller Edwards Rambicure, PLLC
2000003566
E. Lorraine Neeley Attorney At Law
2000003567
Pohl and Aubrey PSC 2000003568
Sherrow Marshall Schrader, PSC
2000003570
Urbon Yonts, PLLC 2000003573
Vanantwerp Attorneys, LLP 2000003674
Walther Gay & Mack, PLC 2000003676
Kerrick Bachert, PSC 2000004449
UNIVERSITY OF KENTUCKY
United Audit Systems, Inc. K21-167

DEPARTMENT FOR WORKFORCE
INVESTMENT

Deloitte Consulting, LLP, 2000001648. Heather Dearing and Melissa Aguilar discussed the contract with the committee. A motion was made by Senator Wheeler to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

LEGISLATIVE RESEARCH COMMISSION

John Rees, 20/21-05. Greg Woosley and Jay Hartz 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.

MOREHEAD STATE UNIVERSITY

The Segal Company, 21-011; Sturgill, Turner, Barker & Moloney, PLLC, 21-012; Sturgill, Turner, Barker & Moloney, PLLC, 21-013. Jane Fitzpatrick and Harold Nally discussed the contracts with the committee. A motion was made by Representative Fugate to consider the contracts as reviewed. Senator Wheeler seconded the motion, which passed with Representative Lee voting to abstain.

TOURISM - OFFICE OF THE SECRETARY

Lou Hammond & Associates, Inc., 2000003407. Mike Mangeot discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR WORKFORCE INVESTMENT

Ernst and Young, LLP, 2000004458. Amy Cubbage 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.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

ADMINISTRATIVE OFFICE OF THE COURTS

Western Kentucky Regional Mental Health & Retardation Advisory Board, 2100000268; Morehead State University, 2100000273; West Kentucky Workforce Development Board, 2100000274. Tina Messer and Ashley Hooker Lane discussed the contracts with the committee. A motion was made by Senator Wheeler to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

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

Medicaid Oversight and Advisory Committee Minutes of the Meeting of the 2020 Interim August 26, 2020

Call to Order and Roll Call

The meeting of the Medicaid Oversight and Advisory Committee was held on Wednesday, August 26, 2020, at 3:15 PM, in Room 171 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Dr. Laxmaiah Manchikanti, Chairman of the Board, American Society of Interventional Pain Physicians; Lisa Lee, Commissioner, and Leslie Hoffmann, Policy Advisor, Department for Medicaid Services (DMS), Cabinet for Health and Family Services.

LRC Staff: Chris Joffrion, Ben Payne, and Hillary Abbott.

Approval of Minutes

A motion to approve the July 27, 2020 meeting minutes was made by Senator Alvarado and seconded by Senator Carroll and approved by a voice vote.

Managed Care Organizations and Payment Recoupment Practices in the Ambulatory Surgery Center Space

Dr. Laxmaiah Manchikanti stated that the impact of COVID-19 on Medicaid providers in Kentucky has been immense. Managed care organizations (MCO) do not always comply with their repayment contracts with providers, which is further stressing providers who have seen a 40 percent drop in caseload and as much as an 86 percent drop in the number of elective procedures performed each week. At the same time, MCOs have seen a dramatic increase in profits from 2019. Dr. Manchikanti stated that the sharp decline in elective surgeries had decreased the number of prescriptions written for opioids by 52 percent and has contributed to the decrease in prescription opioid deaths. However, overdose deaths from cocaine and methamphetamine have increased. Dr. Manchikanti stated that when Centers for Medicare and Medicaid Services (CMS) relaxed the telehealth requirements for Medicaid, due to COVID, it helped many Medicaid providers stay afloat. Dr. Manchikanti recommended that CMS consider making the relaxed requirements permanent to help Medicaid providers build caseloads with populations in urgent need in rural areas. Dr. Manchikanti also recommended that the General Assembly consider legislation to address the problems caused by MCOs and telehealth measures.

In response to questions and comments from Senator Alvarado, Dr. Manchikanti stated that access to care remains an issue, which is why investment in telehealth is crucial. Senator Alvarado stated that the General Assembly should work with DMS to see if Medicaid dollars can be used to subsidize broadband internet to Medicaid clients' homes.

Representative Gibbons-Prunty thanked Dr. Manchikanti for reiterating the importance of holding MCOs accountable for provider repayments as laid out in their contract.

Senator Meredith agreed with Dr. Manchikanti on the need for an omnibus bill to address a myriad of related issues.

Update on Medicaid-related Administrative Regulation Changes Due to COVID-19

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services, Cabinet for Health and Family Services stated that the Department for Medicaid Services promulgated two administrative regulation to directly respond to COVID-19: 907 KAR 3:300 & E and 907 KAR 1:604 & E. Ms. Hoffmann stated that 907 KAR 3:300 & E were prepared to clarify the department's response to a declared emergency. 907 KAR 3:300 & E allow DMS to quickly respond to local, state, and federal public health emergencies, to communicate with Medicaid members and providers promptly, and to target emergency response to the Medicaid population. Ms. Hoffmann stated that this allowed DMS to expand telehealth to Medicaid members, expand presumptive eligibility, temporarily enrolled some providers to help meet needs, and allowed for continuous updating of the DMS provider

website.

Ms. Hoffmann stated that two versions of 907 KAR 1:604 & E have been utilized during the COVID-19 emergency. 907 KAR 1:604E was filed in March and removed co-payment requirements for fee-for-service Medicaid beneficiaries, allows DMS to waive all Medicaid co-pays if necessary during a declared emergency, establishes a process to allow additional co-pay suspensions, and allows MCOs to reduce or eliminate co-pays for enrollees. Ms. Hoffmann stated that amendments were made after the public comment process, which highlighted several ongoing issues with co-pays and how they are impacting some Medicaid populations, like pregnant women who are not subject to co-pays but were being charged co-pays. Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that future amendments DMS is evaluating are amendments to 907 KAR 3:170 to further expand telehealth among Medicaid populations and providers.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that she believes DMS has the legal authority to eliminate co-pays and that she would be happy to work with Senator Meredith on legislation regarding co-pays and provider reimbursement issues.

In response to questions and comments from Senator Alvarado, Commissioner Lee stated that the goal is to make the provider portion whole while eliminating co-pays and reducing administrative burden.

Representative Gibbons-Prunty stated that most of the Medicaid providers in her district do not serve the Medicaid population for the money and deserve to be paid, by the MCOs, for the services that they provide.

Update on Medicaid Waiver Programs

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services, Cabinet for Health and Family Services, presented an overview of Kentucky's six 1915(c) waivers. Ms. Hoffmann stated that the total expenditures for 1915(c) waivers in 2019 was \$940,561,437 in total paid claims of which \$658,393,006 was paid by federal cost-sharing dollars and \$282,168,431 paid by state funds. Ms. Hoffmann also provided an update on waiting lists. Currently, there is no waiting list for the Acquired Brain Injury, Home and Community Based, and Model II waiver. The number of people on the waiting lists for the Acquired Brain Injury- Long-term Care, Michelle P., and Supports for Community Living waivers are 38, 7305, and 2, 891, respectively. Finally Ms. Hoffmann stated that under the Kentucky Transitions program, 765 individuals have transitioned out of an institutional care setting since 2008. Federal funding for the Kentucky Transitions program has been extended through September 2021 and is likely to be extended again through 2024, at least.

In response to questions and comments from Senator Carroll, Ms. Hoffmann stated that the waiver

program always tries to accommodate a person even if there is a waiting list by exhausting every resource. Commissioner Lee stated that the population is healthier due to expanded Medicaid, and if more people are healthy, they use fewer services, which offsets costs. Commissioner Lee added that money from one waiver could not be used to fund another. If private insurers were carrying their weight with Early and Periodic Diagnostic Screening (EPSD), there would not be the backlog of cases because they would be ruled out or placed in appropriate care before appearing on a waitlist.

In response to questions and comments from Senator Alvarado, Commissioner Lee stated that DMS complies with CMS. Still, any redesign of the waiver program would need CMS approval and regulation changes. Commissioner Lee stated that she would be happy to work with the General Assembly on any redesign ideas.

In response to questions and comments from Representative Elliott, Commissioner Lee stated that DMS would provide the committee with a copy of the 1915 (c) waiver analysis.

Representative Gibbons-Prunty stated that she believes that most people can be independent and would like to see 2019 RS HB 1 considered again in 2020 so that waiver spots can be free for people who genuinely need support.

Adjournment

There being no further business, the meeting was adjourned at 4:45 pm.

Public Water and Wastewater System Infrastructure Task Force Minutes of the 2nd Meeting of the 2020 Interim

August 10, 2020

Call to Order and Roll Call

The 2nd meeting of the Public Water and Wastewater System Infrastructure Task Force was held on Monday, August 10, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Phillip Wheeler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Phillip Wheeler, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Brandon Smith and Robin L. Webb; Representatives Derek Lewis and Dean Schamore; and Jory Becker.

Guests: Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority, Bill Pauley, Staff Attorney, Department for Local Government, and Sandy Williams, Deputy Executive Director, Office of Financial Management, Finance and Administration Cabinet.

LRC Staff: Stefan Kasacavage, Janine Coy, Tanya Monsanto, Susan Spoonamore, Committee Assistant.

The July 13, 2020, minutes were approved by roll call vote upon motion made by Representative Derek Lewis and seconded by Representative Gooch.

Funding Options and Availability for Water and Wastewater Entities

Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority (KIA), explained that KIA provides subsidized and low-interest loans to fund projects for public entities, which are primarily used for wastewater and drinking water infrastructure. Due to COVID, all document submissions are electronic, signature procedures are digital, board meetings are via Zoom and are available to view live or through YouTube. In addition, meetings with utilities or water management councils are via Zoom. Ms. Bridwell stated that there are some grants available through the Department of Local Government and the Appalachian Regional Commission. KIA is currently looking at a small and disadvantaged community water system grant through the Environmental Protection Agency (US EPA) for approximately \$698,000. There are also grants available from the Energy and Environment Cabinet, such as the waterline grant program through the Division of Abandoned Mine Lands. Other grant sources include the Kentucky Economic Development Cabinet, Kentucky Department of Transportation, US Army Corps of Engineers, and the Delta Regional Authority. She stated that loans are available through KIA, USDA/Rural Development, US EPA, Water Infrastructure Finance and Innovation Act (WIFIA), Kentucky Brownfield Program, National Rural Water Association, Rural Community Assistance Partnership, and the Kentucky Association of Counties.

Ms. Bridwell said that for Fiscal Year 2021, current available funding through KIA includes \$98 million for wastewater and storm water, \$67 million for drinking water including \$18 million from an EPA grant, \$1 million for infrastructure, and a little under \$1 million for governmental agencies. She said loan repayments are made twice a year and sometimes there is additional available money in the infrastructure funds. She said that requests made to KIA for clean water projects and drinking water projects are ranked by the Division of Water using priority guidance and are weighted in favor of projects helping to bring systems into regulatory compliance. She said that priorities for subsidization of small and disadvantaged communities are established by the Division of Water. There are a few grant opportunities that allow for principal forgiveness. The standard interest rate is 2.5 percent and depending on market condition, nonstandard loans of 1.5 percent and 0.25 percent for disadvantaged systems.

Ms. Bridwell said that according to information received from Area Development Districts (ADDs), the short-term amount of infrastructure funds needed over the next two years is \$892 million for wastewater projects (1,001) and \$475 million for drinking water projects (475). She said that based on current KIA payments and future repayments projected for December, there are fewer than five borrowers, out of 490 outstanding loans, that have been struggling to

meet their payments. Questions remain as to whether there will be any additional federal assistance, if there will be additional funding options available locally, and what kind of impact COVID will have on utility revenues and payments.

In response to Representative Lewis, Ms. Bridwell stated that KIA had not considered removing the 50 percent cap for funding compliance-related construction projects. The federal guidelines restrict how much KIA is able to use for subsidization out of the cap grant. Ms. Bridwell said that KIA would consider performance of financial compliance, especially if utilities are out-of-compliance. She stated that KIA is working with the Division of Water on managerial capacity standards for utilities. Jory Becker, Manager, Infrastructure Branch, Division of Water, Energy and Environment Cabinet, said that the division has expectation levels on debt-to-income ratio in order to help keep the utilities solvent when they borrow money. The challenge is making sure that utilities who are not borrowers from the fund are also solvent. The question remains on how to assist facilities that are currently lacking capacity or close to lacking capacity. Ms. Bridwell said that KIA would provide information to the task force regarding benchmarks that would be helpful.

In response to Representative Lewis, Ms. Bridwell said that KIA would be interested in looking at principal forgiveness for meeting proposed performance benchmarks.

Sandy Williams, Deputy Executive Director, Office of Financial Management, Finance Administration Cabinet, discussed financing water and wastewater projects with bonds. She said that some basic financing options for utilities were revenue bonds, general obligation bonds, and bond anticipation notes (BANs) through the United States Department of Agriculture (USDA). She stated that those options often provide the lowest cost of capital, but have limits on the amount of capital that is available. Municipal bonds could be used to fill in some of the funding gaps. She said that financing considerations for using bonds would be the availability of funding, the number and stringency of requirements, and the amount of time it takes to issue bonds.

In response to Senator Wheeler, Ms. Bridwell said that municipalities must have their audits up-to-date when they seek to obtain funding from any source. Municipalities and water systems should seek help from the Kentucky Rural Water Association, KIA, or USDA Rural Development to evaluate and identify possible funding sources.

Meeting adjourned.

Program Review and Investigations Committee

Minutes of the 3rd Meeting of the 2020 Interim

August 13, 2020

Call to Order and Roll Call

The 3rd meeting of the Program Review and

Investigations Committee was held on Thursday, August 13, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Karen Berg, Tom Buford, Michael J. Nemes, Reginald Thomas, Whitney Westerfield, and Phillip Wheeler; Representatives Al Gentry, Ruth Ann Palumbo, Steve Riley, Rob Rothenburger, and Walker Thomas.

Guests: Steven Stack, MD, Commissioner, Department for Public Health; Doug Thoroughman, PhD, United States Public Health Service and Acting State Epidemiologist, Department for Public Health.

LRC Staff: Tom Hewlett, Committee Staff Administrator, Licensing, Occupations, and Administrative Regulations; William Spears; Joel Thomas; and Elizabeth Hardy, Committee Assistant.

Minutes for July 23, 2020

Upon motion by Senator Nemes and second by Representative Rothenburger, minutes for the July 23, 2020, meeting were approved without objection.

Review of COVID-19 Testing and Statistics

Senator Carroll administered the oath to Dr. Stack and Dr. Thoroughman. Both affirmed that they would tell the truth.

Dr. Stack and Dr. Thoroughman reviewed the testing and reporting process for COVID-19 in Kentucky. Dr. Thoroughman indicated that all 120 counties have had at least one case. He stated that the rate of cases and deaths in Kentucky had continued to increase, but mortality in Kentucky has been consistently about 1 percentage point lower than the national average. The increases appear to have reached a plateau after imposition of the mask mandate, so it appears the mandate has helped reduce the number of cases, but it will take some time to see whether the trend continues.

Dr. Thoroughman explained the public health regulations that apply to COVID-19, particularly 902 KAR 2:020 Sections 2, 5, and 10. The regulations require health professionals, facilities, and laboratories to report cases immediately to both the local and state health department. There are several paths for reporting, including electronic and fax. The same case might be reported by more than one entity—for example, a doctor and a laboratory—but the department has a process to remove duplicates.

Dr. Thoroughman described two types of COVID-19 tests: Virus detection tests and blood tests. Virus detection tests check for viral genes or antigens, which are proteins from the virus, are likely to indicate whether there is an active infection. It is possible to have virus present after the active phase of the disease, when the person is no longer infectious. Blood testing detects antibodies that the body has produced and is likely to show past infections.

Dr. Thoroughman explained that the preferred electronic reporting method is the Kentucky Health Information Exchange (KHIE). Many providers and

labs were already using KHIE, but those that were not face a lengthy process to be enrolled. The other ways to report include the federal system, fax, or electronic spreadsheet. There are a number of new “pop-up” labs providing testing and new tests that can be performed in a clinic with no lab. Some of the new labs and providers do not know about reporting requirements. Regulations only require reporting of positive results, but the department is asking for all results, and some labs are resisting because it is not legally required.

In response to a question from Senator Carroll regarding the reason to report inaccurate numbers, Dr. Thoroughman stated there was a public demand for that information and the federal positivity rate for Kentucky was about 2 to 3 percentage points higher than what the department calculated. They were able to determine that the federal system was missing a lot of negative tests. Dr. Stack explained that the demands of the public and federal requirements force the state to participate in a system that it does not control, but the state’s decision making is not based on a single number but rather on a combination of factors. Dr. Thoroughman said that an important factor is the case incidence rate. The positivity rate, though not accurate, is consistent and so reliably shows trends up or down.

In response to a question from Senator Berg, Dr. Thoroughman explained that positive cases but not the negative cases from KHIE go to the federal system. Some older laboratories like Quest and LabCorp that have been grandfathered in use only the federal system, but some newer laboratories like Gravity use KHIE, and others submit data via spreadsheets. He has not been able to determine the relative numbers from each source yet. Dr. Thoroughman estimated that the federal system and KHIE are about evenly split and together cover about 60 percent of testing. The rest are in separate data systems.

Dr. Thoroughman said that all types of test results are reportable, but not all tests results are correct. The FDA is responsible for validating lab tests, but the state has validated some at the request of local health departments. He said that Dr. Stack intervened with one lab that did not meet standards. There are many factors that affect how to interpret a test result, such as whether the test was given early or late in the disease. Outside factors can affect the accuracy, such as obtaining a good specimen at the beginning, then how long it takes to get to the lab and how well the specimens are preserved during shipment. Some kinds of test equipment can give inaccurate results if not cleaned thoroughly between tests. This is especially the case for antigen testing.

Dr. Thoroughman explained the reporting process for COVID-19 cases. They must meet Kentucky’s case definition, which is based on the federal definition, in order to be counted. Four factors are considered. Clinically, do the symptoms fit COVID-19 with no other likely diagnosis? What type of testing was done? Was the person in close contact with another confirmed or likely case or in a group

that was likely to be exposed? If the person died, was COVID-19 listed as the primary or contributing cause? These four factors together determine whether a case is confirmed, probable, or suspect. Both confirmed and probable cases are counted in the department's number of positive cases, but suspect cases are not counted. The goal is to combine clinician reports with lab data and remove duplicates daily. This level of data processing would normally take 2 weeks, but the department is doing it daily.

Dr. Thoroughman indicated that the governor receives reports each afternoon that include case numbers and mortality rates, lab testing numbers, patient disposition counts, race and ethnicity distributions, and statistics for new cases and deaths. Public health officials and other cabinet officials receive a document highlighting key data points.

Dr. Thoroughman explained that all COVID-19 deaths meeting the state's case definition are counted. There is a committee that reviews all questionable deaths. Some deaths are not reported based on the medical record and other evidence.

In response to a question from Senator Carroll regarding the total number of death reviews and the number that were determined questionable, Dr. Thoroughman indicated that there were two to four reviews per week, but he would get the numbers. Senator Carroll inquired how the committee members were chosen. Dr. Stack responded that the Division of Epidemiology organized it.

In response to a question from Senator Carroll, Dr. Stack provided the number of cases in Kentucky from the official website as of August 12: 36,945 confirmed positives (2,530 probable and 34,415 confirmed) and 790 deaths (5 probable and 785 confirmed).

Dr. Thoroughman discussed counting people who have recovered. It is difficult to count the number of people who have recovered, and the number is underestimated. He also discussed the daily reporting of COVID-19 cases. Both confirmed cases and probable cases are counted on the day they are reported, which is not a true count of daily incidence, but other measures are also inaccurate or incomplete. He explained some unusual spikes of cases.

Dr. Stack stated that all the daily numbers are true new positive cases, and spikes in the data are highlighted along with their causes. The day-to-day variation might not truly be representative. For decision making, they often use rolling averages that flatten out the variation, typically 7 days, up to 14 days.

Dr. Thoroughman compared the flu and COVID-19. Flu tests used to be unreliable because of the type of testing, but they have improved. The testing for COVID-19 is more reliable, and people are more likely to be tested for COVID-19 than for flu. There have been approximately 35,000 COVID-19 cases in 5 months this year and approximately 27,500 cases of the flu in 7 months last season. The mortality

rate for COVID-19 is higher with 772 COVID-19-related deaths as of August 8 and 767 flu-related deaths in the last 4 years combined. The death count is more accurate than the case count. Nationally, there have been approximately 160,000 COVID-19-related deaths in 6 months and 26,000 to 35,000 flu-related deaths annually.

Dr. Thoroughman explained that some people may be ill with COVID-19 for a long time before dying, which causes a lag between the case count and death count. However, the most likely factor might be the change in the mix of people getting sick. Younger people are more likely to become ill and to be tested but less likely to have severe illness, and older people are more protected now. The counts show an increase in the number of young people getting the virus, especially in the 16 to 20 age group. There has been a slight rise in the overall number of deaths in Kentucky due to COVID-19.

Dr. Thoroughman explained that rapid testing platforms are available, but test supplies are scarce and the machines can be expensive. The federal government is investing a lot of money in vaccine research, but only time will tell if an effective vaccine is developed. He had no information about a reported testing flaw at the University of Kentucky. There are any number of explanations for the positive and then negative tests of the Ohio governor.

In response to a question from Senator Carroll regarding the number of Kentucky children who have died from the flu and COVID-19, Dr. Thoroughman indicated that he would get the number for the flu. He said he was aware of one child death related to COVID-19. The autopsy did not show anything, but the child was positive with COVID-19. Senator Carroll asked if more children die from the flu, and Dr. Thoroughman confirmed that more children have died from the flu. He said the seasonal flu tends to affect young adults, the very young, and very old; however, the pandemic flu affects middle-aged people more.

In response to a question from Senator Thomas about the effect of re-opening schools, bars, and sporting events, Dr. Stack said the mortality rate is better in Kentucky than in other southern states because Kentucky took action early to prevent an initial exponential spread, which is difficult to contain. When they noticed an increase, they implemented a mask mandate and followed federal advice on closing bars and reducing restaurants' capacity to blunt the second surge, which is much lower than the number of cases in states like Louisiana, Georgia, and Texas. He said that masks and social distancing are among the most powerful public health tools available, but recognized that social distancing especially and masks somewhat are disruptive to normal life.

In response to a question from Senator Thomas about health inequities and the upcoming flu season, Dr. Stack recommended that people get a flu vaccine. This year, it will be particularly bad to get a respiratory

illness that could be confused with COVID-19, which could lead to incorrect treatment. A bad flu season by itself can fill hospitals, and coupled with COVID-19 this could lead to a real crisis. There are health inequities in Black and minority communities. The department's Health Equity Branch has been working to find ways to eliminate inequities as much as possible.

In response to Representative Bechler's question about the mortality rate, Dr. Stack stated that the rate is declining. The mortality rate is estimated to be between 0.7 percent and 1.5 percent. If there are no barriers to care, the estimated mortality rate is approximately 1 percent, which is 10 times the mortality rate of the flu. It is correct that 99 percent of people who get it will likely survive. This means that 3.3 million people could die nationally, but at least 98 or 99 percent would survive. Dr. Thoroughman added that not reducing the transmission of COVID-19 could cause the hospitals to be overrun and more people would be lost. Representative Bechler asked if Kentucky was able to flatten the curve in order to not overwhelm the hospitals. Dr. Stack responded yes, for the initial surge, and probably the current surge. A couple of hospitals were at or near capacity. Some eastern Kentucky hospitals have stopped doing elective surgeries to be sure there is enough capacity for COVID-19. It is difficult to find the exact number of preventive measures needed to keep the curve below capacity. Dr. Thoroughman said that if the public takes masks, social distancing, and other measures seriously, then the economy can remain open.

In response to a question from Senator Carroll regarding the mortality rate excluding nursing homes, Dr. Thoroughman responded that nursing homes account for two-thirds of the mortality rate. Females have been affected more because they tend to live longer and more of them live in nursing homes. Most of the people who died also had comorbidities.

In response to a question from Representative Bechler regarding false positive and negative results, Dr. Thoroughman said that every lab test has a false positivity rate and false negativity rate. The population being tested also affects a test's accuracy. If there is no one with the disease, any positives will be false, but if there are a lot of people with the disease, then most of the positive results will be correct. Public health officials take positive results seriously. Dr. Stack added that the public should make use of health care providers to interpret test results. A positive viral gene test is incredibly reliable and, therefore, does not require a clinician order. Antigen and antibody tests do require clinician orders so that properly trained medical professionals can decide if the test is appropriate.

In response to a question from Representative Bechler about the administration's consideration of the consequences of implementing the economic shutdown, Dr. Stack stated that potential

consequences and competing interests were taken into account. Kentucky followed and is still following most of the recommendations from the White House, such as masks; restrictions on bars, restaurants, and other places likely to spread disease; and aggressive steps like the healthy at home initiative followed by a phased reopening. Similar steps have worked well in other countries where the measures were followed more carefully than in the United States. Considering restrictions by zip code or county, people and viruses do not respect lines on a map. In the United States, there is nothing to stop people from crossing boundaries. Substance abuse, mental health, suicide, heart disease, and other problems are public health issues that have to be balanced against other undesirable outcomes. There are no clear-cut answers.

In response to Representative Bechler's question about herd immunity, Dr. Thoroughman said that herd immunity is currently not happening but would be a good thing. Dr. Stack said he believed that approximately 5 percent of the Kentucky population has been infected with COVID-19, while New York is near 20 percent. Herd immunity probably would require about 60 to 70 percent of the population to have been infected. Dr. Thoroughman responded that with COVID-19, it was probably 95 percent. Dr. Stack estimated that 100 percent infected would lead to approximately 45,000 deaths in Kentucky. In response to Representative Bechler's reference to Sweden, Dr. Stack stated that Sweden's gross domestic product fell almost 9 percent and its mortality rate is higher than nearby countries.

In response to a question from Senator Carroll about positivity rates by county, Dr. Thoroughman said at this time it is not feasible, but if all the labs were using KHIE, it would be possible. Dr. Stack said he would like to have a real-time online dashboard available to the public. There are currently more than 15 people trying to get numbers for the governor daily. It is a very difficult task.

In response to Representative Rothenburger's question about getting an idea of how many people have been infected and whether they can get the disease again, Dr. Thoroughman said that some organizations like the American Red Cross are trying to get people tested using antibody testing. There will not be mass antibody testing because it is invasive and expensive, but testing a sample of people could give an estimate. He indicated that immunity to COVID-19 is unknown past the first 3 months. Dr. Stack added that the FDA approved over 100 tests using relaxed standards, which means many are not reliable. He recommended against individuals getting an antibody test unless a clinician recommends it for a specific reason.

In response to a question from Representative Rothenburger about stockpiles of personal protective equipment (PPE), Dr. Stack responded that they are concerned about the number of PPE available because supplies are falling again. Kentucky increased warehouse space for PPE to keep 2 to 3 months of

supply, and hospitals are required to have 14 days' supply of PPE. This is more than surrounding states. Models suggest that that is enough for first responders and hospitals to get by but not enough for the entire health care system.

In response to a question from Senator Carroll about basing their decisions on closing schools and businesses on the number of cases in nursing homes, Dr. Thoroughman responded that two-thirds of deaths but approximately 18 percent of cases were in long-term care facilities. Dr. Stack said that decisions were based on the best information available at the time, and he would not change anything in retrospect. He acknowledged the harms and said that they are attempting to be better calibrated, limiting fewer activities without causing further harm. But where schools have opened, many of them are closing in 1 to 2 weeks, and hundreds of people are in quarantine. Children go home from school to parents and grandparents, and just one person can infect a whole floor of a nursing home.

In response to questions from Senator Carroll, Dr. Stack expressed support for the decision to delay school openings, saying it would be better to use nontraditional instruction first and let other states try in-person school. He said he supported the earlier plan as well, but then Kentucky reached an all-time high in the number of COVID-19 cases and was experiencing exponential growth on track to become another hot spot. All the advice was to take aggressive steps to reduce its spread. He stated that despite White House encouragement to open schools, there is no evidence that children do not spread the virus. Dr. Stack stated that he wants to prevent the disease from spreading on a massive scale.

In response to a question from Senator Berg about reported cases for daycares and schools, Dr. Thoroughman explained that there is no mechanism for daycares to report cases directly to the Department for Public Health. He is aware of 13 clusters at daycares, mostly involving staff members infecting other staff members. Many facilities had a staff member or child with a positive test but no transmission via the facility. There has been a chilling effect with some daycares and long-term care facilities unwilling to report cases. Dr. Stack provided an example of pastors telling parishioners and businesses telling employees to not get tested or talk to the department. Contact tracing could work but not if undermined this way. He reiterated the department's obligation to protect people and their privacy when tracing contacts.

In response to Representative Riley's question about when schools can resume in person, Dr. Stack said the exit strategy is a vaccine. The federal government is investing in potential vaccines. A vaccine could be developed by next year at the earliest. Having a safe vaccine is important because there are a lot of people skeptical about vaccines in general.

Representative Riley commented that a

significant number of students in his district do not have internet access and asked about the greater damage from closing schools. Dr. Stack responded that there was a middle path, where students and teachers wear masks and socially distance, but many people don't believe in those measures. If other states are successful at opening with masks and distancing, perhaps it will convince Kentuckians to do so.

Senator Carroll commented that children who do not go to school go back to daycare where they mix with other children.

Senator Nemes asked about the average age of death for people with COVID-19. Dr. Stack said the average death age is 77.4 years.

Senator Westerfield said that he has emailed several questions to the department. He asked, in relation to schools, whether the administration considered factors like child abuse referrals, drug overdoses, and academic performance. Dr. Stack said that those factors were considered by his department and by the Department of Education. He has heard sincerely held but erroneous beliefs about how COVID-19 is spread, resulting in people do not understand why they need to follow public health guidelines.

In response to a question from Senator Carroll about the believability of public health advice and the political aspects of the issue, Dr. Stack said that differences of opinion and political disagreements have been present for a long time, but he is not a political advisor and has given public health advice, not political advice.

In response to comments by Senator Carroll about not seeking input from the legislature, Dr. Stack said he is part of a group of other state health officials that has worked with the United States surgeon general, other federal officials, county judges/executive, college presidents, school superintendents, and local public health officials. He spends most of his day in dialogue with other people.

In response to Senator Carroll's question about individuals in quarantine having to inform the health department before calling an ambulance, Dr. Stack said that is not a general practice now but it was practiced in the beginning when they were worried about the contagion. Dr. Thoroughman confirmed that there had been several large-scale exposures of coronavirus in hospitals because someone came in who was infected. He mentioned that a similar practice was used with Ebola.

In response to a question from Senator Berg about exponential growth and implementation of the mask mandate, Dr. Thoroughman referred to the weekly COVID-19 rate with June 8-14 as the low point before exponentially growing through the week of July 13-19. Exponential growth means growing more each week rather than the same amount each week. He said that the evidence strongly suggests that the mask mandate on July 10 has worked.

The meeting adjourned at 3:38 p.m.

Public Pension Oversight Board Minutes of the 4th Meeting of the 2020 Interim August 24, 2020

Call to Order and Roll Call

The 4th meeting of the Public Pension Oversight Board was held on Monday, August 24, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Dennis Parrett, Wil Schroder, and Mike Wilson; Representatives Joe Graviss, Jerry T. Miller, Phillip Pratt, Steven Rudy, Russell Webber, and Buddy Wheatley; John Chilton, Mike Harmon, James M. “Mac” Jefferson, and Sharon Mattingly.

Guests: Chris Biddle, Executive Director, Kentucky Public Employees’ Deferred Compensation Authority; David Eager, Executive Director, Rich Robben, Executive Director, Office of Investments, and Dave Harris, Chair, Board of Trustees, Kentucky Retirement Systems; Rebecca Stephens, Interim Executive Director, and Stephen LeLaurin, Chair, Judicial Form Retirement System; and Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers’ Retirement System.

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

Approval of Minutes

Representative DuPlessis moved that the minutes of the July 28, 2020 meeting be approved. Senator Parrett seconded the motion, and the minutes were approved without objection.

Kentucky Deferred Compensation Authority Update

Chris Biddle, Kentucky Public Employees’ Deferred Compensation Authority (KDC), began his presentation by giving a brief description of KDC. He stated that KDC is the official supplemental retirement plan for all state employees, public education employees, and local programs that include local government employees.

Mr. Biddle discussed how KDC has adapted during the pandemic by stating that, although KDC is a state agency that acts as an authority by state law, it is also required to report directly to the Internal Revenue Service. He stated that the biggest adaption was implementing the CARES Act, which allowed access to accounts for COVID-19 related expenses. To date, KDC has assisted 357 participants with COVID-19 related withdrawals totaling almost \$5 million.

Mr. Biddle stated that there have been zero interruptions or delays in services due to COVID-19 with requests being processed electronically online or via telephone. Mr. Biddle presented charts demonstrating that, even with an uptick in demand,

KDC has maintained the same level of client service. Also, KDC has conducted statewide webinars virtually.

Mr. Biddle provided a chart of KDC’s assets under management on all plans from January 2020 to August 20, 2020. He stated that in January KDC assets totaled \$3.1 billion. KDC experienced a drop in assets in March to \$2.7 billion due to COVID-19, but has since reached \$3.4 billion.

Lastly, Mr. Biddle discussed auto enrollment. He explained that under the auto enroll program, all new state employees have \$30 per month deducted from their pay to be placed in a money market fund. Employees have a 90-day period to decide whether they want to be in or out of the deferred compensation program. He stated that auto enrollment has been a huge success with a total of 3,869 participants since the July 2019 inception. He stated that there is a 94 percent retention rate.

Senator Higdon commented that the auto enrollment is a great success story, crediting the legislation that now requires employees to opt out of KDC instead of opting in the program. He also thanked Mr. Biddle for providing the data regarding the withdrawals permitted under the CARES Act.

Representative Graviss commented that KDC’s response rate is impressive and asked how much of the portfolio is in private equity. Mr. Biddle responded that KDC has no private equity.

In response to questions from Representative Wheatley, Mr. Biddle stated that enrollment has increased by two thirds since the inception of auto enrollment and that KDC has not had to increase its staff.

In response to a question from Mr. Chilton, Mr. Biddle stated that, as set by statute, \$30 is the minimum payroll deduction per month under the auto enroll program.

In response to a question from Mr. Jefferson, Mr. Biddle stated KDC’s bonds and fund lineup is under certain and continuous review on a quarterly basis. KDC has a highly experienced investment subcommittee and an outside investment consultant.

In response to a question from Senator Higdon, Mr. Biddle stated that KDC has not had any issues with hacking of any of its online systems.

Quarterly Investment/Cash Flow Update & Fund Stress Testing – Kentucky Retirement Systems

David Eager, Kentucky Retirement Systems (KRS), began his presentation with opening remarks thanking the House members for HB 171 and stating that it is vital to get it passed.

Mr. Eager discussed a GRS Consulting (GRS) chart comparing the funded ratio. He stated that the Kentucky Employees Retirement System (KERS) had 12 consecutive years of underfunding and 17 years of negative cash flow and was almost off the chart. However, he declared his belief that the system is in a good position of becoming fully funded. He stated

that as members retire out of Tier 3, KERS will see reductions in contributions as a result of the cash hybrid plan.

Next, Mr. Eager provided an overview of the realistic adjustments that KRS had made to KERS’ assumptions in 2017, which had resulted in \$7 billion in liabilities to the system. He emphasized that this was an increase in liability as opposed to a loss, as recent news articles had reported. He summarized other factors keeping KERS on track toward full funding, including a conservative portfolio. Finally, he outlined the stress testing data that KRS would offer later in the presentation.

Mr. Robben discussed a coronavirus timeline and provided a Wilshire Consulting chart that showed a rundown of the last quarter. He stated that KRS was down 38 percent at the peak of the pandemic, and it took about four months for KRS to get back to their pre-pandemic status.

Mr. Robben discussed KRS asset class returns for FY 2020. He stated that KRS has about 39 percent of their assets invested in equities that returned 1.44 percent during the fiscal year with the next highest being fixed income at 29 percent allocation with a 5.33 percent return. He stated that KRS’ best performer in the portfolio was real estate with a 5 percent allocation and 9.77 percent return. He noted that there is still a 1.41 percent allocation in absolute return, also referred to as hedge funds, but that with a net effect of a negative six one-hundredths of one percent to the portfolio, its impact has nothing to do with KRS’ performance.

In response to a question from Representative Miller, Mr. Robben stated that private equity was probably a bit higher four years ago, but, as to hedge funds, KRS had liquidated almost \$1.7 billion of absolute return in the last four years. In response to a follow up, Mr. Robben confirmed that the KRS board had reduced the allocation in absolute return from approximately 10 percent to just over 1 percent. Mr. Harris added that KRS has done a lot of fee negotiations and stated there is no need for absolute return.

In response to a question from Representative Graviss, Mr. Robben agreed that private equity and high yield credit are included in the plan sponsor peer group analysis for the period ended June 30, 2020. In response to a follow up question regarding why KRS does not classify private equity and high yield credit in the alternative category, Mr. Harris explained that KRS is managing its monies in the categories of growth, fixed income, and diversified strategies. High yield, which is below investment grade debt, and private equity are categorized as growth investments given they are very economically sensitive and often act like public equity. Representative Graviss expressed his concern that KRS has invested 38 percent of its assets into investments that can be categorized as alternative investments, which are riskier than public equity and other more traditional investments.

Mr. Robben discussed the plan sponsor peer group analysis. He stated that KRS returned almost 9 percent in the quarter ending June 30, 2020, which was an outstanding quarter for a very risk averse plan.

Mr. Robben continued with the plan sponsor peer group analysis, stating that KRS continues to be one of the most risk averse plans, even with 38 percent in alternatives. Mr. Harris added that timing is important when looking at a performance snapshot. He noted that looking one quarter back to March, the KRS portfolio peer rankings were very attractive, but 90 days later they are below peers. He explained that there is quite a bit of volatility in the market right now, and with only 40 percent of investment in public equities, KRS will not fully experience higher returns when the market peaks.

Mr. Harris provided a chart from the Board of Governors of the Federal Reserve System on interest rates. He stated it is very difficult to project and assume liability numbers.

Next, Mr. Harris provided a chart of the Wilshire 5000, Warren Buffett's favorite indicator, which is the stock market value divided by the gross national product. He stated that the indicator is at the highest level ever recorded in history. He said, if investing for long term, KRS would be hard pressed to get risky at this point for the next three to five years.

Next, Mr. Harris provided a Shiller PE Ratio chart that takes the last 10 years' earnings of corporate America and smooths them out. He stated there has only been one other period where KRS had a higher valuation than today.

Mr. Robben discussed individual plans and stated that the KERS nonhazardous plan was the best performer at 2.36 percent being 129 bases points over its index, which equates to about \$26 million extra in that plan. The County Employees Retirement System (CERS) was at 0.84 percent being 33 bases points over its index. He stated the real difference is the KERS and the State Police Retirement System plans went into the pandemic very conservatively and by policy they have a bit more latitude. At the end of March, KRS took all plans up to their maximum risk. He stated that the insurance plans have the same risk profile as the CERS plans with returns ranging from just shy of 1 percent for KERS nonhazardous to about 0.25 percent for CERS hazardous.

Representative Graviss commented that GRS looks 30 plus years out when looking at investment returns. Mr. Robben stated he is not certain of the time horizon that GRS uses for its projections. Representative Graviss stated, if the actuaries are looking at that long of a timeline for assumed returns with a 7.82 percent 30-year return, but the KRS board is still assuming a 5.25 percent return, then it would help the state financially and still comply with actuaries if the KRS board were to revisit its return assumptions. Mr. Harris commented that the actuaries do not set the assumed rate of return, but rather accept them with no calculation or projection. Rather, they use the return assumptions set by the board.

In response to a question from Representative DuPlessis, Mr. Harris stated that GRS has about a 27-year schedule of amortization of liabilities, and that GRS does not have any involvement in selecting the assumed rate of return. KRS uses a 10- to 15-year capital market assumption and revises it every year. He added that GRS looks at long term liability.

Senator Higdon commented that, in the 1990s, stock prices were extremely high due to the Dot.com bubble and that, as those years start to fall off, the 30-year average and the yields will start to go down. Mr. Harris agreed.

Mr. Harris added his concerns with KRS continuing under the Kentucky Revised Statutes (KRS) Chapter 18A, relating to the classified personnel system. He stated that it is difficult recruiting people under KRS Chapter 18A, particularly hiring and retaining a chief financial officer. Senator Higdon commented that there are issues without the controls of KRS Chapter 18A in place, and he does not favor removing KRS out from under the classified personnel system.

Mr. Eager discussed FY 2020 cash flow. He stated that at this time the CERS plans are the only two plans that are cash flow stressed caused essentially by the contribution phase-in. He stated that the KERS nonhazardous pension employer contributions declined from \$1,035.5 million to \$948.6 million, which was due to \$75 million in special appropriations in FY 2019 that KRS did not receive in FY 2020.

Mr. Eager discussed risk management and stated that KRS routinely looks at and adjusts as necessary asset allocation, modeling, targets, and ranges. There is manager risk that entails selection, due diligence and ongoing monitoring, and KRS does terminate managers if warranted. KRS conducts asset/liability studies periodically with an actuary and the help of Wilshire. Finally, KRS conducts stress testing with GRS that entails deterministic and stochastic scenarios.

Mr. Eager said that KRS analyzed the three scenarios requested by the Public Pension Oversight Board, which included positive markets, flat markets, and negative markets. Mr. Eager then discussed the stress testing results for KERS nonhazardous and CERS nonhazardous for FY 2020, 2022, and 2040. He discussed the impact to contributions and funded status for each plan under each scenario.

Mr. Eager then discussed the 2019 sensitivity analysis for the KERS nonhazardous that included the investment return assumption and the payroll growth assumption for the pension plans. He also mentioned the scenario analysis that included pension and health combined for the positive, flat, and negative market scenarios. For the KERS nonhazardous, both the sensitivity analysis and the stress test modeling indicate contributions and funded status are not severely impacted (either positively or negatively) by investment results and payroll growth in the near term. Longer-term effects are more pronounced.

In response to a question from Senator Higdon

regarding what the payroll growth would be if it is based on the actual percentage instead of the 0 percent that is being used currently, Danny White, GRS, stated that the board is assuming payroll is flat from year to year, but what actually happened is that last year's payroll declined by 3.9 percent. So, if the board used a negative 3.9 percent payroll growth for just one year, there is a smaller impact than if it extrapolate the same negative payroll growth over each future year going forward. Mr. White said that the impact of one year's experience can be smoothed. However, a trend of declining payroll growth at that rate raises an urgent policy question of whether the system should move away from the level percentage of pay method of amortization.

In response to a question from Representative Graviss, Mr. White stated that with a 0 percent payroll growth, historically, the state has been losing personnel at a rate of about 2 percent per year. However, the data presented shows a prospective number with the assumption that there will be some payroll growth in the future.

In response to a question from Representative Wheatley, Mr. Harris confirmed that the percent of payroll growth represents the number of employees and the potential raises the employees would get over a period of time. In response to a follow up question, Mr. Harris confirmed his statement that a 2 percent decline in personnel over 20 years would result in practically 0 employees.

Mr. Eager discussed the sensitivity analysis and the scenario analysis for CERS.

In response to a question from Representative Wheatley regarding the CERS separation, Mr. Eager stated the separate governance boards will have the power to make changes to these assumptions on April 1, 2021.

In response to a question from Representative DuPlessis, Mr. White stated that the comparison of funded ratio graph previously referenced does include the Teachers' Retirement System (TRS). Therefore, TRS like CERS is ranked below the 25th percentile in funded ratios among other statewide retirement plans in the nation.

In response to a question from Representative Graviss, Mr. Eager stated that, due to litigation, fiduciary insurance for KRS board members is so expensive it is not cost-effective to carry it.

In response to a question from Auditor Harmon regarding redaction issues and how many contracts will renew after the original SB 2 date, Mr. Eager stated he would have to send the information at a later date. Mr. Harmon stated based on the redacted examples provided, KRS has done a fine job.

Quarterly Investment/Cash Flow Update – Judicial Form Retirement System

Rebecca Stephens, Judicial Form Retirement System, began her presentation discussing the plans' performance overview that included the market value, 1-, 3-, 5-, 10-, 20- and 27-years for the judicial and legislators' defined benefit and hybrid cash balance

plans period ending June 2020. She also noted that FY 2020 was the first year that the hybrid cash balance plan members received an interest credit greater than the statutory minimum 4 percent with the judicial plan members receiving a credit of 7.5 percent and the legislators' plan members receiving a credit of 7.54 percent.

Ms. Stephens discussed the cash flow for the judicial and legislators' retirement plans, which included the cash inflows, cash outflows, net cash flow before asset gain/(losses), realized/unrealized investment gains/(losses), and net plan assets for the period ending June 30, 2020.

Representative DuPlessis commented that no money was added to the legislators' plans for the ARC, yet, due to the investment performance, the plans went cash positive.

In response to a question from Representative Tipton regarding a comparison of the cash inflow for the judicial and legislators' plans, Ms. Stephens reviewed the data on cash flow for Judicial Retirement Plan and Legislator Retirement Plan.

In response to a question from Senator Higdon, Ms. Stephens stated that an ARC payment was made in the judicial plan, but no appropriation for the legislators' plan during FY 2021 except for administrative expenses.

Quarterly Investment/Cash Flow Update & Fund Stress Testing – Teachers' Retirement System

Beau Barnes, TRS, began his presentation with investment performance as of June 30, 2020, and discussed the gross and net performance for the quarter, fiscal-year-to-date, 1-, 3-, 5-, 10-, 20-year trailing time periods, and the 30-year compounded gross return of 7.98 percent.

In response to a question from Senator Higdon, Mr. Barnes stated that the 1-year top 5 percent ranking is TRS's performance in investment returns as compared to other large public pension plans in the nation.

Mr. Barnes continued with a discussion of TRS's investment performance. He stated that from 2008 to June 2020, TRS's investment returns totaled a net \$14.5 billion, compared to the average pension plan returns which would have resulted in a \$10.9 billion net value, resulting in an outperformance of \$3.6 billion for the benefit of Kentucky teachers.

Mr. Barnes reviewed cash flow for the pension fund through June 30, 2020, compared to June 30, 2019. He pointed out the cash inflows, outflows, investment gains or losses, and the total net plan assets across both time periods. He noted that the current year's member and employer contributions are down slightly because TRS has not yet booked the accounts receivable. Also, he reported that the benefit payments to retired members had increased to \$2.195 billion in 2020 up from \$2.126 billion in the previous year. As a result, TRS's negative cash flow is higher this year, but still very manageable, and with investment gains for the year, TRS' net plan assets grew by \$330 million.

In response to a question from Senator Higdon, Mr. Barnes confirmed that TRS's asset levels went up \$330 million in 2020. In response to a follow up, he stated that, during the 2020 budget session of the General Assembly, TRS had provided a version of its budget request to executive budget staff that showed what adding \$110 million extra in each fiscal year above the actuarially determined employer contribution (ADEC) would accomplish. However, this additional funding in excess of the ADEC was not included in any version of the budget presented last year.

Representative DuPlessis commented that he believes TRS is investing wisely, but until the system is 80 percent plus funded, the negative \$391 million should not be taken lightly. Representative DuPlessis wanted to know how to fix the structural cause of having a cash flow loss for the long term. Mr. Barnes stated that TRS was 58.1 percent funded as of June 30, 2019, and he believes with additional funding it will continue to grow. In response to a follow up, he stated that structural changes, including a new benefit tier for teachers, would not have an immediate impact.

In response to questions from Senator Higdon, Mr. Barnes stated that the timeline for possible assumption changes with the experience study will be 2021. He stated, if there are assumption changes, those changes would become effective around 2024.

Mr. Barnes continued with a review of cash flow for the health insurance fund through June 30, 2020, compared to June 30, 2019. He pointed out cash inflows, outflows, investment gains or losses, and the total net plan assets across both time periods.

Senator Higdon commented that TRS would need to continue its presentation at the next meeting due to time constraints.

Representative Miller commented that he would like TRS to provide a chart of returns by market segment.

With no further business, the meeting was adjourned.

Jail and Corrections Reform Task Force

Minutes of the 2nd Meeting of the 2020 Interim

August 21, 2020

Call to Order and Roll Call

The 2nd meeting of the Jail and Corrections Reform Task Force was held on Friday, August 21, 2020, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Michael J. Nemes and John Schickel; Representatives Jason Petrie and Ashley Tackett Laferty; Commissioner Cookie Crews, Secretary Mary C. Noble, and Steve Shannon.

Guests: Ray Weis, President/CEO, Dismas Charities; Jan Kempf, Executive Vice President and COO, Dismas Charities; Jennifer Hancock, President and CEO, Volunteers of America; Tiffany Cole Hall, COO, Volunteers of America; Tony Higgins, President/CEO, Opportunity for Work and Learning; Dawn Hanzel, Center Director, Opportunity for Work and Learning; Kirstie R. Willard, Director, Division of Local Facilities, Department of Corrections; Wendy Morris, Commissioner, Behavioral Health, Developmental and Intellectual Disabilities; Dr. Allen Brenzel, Medical Director, Behavioral Health, Developmental and Intellectual Disabilities; KOLEEN Slusher, Division Director, Behavioral Health, Developmental and Intellectual Disabilities.

LRC Staff: Katie Comstock and Yvonne Beghtol.

Approval of Minutes

Senator Nemes made a motion to approve the July 31, 2020 minutes, seconded by Senator Westerfield, and passed by voice vote.

Reentry Services

Ray Weis, President and CEO of Dismas Charities, and Jan Kempf, Executive Vice President and COO of Dismas Charities, gave an overview of Dismas Charities' 56 year partnership with the Kentucky Department of Corrections (DOC) and their goal of creating successful long-term outcomes for offenders and cost savings for the Commonwealth. Dismas Charities operates 31 Bureau of Prisons re-entry programs in 13 states. In Kentucky, Dismas Charities operates 7 state facilities for the Department of Corrections (DOC), 3 licensed substance abuse programs, and a 45 bed federal re-entry facility in Manchester. Of the 110,000 federal and state residents served by Dismas Charities since 2005, 24,454 were from the Commonwealth. Dismas Charities has developed a data driven system referred to as the FreshStart System, to track their residents. Substance abuse residents stay approximately 112 days. Probation and parole residents stay about 57 days. Mr. Weis stated that Dismas Charities developed a Biometric Resident Accountability Module (RAM) to track every transaction that occurs with a resident and staff via fingerprinting, in lieu of paperwork. Since 2005, residents working on a community release program have accumulated over 11,000,000 hours of community service. Residents have collected over 100,000 basic adult education and General Educational Development (GED) hours, as well as 108,396 hours of secondary education, and 215,000 cognitive and life skills and support group hours. Dismas Charities currently has a 71 percent successful completion rate. In 2009, Dismas Charities partnered with the DOC to track, for two years, those that completed the program to see if they recidivated. The recidivism rates ranged from 9.7 percent to 14.5 percent between 2009 and 2014. Mr. Weis stated that Dismas Charities works with offenders to prevent further victimization. He also highlighted the ongoing issue of having empty beds in a reentry program that could be in use. Dismas

Charities has been accommodating to whatever the current needs are, such as changing from an all male facility to all female, and offering a specialized sex offender program.

Jennifer Hancock, President and CEO of Volunteers of America (VOA), began by stating that VOA offers evidence based services, serving approximately 25,000 people per year through public health services, veterans services, services for individuals experiencing homelessness or are at risk of homelessness, and provide support for individuals dealing with a substance use disorder. VOA is accredited by the Council of Accreditation (COA). Results are measured and VOA is accountable for outcomes, making sure there is a real return for the investments made. VOA is the only provider in Kentucky to be certified by the American Society of Addiction Medicine. VOA partners with research institutions to acquire an evaluation of their work. VOA also focuses on the family system when looking at the work they are doing. VOA has partnered with the Justice and Public Safety Cabinet to offer a Restorative Justice Program. Youthful offenders who have committed crimes that do not include sex or violent crimes are kept in the community, helping them safely make amends and restoring a victim's sense of safety and wholeness. Ms. Hancock stated that because VOA also offers housing, other behavioral health services, public health services, and case management and follow up services, VOA is able to engage individuals in the most holistic way and support them reuniting with family, which is essential before reentering the community.

Tiffany Cole Hall, COO of Volunteers of America, gave an overview of the Halfway Back Men's Program, a partnership with DOC. The program is a 50 bed unit in Louisville, Kentucky, staffed by clinical, licensed, and peer-support specialists. Being able to go virtual has allowed the program to maintain its 35 hour weekly schedule during COVID-19. The VOA has an Individualized Outpatient Program (IOP), based on individual needs and clinical progress. The client is assessed during the first 72 hours and reassessed weekly to determine their placement in either the 45, 60, or 90 day program, which currently shows a 65 percent completion rate. Ms. Hall also highlighted the Freedom House Program, which offers assistance to pregnant and parenting women to help overcome substance use disorder and to keep families together. The four to six month program currently serves almost 70 families. Ms. Hall mentioned that the VOA programs are collaborative with all referral sources in an effort to reaching client success.

Ms. Hancock stated that VOA has been very aggressive in implementing all of the Center for Disease Control (CDC) guidelines as it relates to COVID-19 and have had zero positive tests from clients or staff at the Shelby Men's Campus.

Ms. Hancock shared the testimony of a man who came to the VOA 12 years ago who had been incarcerated for five years, had a substance use

disorder, and was charged with drug trafficking and possession. He is now a successful entrepreneur, business owner, married with two children, and received a pardon from former Governor Beshear, which allowed him to test to become a real estate agent.

Tony Higgins, President and CEO of Opportunity for Work and Learning (OWL), stated that the goal for OWL is to help individuals with barriers to acquire and retain employment by partnering with different businesses within the community. In 1961, OWL opened the Lexington Manufacturing Center (LMC) as a sheltered workshop where people with disabilities could work with no interaction with the community. LMC is now a for-profit manufacturing company that allows integrated and competitive work for anyone who wishes to participate. All profits go to support the mission of OWL. The OWL center offers programs to help prepare participants for work, identify jobs that may be suitable for them, help to obtain jobs, and offer support to help maintain employment. Participants may be tracked for 90 days up to several years. OWL offers Advancing Capabilities Enhancing Skills as a Medicaid waiver program to assist those with developmental and intellectual disabilities. Mr. Higgins also stated that LMC is an ISO 9001 certified integrated and competitive workplace offering employment to those with a felony conviction of a non-violent or sexual nature.

Dawn Hanzel, Center Director of OWL, stated that the Office of Vocational Rehabilitation (OVR), Workforce Reentry, and Supplemental Nutrition Assistance Program Employment and Training (SNAP) are the three major programs collaborating with OWL. Clients can have a wide range of disabilities which includes substance use disorder and reentry. The Workforce Reentry program was not funded this fiscal year, but it is believed it will be funded next year, and has been the last three years. OWL assesses the needs of business and industry, then the needs of clients, and develops the skills of clients to meet the needs of the business and industry, serving most of the Bluegrass Area Development District. Ms. Hanzel gave a link to share the success story of a previous client: <https://youtu.be/DGnxWFNOcQY>

She then reviewed the programs and assistance offered through OWL. OWL partners with approximately 50 agencies within the community to assess the employment skills and needs of the individuals and match them with businesses who work with OWL in finding jobs for these participants.

In response to Chairman Meredith, Ms. Hancock agreed that the number of empty beds increased due to the COVID pandemic. Ms. Hancock replied that VOA has been working with the Justice and Public Safety Cabinet to resolve this issue. Due to the pandemic, VOA can now bill Intensive Outpatient Program for Medicaid eligible services, which helps offset the lost revenue. Mr. Weis agreed that the referral process needs to allow maximizing the reentry programs during times of crisis. Secretary

Noble recently met with Dismas Charities and VOA. Now that there are many programs available, even prior to the COVID pandemic, centers were not at full capacity. In response to Chairman Meredith, Mr. Weis stated that the success rate refers to those who have completed the program and the recidivism rate refers to those who have completed the program and have not re-offended with a new crime within two years. The recidivism rate has lowered over the years due to the programs provided by the DOC. The biggest reason for failure to complete the program is due to re-involvement with drugs and alcohol. If an individual stays past 72 hours, their chance of success doubles.

Kentucky Local Correctional Facilities Construction Authority

Kirstie R. Willard, Division Director of Local Facilities for DOC, began by reviewing the changes made by the passing of HB 463 in 2011. Prior to HB 463, it was a county's decision to build or expand, and the county was responsible for the funding. However, HB 463 required approval by the Kentucky Local Correctional Facilities Construction Authority (LCFCA) for construction of a new jail or expansion of a jail to increase square footage by adding prisoner bed space. Any expansion to a current jail must result in a minimum of 150 prisoner beds. The LCFCA continues to review those plans and blueprints to ensure they meet the requirements of Kentucky Jail Standards. The 2018-2020 biennial budget, and the 2021 budget prohibits reimbursement for any new approved construction.

Counties submit the application/request to the Division of Local Facilities for review. The Division of Local Facilities notifies the LCFCA to ensure that all of the information required by statute are met, and the LCFCA determines whether to approve or deny. The statutory requirements for consideration include whether or not the construction is necessary, proposed number of beds, and sufficient funding. Determining whether there is a sufficient source of revenue to pay for the operation and maintenance, and whether the county can afford to maintain the facility is a major factor.

Director Willard showed a list of the approved projects since the enactment of HB 463. There are four new facilities and 18 additions. Two of the counties have decided not to continue with their approved projects, but there is no provision in the statute to take away the approval. At this point, the LCFCA has not denied any construction requests. The construction approvals from 2014 to 2017 brings the total of secured beds to 2,512 and restricted custody beds to 89.

In response to Chairman Meredith, Director Willard confirmed that any construction project requires that, upon completion, the facility has to total 150 prisoner beds. In response as to why DOC has not denied any construction request, Director Willard stated that although the DOC pays for the architectural plans and engineering services, it is up to the county to determine if they want to take on

the financial responsibility to pay the loan amount, maintain the facility, and find a revenue source to cover those costs. In response to the reimbursement language used in the past three years of budget bills, Director Willard stated that DOC strongly supports moving this language from the budget bill to statute.

Intensive Inpatient Mental Health Treatment

Wendy Morris, Commissioner of Behavioral Health, Developmental and Intellectual Disabilities (BHDID), began by stating that the mission for BHDID is to provide leadership to prevent disability, build resilience in individuals and their communities, and facilitate recovery for people whose lives have been affected by mental illness, substance abuse, or intellectual and developmental disabilities.

Commissioner Morris stated that 50 percent of those who develop mental health disorders show symptoms by the age of 14, and 75 percent develop mental health conditions by the age of 24. Early intervention can make a difference. Ms. Morris showed a map of the Kentucky public behavioral health systems of care facilities to include hospitals, long-term care facilities, intermediate care facilities, specialty clinics, personal care homes, community-based residential substance abuse programs, and community mental health centers (CMHC). The BHDID offers a limited amount of forensic psychiatric services. Competency evaluations are performed for the courts for those with felony and misdemeanor charges. The evaluations can be done inpatient, at the jails, or at a community based location. Currently, there is a waiting list for this service. There is also a very limited amount of competency restoration. The Kentucky Correctional Psychiatric Center (KCPC) is the one facility that offers forensic psychiatric services. Due to the COVID pandemic, the KCPC is not getting as many referrals, and are not accepting referrals from any jail that has an active outbreak. The wait list has dropped from an average of 132 to 60, and the average wait time of six to eight weeks to approximately two weeks.

Competency evaluation falls under KRS 504.020 to determine if an individual is responsible for criminal conduct based on mental illness or intellectual disability and the lack of capacity to be able to either appreciate the criminality of their conduct or to conform to the requirements of the law. The term “mental illness or intellectual disability” does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct. It does require a diagnosis by a physician. If a defendant is found incompetent to stand trial and there is no substantial probability they will attain competency in the foreseeable future, there will be a court proceeding under KRS Chapter 202A or 202B. This moves the case from a criminal court to a civil court, which can create issues.

Competency restoration is not a funded service and is only attempted at the KCPC. Not all conditions improve with treatment and some are progressive. Once criminal charges are dismissed, an individual can

be evaluated under the civil commitment proceedings.

The state psychiatric hospitals offer an in-depth, three day psychosocial assessment, treatment plans, education, and discharge plans. Admission into and treatment from a psychiatric hospital is regulated by KRS Chapter 202A. No one can be involuntarily committed unless they are diagnosed with a mental illness. Some of the limitations to inpatient treatment include the restriction of using punitive measures such as seclusion or restraints, the patient has the right to refuse treatment, the facilities are designed for short-term admission, patients are encouraged to mingle in common areas outside of their rooms, rooms are double occupancy, and most are not forensically secure with fencing, armed guards, or metal detectors.

Intermediate Care Facilities (ICF) serve individuals with intellectual and developmental disabilities. The ICFs provide active treatment, training, and community integration. The Supreme Court made a decision in 1999 regarding the American Disability Act stating that individuals cannot be compelled to live in a setting such as an ICF or state hospital long-term. The admission criteria is set by KRS Chapter 202B which consists of having an intellectual disability diagnosis, and presenting a danger or threat of danger to themselves or others. The limitations of ICFs include being under the regulations of the Center for Medicare and Medicaid Services, resident rights, restriction on the use of certain interventions, and forensically unsecure due to unlocked buildings, common spaces, and having open grounds in urban or suburban settings.

The increase of capacity to provide mental health promotion, prevention, and early intervention continues to be a priority for BHDID by improving access to safe and affordable housing, integrating behavioral health and physical healthcare, specialty courts, and exploring new strategies for certified community behavioral health centers and the serious mental illness waiver.

In response to Chairman Meredith, Commissioner Morris stated that the BHDID has spoken with other states and explored options to increase KCPC capacity to be able to offer services to those individuals who do not meet the criteria of KRS Chapter 202A. Dr. Allen Brenzel, Medical Director of BHDID, agrees that there is a small subset of individuals who are found incompetent, not restorable, and who continue to have severe behavioral challenges. The most beneficial option is to work toward intervening early, to avoid situations where these individuals enter the justice system. Chairman Meredith requested that any updates to this process as well as the cost estimates for expansion of KCPC be submitted to this committee.

There being no further business, the meeting adjourned at 12:04 PM.

Property Valuation Administrator's Office Task Force Minutes of the 2nd Meeting

of the 2020 Interim

August 18, 2020

Call to Order and Roll Call

The 2nd meeting of the Property Valuation Administrator's Office Task Force was held on Tuesday, August 18, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Randy Bridges, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Randy Bridges, Co-Chair; Senators Denise Harper Angel and Michael J. Nemes; Representatives Samara Heavrin and Nima Kulkarni; and Tom Crawford.

Guests: Rachel Foster, PVA, Daviess County; Jeffrey Kelley, PVA, Webster County; and Cindy Martin, PVA, Boone County

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

Approval of Minutes

A motion was made by Senator Mills, seconded by Senator Nemes, to approve the minutes from the July 27, 2020 meeting. The motion passed by voice vote.

PVA Office Efficiencies, Best Practices, and Uniformity among Offices

Rachel Foster, PVA, Daviess County; Jeffrey Kelley, PVA, Webster County; and Cindy Martin, PVA, Boone County, discussed PVA Office Efficiencies, Best Practices, and Uniformity among Offices.

Jeffrey Kelley testified that his PVA office consists of the PVA and three full-time employees. Webster County is a grade 14 county based on population, square miles, certified assessment, and other considerations. One of the difficulties in creating uniformity is that each county is unique.

Local PVA offices are charged with certain duties to comply with constitutional, statutory, and recommended guidelines. Mr. Kelley advocated for expanding the Kentucky property tax calendar to provide each governmental agency involved in the process a road map to get their job done in a timely manner. Mr. Kelley testified that his office eliminates redundancy by planning out their quad work and field work in a way that decreases mileage, time on the road, and expenses.

PVAs are guided by statutes and guidelines for record keeping. Many counties are struggling with adequate storage space for record keeping. Mr. Kelley recommended moving towards digital record keeping.

Most of Webster County's training is through a mentoring program. Smaller counties must cross-train employees to do many different jobs.

There are many technology products that can be used to create more efficiency, but a cost to benefit must be considered. The Webster County PVA office chooses the programs that it can best afford. Other government agencies are provided standardized software which allows for uniformity between circuit clerks and county clerks.

Mr. Kelley outlined his recommended changes to KRS 133.120. KRS 133.120 identifies people who can represent a property owner on a protest and appeal of a property assessment for a commission or fee. More frequently people are representing property owners on a contingency fee basis. PVA offices should make sure that the person representing the property owner is in compliance with KRS 133.120. The PVA wants the assessments to be correct and wants to work with qualified representatives. Mack and Mr. Kelley have discussed this and KACo surveyed 57 counties that identified big box stores. Between the big box stores, the apartment owners, and triple-net leases, including fast food restaurants, there is approximately 50 billion dollars in state-wide property assessments, which could equate to 250 million dollars if a 1% effective tax rate is applied. Mr. Kelley stated that the protest and appeals need to be taken seriously, and the representatives should be qualified so that the property value is in accordance with the Kentucky Constitution. Mr. Kelley stated that he would like to work with someone to sponsor legislation to clean up the list of permitted representatives in KRS 133.120, and he provided suggestions on how to clean up the statute. Protests or appeals by representatives should be by individuals familiar with property valuation and Kentucky Revised Statutes.

Mr. Kelley expressed his hope that the task force could come up with an idea for a dedicated funding stream that would consider the different profiles of counties. He continued to state his position that a portion of the state rate for property tax should be earmarked for funding PVA offices as an income producing arm of state government. He also testified that special taxing districts should share in the expense of paying for the tax roll produced by PVA offices.

In response to a question from Senator Nemes, Mr. Kelley stated that he had not thought about sending records to the state library and archives. He stated that records would need be accessible locally, but he could possibly retrieve it from library and archives as well.

In response to a question from Senator Mills, Mr. Kelley testified that state appeals now go through the Kentucky Claims Commission (KCC). He does not know their schedule, but there was some talk of separating the tax appeal cases from the KCC. In response to another question, Mr. Kelley stated that he did not have any cases this year, but he imagines other counties do. KCC usually reviews cases year-round as with everyone being on the same calendar the appeals fall at the same time, and KCC can't hear the cases all at once. In response to a third question, Mr. Kelley testified that he would like to see a comprehensive tax calendar for just the PVA offices and the Department of Revenue to give them a better road map of what they need to do and when they need to do it to make sure the tasks get done in a timely manner. The average PVA has a little under two years of experience compared to when he started as a PVA

and the average was 20 years of experience.

Senator Harper Angel requested that LRC staff put together numbers related to backlogs of cases at the Kentucky Board of Tax Appeals versus the Kentucky Claims Commission.

Rachel Foster testified that the total equalized assessment value of real and tangible property in Daviess County is a little over eight billion dollars. Assessed values on motor vehicles and boats total \$757,844,209.

The Daviess County PVA office has nine-and-a-half employees, and is funded for 12. The office receives a vacancy credit for the sacrificed positions, which helps pay for the shortfall bill and raises. Raises are necessary in Daviess County in order to retain educated employees. Ms. Foster stated that her office has no procedure issues. Training is given on the job and through classes given by the Department of Revenue. Ms. Foster testified that classes need to be given in different parts of the state more frequently. She continued to say that the filing system for important documents needs to be statewide and funded.

Daviess County is a rapidly developing county which needs to use technology as much as possible for the lack of deputies and funding. The Daviess County PVA website is updated twice a week. Ms. Foster reviewed the technology services used by her office, including services for aerial imagery and access to a county wide planning and zoning database for permits. The Daviess County PVA office also has current and upgraded computers, printers, scanners, and software, as well as tablets, vehicles, and laser measurement tools for field deputies.

Ms. Foster stressed how counties are unequal in areas of funding, growth, and parcel count, among other things. She testified that the only way to solve funding is a strategic, continuous income stream based on each county's size. Ms. Foster expressed her support for dedicating a portion of the state tax rate to fund property tax. Ms. Foster also supported enacting a reasonable fee on special tax districts for the use of tax rolls.

In response to a question from Senator Mills, Ms. Foster stated that a reasonable fee for the use of tax rolls by a special taxing district would vary depending on each county, and that she would base the fee amount on a parcel count. In response to another question, Ms. Foster testified that the cost of the flyover for Daviess County totaled \$85,000 for two years. In response to another question, Ms. Foster testified that training could be provided through Zoom.

In response to questions from Representative Bridges, Ms. Foster said that she did not know of any PVAs that were denied access to planning and zoning. She continued to say that potentially less than half of Kentucky counties had planning and zoning. Mr. Kelley stated that Webster County does not have county-wide planning and zoning.

Representative Bridges commented on the diversity of PVA offices throughout the state.

Cindy Martin testified that the Boone County PVA office has 10.5 state funded staff. She continued to say that her office has eight part-time employees and eight full-time employees. Ms. Martin discussed the burden of rising retirement costs and no increased funding on PVA offices. The formula for attrition of deputies saves PVAs over \$1.5 million every year. The formula has eliminated 28 full-time positions statewide since its inception.

The median sales price in Boone County increased by 11 percent from January to July, 2020. In high growth counties, it is hard to meet Department of Revenue mandates. Because of exponential market growth in Boone County, the county's assessment-to-sales ratio was 85.4 percent; which is below the Department of Revenue's standard of a 90 percent ratio. To be certified by the Department, the Boone County PVA had to raise more than \$360 million of property assessments on residential property owners. The tax roll went up over one billion dollars over the previous year. This mandate, coupled with being underfunded and understaffed put a huge burden on the PVA's office.

Boone County's commercial property ratio was 93.7 percent. Ms. Foster explained that she did not have enough time to reassess commercial property because of the time required to assess residential property.

Special tax districts depend on property tax revenues. Ms. Foster expounded on the ripple effects that occur when counties do not get certified.

The Boone County PVA office must cross-train because it is understaffed. Boone County has a training manual specific to the county. The office also uses hands on training. Additionally, the office is essentially paperless.

Ms. Martin advocated for a statewide contract that PVAs could buy into for cost savings. Ms. Martin testified that Oblique Imagery, Lexis Nexis, and CoStar should be made available to all PVAs in a statewide contract.

Boone County has a computer aided mass appraisal system. The PVA office charges for the use of its website.

Ms. Foster testified that the state government is subsidizing the cost of PVA offices to fund local districts. In Boone County, \$123 million in revenue was generated for special taxing districts who do not pay to fund the PVA office.

Boone County brought in \$16.5 million in revenue to the state based on its real property assessments. The state appropriated the Boone County PVA about \$800,000. That return on investment to the Kentucky state government is \$19 received for every \$1 spent on the Boone County PVA.

The Boone County sheriff's office receives over \$4 million for collecting the property tax revenues and distributing them to the special taxing districts.

The PVA's office receives roughly \$1.2 million to assess property. The Boone County sheriff doesn't charge the maximum amount of four percent and only charges some districts one or two percent. The sheriff is receiving almost four times the amount of money than the PVA, which creates a funding discrepancy.

Ms. Martin testified that they have a good working relationship with their county. The PVA office uses the county's IT department and network, receives property maintenance cleaning, uses their permit system, county vehicle maintenance services, and GIS mapping licenses. These relationships are why PVA offices have different resources available to them and different expenses. She concluded by saying that property tax should fund property tax.

In response to a question from Senator Mills, Ms. Martin stated that during this inspection period the Boone County PVA office sent double the amount of notices that it had ever sent before. Because of Boone County's 85.4 percent sales ratio, \$360 million had to be raised. Ms. Martin continued to say that this inspection period had been the worst one she has had. In response to another question, Ms. Martin stated that property must be physically inspected once every four years. If she had the proper staffing, she would inspect commercial property every two years. In response to further questions, Ms. Martin testified that in 2009 she had a full-time information technology employee. The Boone County PVA office now has a part-time information technology employee. Ms. Martin stated that a statewide flyover is done, but that the flyover does not include oblique imagery. She continued to say that CoStar contains information on commercial sales and is used for property valuation appeals. There are 14 special taxing districts in Boone County who are not paying for the information generated by the PVA's office.

Senator Harper Angel stated that PVAs are required to send a percentage of local funds to the state to supplement payroll. If the state would fully fund the cost of PVA personnel and allow PVAs to keep local appropriations, they could afford technology, training, and additional staff. It would be good to get a list of the percentage of local funds that each county sends back to the state, and it could give a good idea of an amount that needs to be absorbed into the budget. In response, Ms. Martin testified that she had that information and this year PVAs sent \$8.5 million in local funds to state government to fill the hole in personnel costs. Offices have the option to absorb the loss, which is why her county uses part-time employees and the savings comes off her bill. The \$8.5 million does not account for the fact that PVAs have a 90 day hiring delay in order to make budget. To be fully funded PVA offices would need around \$71 to \$72 million. She also testified that the \$8.5 million is approximately 65 percent of local funds for PVAs that is going back to the state.

Senator Harper Angel reiterated the need to properly fund PVA offices.

In response to a question from Representative Bridges, Ms. Martin testified that her PVA office transfers deeds until August 1. Her office also checks for new owners and makes a point to handle return tax bills. Ms. Martin also testified that her PVA office uses Lexis Nexis for tax bills for owners that return as undeliverable.

In response to a question from Representative Bridges, Ms. Martin stated that she would prefer a percentage fee over a per parcel fee on special taxing districts. Ms. Foster agreed with the use of a percentage fee.

Representative Bridges stated that the intent of the task force is to help PVA offices and improve savings.

With no further business, the meeting was adjourned.

Exceptional Support Waiver Services Task Force Minutes of the 2nd Meeting of the 2020 Interim

August 24, 2020

Call to Order and Roll Call

The 2nd meeting of the Exceptional Support Waiver Services Task Force was held on Monday, August 24, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Steve Riley, Co-Chair; Senator Dennis Parrett, Representative Tina Bojanowski; David Allgood, LeeAnn Creech, Thomas Laurino, Lisa Lee, Wendy Morris, Brad Schneider, Steve Shannon, and Amy Staed.

Guests: Claudia Johnson, Division Director, Department for Behavioral Health, Developmental and Intellectual Disabilities; Leslie Hoffmann, Policy Advisor, Department for Medicaid Services.

LRC Staff: Chris Joffrion, Hillary Abbott, and Shyan Stivers.

Approval of Minutes

A motion to approve the July 27, 2020 meeting minutes was made by Steve Shannon and seconded by Senator Parrett and approved by a voice vote.

Department for Medicaid Services: An Analysis of the Supports for Community Living Waiver and Exceptional Support Waiver Services

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services, stated that 1915(c) Home and Community Based Services (HCBS) Waivers are designed to give individuals with disabilities an alternative to institutionalization. These waivers should complement available state Medicaid program services, public programs, and family/community supports to meet each individual's needs. If an individual's needs exceed what can be safely

provided in the community, he or she may not be appropriate for waiver services. The Department for Medicaid Services (DMS) must demonstrate to the Centers for Medicaid and Medicare Services (CMS) that the cost of care in the community is equal to or less than institutionalized care. Of the six HCBS waivers in Kentucky, the Michelle P. and Supports for Community Living (SCL) are for individuals with intellectual or developmental disabilities.

Ms. Hoffmann stated that the budgets for the waiver programs are determined by evaluating expenditures from the previous fiscal years and must be cost neutral. To be cost neutral, the average per participant expenditure must not exceed the average per person cost of furnishing institutionalized services for an individual with the same level of care. CMS provides 70 percent of funding for waiver services and not meeting CMS requirements for one waiver puts federal funding for all waivers at risk. In the 2019 budget year, the SCL waiver served a population of 4,921, with \$386,802,581 in total paid claims, of which \$270,761,807 was paid by federal cost-sharing dollars and \$116,040,774 paid by state funds. The SCL waiver had 4,491 funded slots for the waiver year March 1, 2020 through February 28, 2021 with 4,774 active slots, and 2,891 on the waiting list.

Ms. Hoffmann explained that the individuals on the SCL waiver waiting list are classified into three categories: 1.) for emergency and immediate services needed, 2.) urgent where the individual needs services within one year, and 3.) future planning where an individual need services within one year and is not currently receiving services. Kentucky currently has zero individuals on the emergency waiting list, 128 individuals on the urgent waiting list, and 2,763 individuals on the future planning waiting list.

Ms. Hoffmann stated that exceptional supports claims account for 3 percent of the total paid claims for SCL participants. In 2019, 265 individuals were authorized for exceptional supports but only 251 received services based on paid claims data. In 2019, only one individual was denied exceptional supports due to lack of information. DMS provided responses to the recommendations given in the July 27, 2020 meeting by Kentucky Association of Private Providers and Kentucky Association of Regional Providers.

In response to questions and comments from Amy Staed, Ms. Hoffmann stated that budget neutrality is based on the aggregate of the total number of participants and paid claims.

In response to questions from Thomas Laurino, Commissioner Lee stated that she will follow up regarding costs of immediate care facilities and whether they exceed the cost of community based services.

In response to questions from Senator Parrett, Ms. Hoffmann stated that she will follow up with aggregate information on the cost per person served.

In response to questions from Representative Bojanowski, Commissioner Lee stated that nursing

level of care is unable to be replicated in the community and beyond the scope of CMS's waiver services.

Department for Behavioral Health, Developmental and Intellectual Disabilities: An Analysis of the Supports for Community Living Waiver and Exceptional Support Waiver Services

Wendy Morris, Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) stated that DBHDID administers the Supports for Community Living (SCL) waiver through a contract with DMS. The SCL waiver includes a specialized rate for people with exceptional medical or behavioral needs and applies to both traditional or participant directed services. Commissioner Morris stated that exceptional supports are to be based on the cost of providing the service not to exceed two times the upper payment limit of the service. Exceptional supports are authorized to be reimbursed at either a higher rate than the upper payment limit or additional units in excess of the service limits. The services eligible for the exceptional support rate include: residential levels one and two, community access, personal assistance, respite, day training outside of an adult day center. The services eligible for additional units include consultative, clinical, and therapeutic services, person centered coach, personal assistance, and respite.

Commissioner Morris explained the approval process for exceptional supports, the documents required to be included in the recipient's application packet, the one-day turn around for case managers to submit to DBHDID and the three days DBHDID has to process the request. Commissioner Morris stated that the SCL waiver is a Medicaid program and DMS sets the policies in accordance with 907 KAR 12:010 and 907 KAR 12:020. Two of the recommendations presented at the July 27th Task Force meeting do not require a change to the administrative regulations. Commissioner Morris stated that DBHDID is in agreement with the recommendations to extend prior authorization of non-clinical exceptional supports to one year and to backdate approvals to the date of initial submission if all required information is included and letters of intent are answered within three days.

In response to questions and comments from Thomas Laurino, Commissioner Morris stated that the one-day turn around for case managers to submit the request for exceptional supports is in place because of the emergency nature of the need. Claudia Johnson, Division Director, Department for Behavioral Health, Developmental and Intellectual Disabilities stated that it is assumed the paperwork necessary would be prioritized for the cases of exceptional support to accommodate the expedited turnaround time.

In response to questions and comments from Amy Staed, Claudia Johnson stated that an administrative regulation change has to be made to alter the provider letter and recipient packet.

Adjournment

There being no further business, the meeting was adjourned at 4:25 p.m.

Substance Use Recovery Task Force Minutes of the 2nd Meeting of the 2020 Interim

August 11, 2020

Call to Order and Roll Call

The 2nd meeting of the Substance Use Recovery Task Force was held on Tuesday, August 11, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll. The minutes from the task force's July 14, 2020 meeting were approved.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Russell Webber, Co-Chair; Senators Johnny Ray Turner, and Max Wise; Representatives Danny Bentley, Joni L. Jenkins, and Lisa Willner.

Guests: Bart Hardin, Director of Government Relations, University of Kentucky; Lisa Cassis, Ph.D, Vice President for Research, Professor, Department of Pharmacology and Nutritional Sciences, University of Kentucky; Sharon Walk, Ph.D, Director, Center for Drug and Alcohol Research, College of Medicine, College of Pharmacy, University of Kentucky

LRC Staff: Ben Payne, and Christina Williams

Substance Use Recovery Programs

Chairman Russell Webber welcomed members and guests to the meeting. Mr. Bart Hardin, Director of Government Relations, University of Kentucky, gave opening remarks and introduced Lisa Cassis, Ph.D, Vice President for Research, Professor, Department of Pharmacology and Nutritional Sciences, and Sharon Walsh, Ph.D, Director, Center for Drug and Alcohol Research, College of Medicine, and College of Pharmacy, both from the University of Kentucky.

Dr. Cassis stated there has been record-breaking growth in research at the University of Kentucky (UK), specifically in the areas of substance use research. A chart was provided that illustrated grants and contracts that have come to UK over the last six years broken down into federal government grants, state government grants, and other sources. Research funding at UK has been growing at a compound annual growth rate (CAGR) of 9% per year from fiscal year (FY) 2015 to FY 2020. In FY 2020, a record breaking \$429.1 million was awarded to UK in grants and contracts for research purposes.

Dr. Cassis stated in 2018, substance use disorder research was declared as a priority area at UK. She added that it is one of seven research priority areas, including neuroscience, energy, cardiovascular diseases, diabetes and obesity, cancer, and the most recently declared research priority area, United In True racial Equality (UNITE). These areas were chosen

because of innovation and discovery potential, the existing institutional strength, and there are experts with a long history of funded research in these areas.

Dr. Cassis stated in priority research areas there has been an establishment of a leadership structure and governance around activities and membership. Research objectives and associated metrics to track success have also been established. She stated there is long-term sustainability of the research and a clear definition of its impact (e.g., a 40% reduction in deaths from opioid overdose). In research areas at UK there is coordinated growth across disciplines, colleges, and academic boundaries. Priority research areas also allow the use of a uniform voice on a problem like substance use disorders, or economic development initiatives that align with Kentucky's most pressing needs and challenges.

Since 2018, there has been extensive growth in grants and contracts within research priority areas. From FY 2015 through FY 2019 there has been a 4.3% CAGR increase in the area of cancer research, a 5.7% CAGR increase in diabetes and obesity research, a 2.4% CAGR increase in cardiovascular research, an 18.4% CAGR increase in neuroscience research, and -0.3 % CAGR decrease in energy research. Substance use research has experienced the largest growth in grants and contracts with a 25.5% CAGR increase in substance abuse research.

Dr. Walsh briefly described the substance use research and treatment activities. She stated participation from substance use researchers across the full spectrum of UK's departments and colleges include participation from departments such as Agriculture, Food, and the Environment, Arts and Sciences, Business and Economics, Communication and Information, Education, Engineering, Medicine, Nursing, Pharmacy, Public Health, and Social Work.

Dr. Walsh discussed the HEALing (Helping to End Addiction Long-term) Communities Study. In September 2018, The National Institutes of Health (NIH) released a funding opportunity to test the immediate impact of implementing an integrated set of evidence-based interventions across healthcare, behavioral health, justice, and other community-based settings to prevent and treat opioid misuse and opioid use disorders (OUD) within highly affected communities. The University of Kentucky was awarded \$87 million. Massachusetts, New York, and Ohio were also awarded funding. The University of Kentucky's project is being conducted in partnership with numerous federal, state, community, public health, criminal justice, behavioral health, and health care partners. The grant application was submitted during Governor Bevin's administration and had a seamless transition under Governor Beshear's administration. A key government official was required for the application, Under Governor Bevin's administration that official was Secretary Adam Meier (2018-2019.) Secretary Eric Friedlander has been the government official under the current Governor

Beshear's administration. Other key partners involved in the HEALing Grant include Van Ingram, Dr. Katie Marks, Dr. Allen Brenzel, Dr. Connie White, Dr. William Ralston, Kentucky State Police, Kentucky Department of Corrections, Kentucky Injury Prevention Center, Kentucky All Schedule Prescription Electronic Reporting (KASPER), Agency for Substance Abuse Policy (ASAP) Boards, Kentucky Board of Pharmacy, Kentucky Pharmacy Association, Kentucky Board of Emergency Medical Services, and others.

Dr. Walsh stated there are 16 Kentucky Healing Community Study (HCS) communities. Of those 16 communities, the Kentucky HCS counties had a total of 764 opioid-related deaths in 2017. The Kentucky HCS had an average rate of 45.7 opioid-related overdose deaths per 100,000, compared to 14.9 per 100,000 for the United States. The HCS communities in Kentucky encompass over 1.8 million people, approximately 41% of the state's population.

Dr. Walsh explained the HCS selection process. She stated there are 120 counties in Kentucky 48 of those counties have greater than or equal to 25 opioid overdose deaths per 100,000. Thirty-five counties are without suppressed data (i.e. greater than or equal to five opioid overdose deaths.) Twenty-eight counties have justice infrastructures such as jails. Twenty-five of those counties have treat infrastructures with a provider licensed to prescribe medication. Nineteen counties have public health infrastructures with syringe service programs. Finally, the 16 counties that were chosen had not already been involved in a major UK intervention project.

There are seven steps in wave one that include; preparation, getting started, getting organized, community profiles and data dashboards, community action planning, implement and monitor, and finally sustainability planning. The second wave of communities will start once wave one communities complete the intervention. Wave one communities implement the intervention for 24 months, during which time wave two communities will provide usual care. At 25 months, wave two communities begin to implement the Communities That Heal (CTH) intervention. CTH is a community-engaged intervention that provides a comprehensive, data-driven community response plan to deploy evidence-based practices across multiple sectors to reduce opioid overdose deaths and associated outcomes. The first CTH intervention component is community engagement.

The second CTH intervention component is Opioid-Overdose Reduction Continuum of Care Approach (ORCCA). The evidence-based practices for ORCCA include opioid overdose prevention education and naloxone distribution (OEND) in high risk populations. Effective delivery of medication for opioid use disorder (MOUD) maintenance treatment, including agonist/ partial agonist medication, and including outreach and delivery to high-risk

populations, and safer opioid prescribing and dispensing are also strategies used.

The third CTH intervention component is a communication campaign. Campaign objectives include an increase in demand for MOUD and naloxone, an increase in MOUD prescribing, and increase access to, and availability of naloxone, and to reduce the high-risk prescribing. Targeting and reducing stigmas for medication use is also an objective.

Dr. Walsh updated the task force on the HEALing Communities study during COVID-19. The HEALing team has continued working with the wave one community coalitions with over 200 in-person or Zoom community meetings since January 2020. Due to the planned release of inmates from local jails due to COVID-19, UK proposed acceleration of the protocol to provide overdose education and naloxone distribution initially targeting the jails. Subsequently the program has moved on to partnering with additional agencies, including syringe service programs, treatment and recovery programs and quick response teams to distribute naloxone and training.

Dr. Walsh stated that there are 133 projects related to substance use disorders that are funded by UK as of FY 2020. There are 69 unique principal investigators. Project topics range widely from drug design and development of novel treatments for substance use disorders and pain, preclinical models, human laboratory, clinical trials, training and education, and population health.

Dr. Walsh stated there are 54 Kentucky counties with increased vulnerability to rapid dissemination of Human Immunodeficiency Virus (HIV) and/or Hepatitis C Virus (HCV) infections among people who inject drugs, and preventive syringe services programs. She added that specific concerns regarding Kentucky counties include dense drug user networks similar to Scott County, Indiana, and a lack of syringe service programs. The Center for Disease Control (CDC) stresses that this is a region-wide problem, and not just a county specific problem.

Dr. Jennifer Havens heads Social Networks among Appalachian People (SNAP). The SNAP program is following over 500 individuals who use drugs over a 10 year or more period. The program characterizes drug use characteristics and the risk for disease transmission and prevalence. From 2008 to 2010 approximately 42.9% of people in her sample set had tested positive for Hepatitis C. In 2018 that figure had risen to 65.8%. Dr. Walsh stated Dr. Havens has done somewhat of a closed study to look at prevention as treatment for Hepatitis C. This was a very unique initiative to develop a model to improve HCV treatment access and delivery in rural areas with few providers and limited access to evidence-based care/harm reduction. This initiative engages all HCV positive Perry County residents in treatment with direct acting antivirals and compare the results to a control county. The CDC and the National Institute

on Drug Abuse (NIDA) supported the launch of the Perry County Syringe Service Program. To date, 151 individuals have been enrolled in the program and 97.3% of those started medication to treat their Hepatitis C. Only about half of those are individuals who are actively using drugs, and 83% of those individuals who started their medications have completed their regimen. Of those individuals who have completed their medication regimen, 97% have achieved sustained viral response (no virus detected at 12 weeks).

Justice Community Opioid Innovation Network (JCOIN) is a cooperative agreement funded by NIH and NIDA under the HEAL initiative. The overall goal of JCOIN is to increase the capacity of the justice system's response to the opioid epidemic. The vision of JCOIN is to increase access to evidence-based treatments for individuals in the criminal justice system, both during incarceration and in the community. The plan is to build a network of researchers, justice administrators, and practitioners. Kentucky is one of 11 JCOIN sites across the United States. The primary goal of JCOIN is to increase initiation and maintenance of medications to treat opioid use disorder, and to reduce opioid relapse and overdose among high-risk justice-involved women in the transition from jail to the community. The secondary goal is to change the systems of care. Kentucky's JCOIN employs telehealth and peer navigation services to increase initiation and retention in treatment. There will be 900 individuals enrolled in the program across nine Kentucky jail sites.

Dr. Walsh stated one national rural opioid initiative is the Kentucky Communities and Researchers Engaging to Halt the Opioid Epidemic (CARE2HOPE). Kentucky is one of eight CARE2HOPE sites funded in the United States. CARE2HOPE is funded by NIDA, CDC, Substance Abuse and Mental Health Services (SAMHSA), and the Appalachian Regional Commission. CARE2HOPE partners with residents of the 12 counties in the Gateway Health District and Kentucky River Health District to build evidence-based, community-rooted public health responses to the epidemics of opioid misuse, overdoses, HCV and HIV. The program includes re-entry health navigation intervention to enroll 1,200 people who are leaving rural jails over the next three years to reduce substance use, overdose risk, and risk behavior and to improve linkage to care.

Another program is the Kentucky Opioid Response Effort (KORE). This effort receives federal funding from SAMHSA and has a state opioid response funding period from May 2017 to September 2020. Currently, the funding is trying to be extended to September 2022. KORE currently provides support for 61 different entities across the state, and the University of Kentucky is one of them. The purpose of KORE is to address the opioid crisis by increasing access to medications for opioid use disorder, reducing unmet treatment need, and reducing opioid overdoses.

The first Bridge Clinic opened in January of 2018 with funding provided by Kentucky and UK Healthcare with the objective to provide on-demand treatment access for those suffering with opioid use disorder and provide easy linkage to outpatient care from the UK Emergency Department and UK hospitals. From January 2018 to the present, there have been 1,111 patients seen and 450 of those began medication. KORE has expanded the Bridge Clinic model to St. Elizabeth's, University of Louisville, Appalachian Regional Healthcare, Baptist Health (Lexington and Corbin), and Norton.

Addiction Consult and Education Services (ACES) was launched in October of 2018 with funding from UK HealthCare and Kentucky. Since its launch, there have been 1,314 consults, with 702 initiating in hospital medication treatment. After discharge, 373 referrals from ACES to the Bridge Clinic were made with 190 of those referrals keeping their first appointment.

Perinatal Assistance and Treatment Home (PATHways) is another program that expands opioid use disorder treatment access to perinatal women through telemedicine in 12 rural and urban counties, perinatal case management, multi-specialty team care, and technical assistance to Appalachian providers. Since 2018 there have been 306 mothers enrolled in PATHways and 82% of them have initiated medication for opioid use disorder.

Beyond Birth is a program that provides opioid use disorder treatment to postpartum women and improves the safety of children through outreach to mothers with infants in the NICU, comprehensive wraparound services, coordination with the Department for Community Based Services (DCBS), developmental pediatrics, and vocational assistance. Expanded services through Beyond Birth began in July 2020.

As pharmacies are partnering to develop the community-pharmacy care delivery model, they are being trained in Vivitrol administration. Collaborations are being facilitated between pharmacists, and treatment providers and students are being trained in evidence-based practices. Buprenorphine waiver training is being administered, objective structured clinical exams for a patient with evidence of opioid use disorder is being developed, and an interprofessional education rotation for medical and pharmacy students is being piloted.

Dr. Walsh stated the expanding capacity of the UK Psychiatry's Supportive Medication Assisted Recovery (SMART) Program provides emergent assessments, counseling and psychiatric care, group therapy, and peer support. The expansion launched in January 2019, and since that expansion, 212 individuals have enrolled in the SMART Clinic that includes the use of medication for opioid use disorder. UK Specialty Clinics also continue to provide treatment for infectious diseases associated with injection drug use integrated with the treatment for opioid use disorder, counseling, peer support,

case management, and recovery services such as transportation.

Dr. Walsh stated that building the substance use disorder workforce capacity in the Appalachia region continues to be a priority. Building the workforce capacity is funded by the Health Research Services Administration and was launched September 1, 2019 with a three-year budget of \$1.35 million. The Principal Investigator is Dr. Kalea Benner, College of UK Social Work. It is mandated that 60% of the funds go directly to support trainees. The objective of building substance use disorder workforce capacity in the Appalachia region is to increase access to (and numbers of) social workers and counseling psychology practitioners trained in substance misuse screening, intervention, and treatment services in Appalachia. The plan is to train 54 Master of Social Work, and 12 doctoral-level counseling psychology students in practicums in substance use prevention, intervention and treatment programs, substance use specific training, and telehealth training. To date, 16 students were supported in the past year. Several of those students who graduated are employed and working across Kentucky. Practicum sites include the communities of Ashland, Berea, Clay City, Georgetown, Hazard, Lexington, Mount Sterling, Prestonsburg, Richmond, and Winchester.

In summary, Dr. Walsh stated UK is competing at the highest level for research dollars from NIAH, SAMHSA, and other agencies, while conducting research across the translational continuum. She stated UK is expanding the reach across the state to conduct critical health service research in Kentucky Communities. Rapid expansion of inpatient and clinical services to address increasing patient needs at UKHealthCare and assisting others to develop care models is the main initiative. Dr. Walsh stated that most of the initiatives arose from critical partnerships between the state of Kentucky, UK, and UKHealthcare.

In response to a question asked by Representative Bentley, Dr. Walsh stated it would be hard to know if efforts were being duplicated through the vast array of programs offered because there are so many different funding streams. She stated there is a possibility of an overlap. She added there is a program called HUD where different funded programs are able to get together quarterly to discuss progress in the initiatives and funding so that resources are being leveraged wisely, funding is not being duplicated, and gaps are being filled.

In response to a second question asked by Representative Bentley, Dr. Walsh stated there has been a study done that states a former inmate is seven times more likely to die of an overdose in the first two weeks after discharge than they are the sixth and seventh week after discharge. She stated there needs to be a plan in place for these inmates to be able to have stable housing, gainful employment, etc. She reiterated that a lot of the work that is occurring is focusing on workforce development for these inmates

who have substance use disorders.

In response to a question asked by Co-Chair Alvarado, Dr. Walsh stated that if a jail were to close in one of the 16 HEALing Grant funded counties, which would not affect their standing in the grant.

Co-Chair Alvarado called attention to the \$89 million in Health Resources and Services Administration (HRSA) grants that had been awarded to 89 grantees. He stated six of those grants were awarded to Kentucky. Corbin, Richmond, Jamestown, West Liberty, Paducah, and Morehead were the recipients of the grant.

In response to a question asked by Co-Chair Alvarado, Dr. Walsh stated she would like to convene a group to create written recommendations to distribute for Kentucky to be able to reduce barriers for opioid use disorder treatment. She stated three things she could think of that would aid treatment would be reimbursement for providers, adequate Medicaid coverage, and transportation to treatment.

In response to a question asked by Co-Chair Alvarado, Dr. Walsh stated that historically for opioid use disorder patients, telehealth was not allowed as a treatment aid, but since the pandemic, the restrictions did change in order to keep people in care. She expressed her hope for allowing that change to continue after the pandemic is resolved. She stated there are studies underway to evaluate the use of digital therapeutics for the HEALing communities study.

Representative Willner expressed her concern for individuals becoming justice involved because of their substance use disorder instead of receiving treatment for the disorder before becoming justice involved.

In response to a question asked by Chairman Webber, Dr. Walsh stated HOPE2CARE, and JCOIN have infectious disease components to their program.

Chairman Webber reminded the task force that the next meeting would be September 8, 2020 at 3:00 P.M. in room 171, and that videoconferencing would continue to be available to attend that meeting. With no further business to come before the task force, Chairman Webber adjourned the meeting at 4:07 P.M.

Tobacco Settlement Agreement Fund Oversight Committee Minutes of the 3rd Meeting of the 2020 Interim

August 13, 2020

Call to Order and Roll Call

The 3rd meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, August 13, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair;

Representative Myron Dossett, Co-Chair; Senators Matt Castlen, Paul Hornback, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Kim King, Phillip Pratt, Rick Rand, Brandon Reed, and Dean Schamore.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; Tamara Sandberg, Executive Director, Feeding Kentucky; and Martin Richards, Executive Director, Community Farm Alliance.

LRC Staff: Nathan Smith, Kelly Ludwig, and Rachel Hartley.

Report on the projects considered for funding at the July meeting of the Agricultural Development Board

Warren Beeler provided an update on the Meat Processing Investment Program (MPIP). The Agricultural Development Board (ADB) allocated \$1 million in state funds to MPIP and has approved \$597,782.

Bill McCloskey described the ADB projects for July. Mr. McCloskey highlighted programs including the County Agriculture Investment Program (CAIP), Deceased Farm Animal Removal, Next Generation Farmer, Shared-Use Equipment Program, and the Youth Agriculture Incentive Program (YAIP).

The requested program amendments discussed included:

Spencer County Conservation District requested to change the maximum producer limit from \$2,000 to \$2,800 and change the minimum score from 50 to 44 for CAIP. The board recommended approval.

Metcalf County Conservation District requested an additional \$177,387 in Metcalf County funds for CAIP. The board recommended approval, which would bring the program total to \$412,387.

The projects discussed included:

Bill and Teresa Flaughter were approved for up to \$58,999 in state funds to implement water harvesting, pond renovations, and rotational grazing on their beef cattle operation.

The Louisville Parks Foundation was approved for up to \$2,500 in Jefferson County funds to develop a community garden in Jefferson County.

The University of Kentucky Research Foundation was approved for up to \$352,145 in state funds over two years to support the Viticulture Extension Program.

Marksbury Farm Foods was approved for up to \$250,000 in state funds to upgrade its slaughter and packaging capacity.

Bluegrass Area Development District was approved for up to \$5,657 in state and multiple county funds to conduct a broadband feasibility study.

Garrison Meat Processing was approved for up to \$37,500 in state funds to purchase and install a walk-in cooler and holding pens for the custom processing facility.

Hampton Meat Processing was approved for up to \$37,500 in state funds to upgrade refrigeration space and boning areas for its processing facility.

Dennis Ray Wise was approved for up to \$24,375 in state funds to purchase and install a patty attachment for the custom processing facility.

Carter County Agriculture Advancement Council was denied \$148,000 for CAIP. The board denied the request, because county funds were not committed to the application.

Farms to Food Banks

Tamara Sandberg stated there are 190,600 children that experience food insecurity within Kentucky. The counties with the highest child food insecurity rates are Magoffin, Breathitt, Harlan, Knott, and Clay. One out of six seniors is affected with food insecurity, which is the highest rate in the nation. Overall, one out of seven Kentuckians is affected with food insecurity. Of those Kentuckians that are food insecure, 33 percent do not qualify for federal nutrition programs.

Over 270,000 Kentuckians were food insecure as of July 21, 2020, due to COVID-19. The food banks are expecting a 40 percent increase in demand in the next 12 months. There were changes to protocols due to COVID-19 including: scheduling appointments for pick up, off-site sorting, and drive-through distribution.

Financial support from the legislature, the Department of Agriculture, and Kentucky Farm Bureau is helping Feeding Kentucky to meet the needs of hungry Kentuckians.

Farms to Food Banks receives fresh produce from farmers in need of a market and delivers produce to food banks. Almost three million pounds of Kentucky-grown produce were distributed throughout Kentucky in 2019. In 2019, there were 336 farmers that participated with an average payment per farmer of \$1,273.

Kentucky Kids Eat focuses on access to healthy foods 365 days a year by providing funding, training, and support for schools and nonprofits. There were 102 schools and nonprofits awarded 55 grants in the summer of 2019.

The Kentucky-Grown Vegetables Incentive Program (K-VIP), which is funded by the Agricultural Development Board, creates a financial incentive for sponsors to include Kentucky-grown fruits and vegetables in summer meals. For every \$2 a participating sponsor spends at a Kentucky farm, K-VIP will reimburse them for \$1.

Kentucky Double Dollars

Martin Richards stated the Farmers Market

Support Program (FMSP) and Kentucky Double Dollars (KDD) work together to increase sales and income to Kentucky farmers, leverage federal food and nutrition program funds, and increase access to fresh and healthy local food.

FMSP provides Kentucky farmers markets with the tools, resources, and networks to create profitable and sustainable markets. KDD incentivizes the purchase of Kentucky-produced fruits, vegetables, meat, eggs, and dairy by those on food assistance programs.

In 2019, 1,111 farmers from 89 counties participated in Kentucky Double Dollars. There has been a 9.5 percent increase in farmers participating since 2018.

FMSP has responded to COVID-19 by distributing \$5,000 in emergency funds to 25 farmers markets, creating a guide for farmers markets operations during COVID-19, and offering webinars through the University of Kentucky to assist the farmers markets in establishing protocols.

KDD began working with the University of Kentucky's Community and Economic Development Initiative of Kentucky (CEDIK). CEDIK performed an economic analysis of KDD and determined the economic impact was \$436,918 in 2019, which is a four to one return on investment. The Kentucky Agricultural Development Fund contribution had approximately a seven to one return on investment.

Due to COVID-19, many markets are opening late or not opening. There has been an increase in the usage of the Supplemental Nutrition Assistance Program and the Pandemic Electronic Benefit Transfer at farmers markets. There has also been an increase in the need for meat, eggs, and dairy due to disruptions in the supply chains.

In 2020, KDD started a pilot retail program in eastern Kentucky at the Independent Grocers Alliance (IGA) in Manchester. There are discussions to add two additional IGAs in eastern Kentucky.

The current Kentucky Agricultural Development Fund grant ends in December 2020. The current Gus Schumacher Nutrition Incentive Program grant ends in 2021. KDD currently requires two full-time staff to administer the program, but the grant only covers one employee. The other employee is paid through the general support fund.

In the most recent farm bill, the United States Congress increased the amount of funding available for the incentive programs. Kentucky can request up to \$8.5 million in federal funds and must provide a 50 percent matching contribution.

In response to Representative King, Mr. Richards stated there are 167 farmers markets in Kentucky, and they are not in every county. Farmers markets need a business plan to grow the market through collaboration with the community.

There being no further business, the meeting was adjourned.

2021 Prefiled Bills

BR22 - Representative Attica Scott, Representative Charles Booker, Representative George Brown Jr, Representative Kelly Flood, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Mary Lou Marzian, Representative Reginald Meeks, Representative Patti Minter, Representative Josie Raymond, Representative Buddy Wheatley, Representative Lisa Willner
(8/13/2020)

AN ACT relating to public protection.

Create new sections of KRS Chapter 455 to require peace officers to give notice before entering premises to execute a search warrant; require officers to activate body-worn cameras when serving a warrant; create processes for enforcement; allow disciplinary actions for non compliance; create a new section of KRS Chapter 15 to require officers to activate body-worn cameras when engaged in law enforcement activity; establish rebuttable presumptions in investigative or legal proceedings regarding unrecorded conduct of statements; amend KRS 61.168 to provide for release of recordings in specific circumstances and allow waiver of privacy concerns; amend KRS 344.450 to expand scope of permissible suits against state and local governments and limit defenses; amend KRS 15.420 to define “deadly incident”; amend KRS 154.440 to require law enforcement agencies to create policies requiring mandatory drug and alcohol testing for officers involved in a deadly incident; amend various sections to conform; provide that Sections 1 to 8 shall be known as “Breonna’s Law”.

(Prefiled by the sponsor(s).)

BR29 - Representative Josie Raymond
(9/16/2020)

AN ACT relating to paid parental leave.

Create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and to establish requirements for the paid leave of absence; amend KRS 18A.025 and 18A.110 to conform

(Prefiled by the sponsor(s).)

BR41 - Senator Matt Castlen
(8/6/2020)

AN ACT relating to emergencies.

Amend KRS 39A.090 to limit the effective dates of executive orders issued by the Governor to 30 days unless an extension is approved by the General Assembly, and prohibit the Governor from issuing a new executive order relating to the same emergency without the approval of the General Assembly; amend KRS 39A.100 to allow an executive order relating to elections to remain in effect regardless of the time limitations in KRS 39A.090; amend KRS 39A.180 to limit administrative regulations promulgated under KRS 39A.180 to 30 days unless an extension is approved by the General Assembly; amend KRS 214.020 to limit administrative regulations promulgated under KRS 214.020 to 30 days unless an

extension is approved by the General Assembly; amend KRS 241.090 to limit the emergency jurisdiction and peace officer status of administrators and investigators under the alcohol beverage control board to the limitations in KRS 39A.090; amend KRS 315.500 to prevent the time limitations of KRS 39A.090 from affecting the emergency distribution of pharmaceuticals; amend KRS 39A.374 to prevent the time limitations of KRS 39A.090 from affecting the limitations on increased prices during an emergency.

(Prefiled by the sponsor(s).)

BR47 - Representative Steve Sheldon
(7/31/2020)

AN ACT relating to governmental emergencies.

Amend KRS 39A.100 to require the Governor to call an extraordinary session of the General Assembly simultaneously with any declaration of emergency in order for the declaration to be valid for 15 days unless changed by the General Assembly; prohibit the Governor from declaring a new emergency based on the same facts upon the expiration of the initial declaration; prohibit the Governor from suspending statutes or administrative regulations unless the subject matter is enumerated under Chapter 39A; amend KRS 39A.280, 315.500, and 367.374 to conform.

(Prefiled by the sponsor(s).)

BR51 - Representative Danny Bentley, Representative Derek Lewis
(9/1/2020)

AN ACT relating to prescription insulin.

Amend KRS 304-17A.148 to cap the cost-sharing requirements for prescription insulin at \$25 per 30 day supply; amend KRS 18A.225 to require the Kentucky Employee Health Plan to comply; EFFECTIVE January 1, 2022.

(Prefiled by the sponsor(s).)

BR52 - Representative Danny Bentley
(9/1/2020)

AN ACT relating to controlled substances.

Create a new section of KRS Chapter 218A to require a practitioner to offer a prescription for naloxone hydrochloride or another drug approved by the Food and Drug Administration for the complete or partial reversal of opioid depression when prescribing an opioid drug and to provide education on overdose prevention and on use of an opioid depression reversal drug; amend KRS 218A.172 to delete reference to Schedule III controlled substances containing hydrocodone and to add issues that a practitioner is required to discuss with a patient prior to prescribing or dispensing a controlled substance to a patient; amend KRS 205.529, 218A.205, and 304.17A-165 to delete reference to Schedule III controlled substances containing hydrocodone.

(Prefiled by the sponsor(s).)

BR56 - Representative Danny Bentley
(9/1/2020)

A CONCURRENT RESOLUTION calling for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes.

Urge federal policymakers to expedite research regarding the safety and efficacy of the use of marijuana for medical purposes.

(Prefiled by the sponsor(s).)

BR57 - Representative Patti Minter
(6/2/2020)

AN ACT relating to consumer protections in health insurance.

Create a new section of Subtitle 17A of KRS Chapter 304 to define terms; establish health-status eligibility rules for health benefit plans in any market; prohibit requiring a greater premium or contribution, or different benefits coverage, on the basis of any health status-related factor; prohibit pre-existing condition exclusions; require coverage for essential health benefits; prohibit insurers from establishing lifetime or annual limits on essential health benefits; prohibit adjustment of premium or contribution amounts for group health plans on the basis of genetic information; require the commissioner of insurance to define essential health benefits; establish when the section controls; establish opt-in for health plans not otherwise required to comply with requirements of section; establish when section becomes effective; establish that section applies to health benefit plans and health plan opt-ins on or after the effective date; amend KRS 304.17A-096, 304.17A-097, 304.17A-200, 304.17A-220, 304.17A-230, 304.17A-250, 304.17A-430, 304.17B-015, 304.17B-019, 304.18-114, and 304.18-120 to conform; amend KRS 18A.225 to require the state employee health plan to comply with Section 1 of the Act.

(Prefiled by the sponsor(s).)

BR61 - Representative Kimberly Moser, Representative Deanna Frazier, Representative Kim Banta
(9/17/2020)

AN ACT relating to mental health parity.

Amend KRS 304.17A-660 to define “classification of benefits” and “nonquantitative treatment limitation”; amend KRS 304.17A-661 to modify mental health parity requirements; require parity coverage for nonquantitative treatment limitations and medical necessity criteria; require compliance with nonquantitative treatment limitations set forth in federal law; require insurers to submit annual reports relating to the insurer’s compliance with mental health parity requirements; amend KRS 304.17A-669 to remove exemptions; EFFECTIVE January 1, 2022.

(Prefiled by the sponsor(s).)

BR62 - Representative Kimberly Moser
(9/17/2020)

AN ACT relating to the Advisory Council for Medical Assistance.

Amend KRS 205.540 to add one representative of a recognized consumer advocacy group representing persons reentering society following incarceration to the Advisory Council for Medical Assistance; amend KRS 205.590 to amend the membership of the Technical Advisory Committee on Consumer Rights and Client Needs, amend the membership of the Technical Advisory Committee on Behavioral Health, and to create a Technical Advisory Committee on Persons Returning to Society from Incarceration to act in an advisory capacity to the Advisory Council for Medical Assistance.
(Prefiled by the sponsor(s).)

BR66 - Representative Lynn Bechler
(6/19/2020)

AN ACT relating to emergencies.

Amend KRS 39A.090 to limit the governor's emergency orders to 28 days unless approved by the General Assembly; limit the local chief executive's emergency orders to 28 days unless approved by the local government legislative body.
(Prefiled by the sponsor(s).)

BR68 - Representative Patti Minter
(6/4/2020)

AN ACT relating to Women Veterans' Day.

Create a new section of KRS Chapter 2 to designate June 12 as Women Veterans' Day in the Commonwealth.
(Prefiled by the sponsor(s).)

BR70 - Representative James Tipton, Representative Derek Lewis
(7/9/2020)

AN ACT relating to state employee compensation.

Amend KRS 18A.355 to provide for an annual cost of living adjustment for state employees with the cost of living adjustment being the average of the consumer price index for the two calendar years prior to the biennium and not less than zero; amend KRS 18A.110 and 48.130 to conform; EFFECTIVE JULY 1, 2022.
(Prefiled by the sponsor(s).)

BR73 - Representative Jim Gooch Jr.
(7/10/2020)

AN ACT relating to emergencies.

Amend KRS 39A.090 to limit the effective dates of emergency executive orders issued by the Governor to thirty days unless extended by the General Assembly; amend KRS 39A.100 to require executive orders suspending or delaying an election to remain in effect unless changed by an action of the General Assembly; amend KRS 367.374 to allow the Governor only one additional fifteen day extension period.
(Prefiled by the sponsor(s).)

BR77 - Representative Attica Scott
(8/26/2020)

AN ACT relating to implicit bias in perinatal care.

Amend KRS 211.680 to expand the scope of the legislative intent and findings; create new sections of KRS Chapter 211 to define terms; require licensed health facilities under KRS Chapter 216B to provide each patient with written information regarding the patient's rights and implement an evidence-based implicit bias program for all health providers involved in the perinatal care of patients within those facilities; require the Department for Public Health to track data on maternal death and severe morbidity.

(Prefiled by the sponsor(s).)

BR86 - Representative Kim Banta, Representative Kevin Bratcher, Representative Derek Lewis
(7/8/2020)

AN ACT relating to Medicaid eligibility for individuals diagnosed with metastatic breast cancer.

Create a new section of KRS Chapter 205 to require the Department for Medicaid Services to request approval of a Medicaid state plan amendment from the Centers for Medicare and Medicaid Services that exempts individuals who have been diagnosed with metastatic breast cancer from meeting spend-down requirements in order to be eligible for Medicaid services within 30 days of the effective date of this Act.

(Prefiled by the sponsor(s).)

BR96 - Senator Christian McDaniel
(6/11/2020)

AN ACT relating to statues and making an appropriation therefor.

Require the Department for Facilities and Support Services within the Finance and Administration Cabinet to relocate the Jefferson Davis statue from the Capitol Rotunda to either the Thomas D. Clark Center for Kentucky History or the Jefferson Davis Historic Site; require the Department for Facilities and Support Services to place a statue of United States Navy diver and Kentucky native Carl Brashear in the Capitol Rotunda; APPROPRIATION.

(Prefiled by the sponsor(s).)

BR98 - Senator Christian McDaniel
(7/9/2020)

AN ACT proposing to amend Section 36 of the Constitution of Kentucky relating to time and place of meetings of the General Assembly.

Propose to amend Section 36 of the Constitution of Kentucky to require the General Assembly to convene if the Governor declares a state of emergency in the Commonwealth, and the state of emergency exceeds thirty days in the aggregate of a calendar year during which time the General Assembly is not in regular session. The subjects to be considered by the General Assembly shall be the Governor's executive orders and directives issued pursuant to and relevant to the executive order declaring a state of emergency; ballot language; submit to voters for ratification or rejection.

(Prefiled by the sponsor(s).)

BR99 - Representative Lisa Willner, Representative Kim Banta
(8/25/2020)

AN ACT relating to youth mental health protection and declaring an emergency.

Create a new section of KRS Chapter 210 define sexual orientation and gender identity change efforts, mental health professional, and public funds; to prohibit mental health professionals from engaging in sexual orientation and gender identity change efforts with a person under eighteen (18) years of age or a person who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510; require violations to be subject to board discipline; prohibit public funds from being used for sexual orientation and gender identity change efforts; create a new section of KRS Chapter 211 to require the Department for Public Health to develop, produce, and disseminate educational materials regarding sexual orientation and gender identity change efforts; permit the cabinet to contract for the educational materials; add the short title "Mental Health Protection Act"; EMERGENCY.

(Prefiled by the sponsor(s).)

BR102 - Representative Danny Bentley
(9/16/2020)

AN ACT relating to construction or demolition waste disposal.

Amend KRS 224.40-120 to allow an off-site construction or demolition waste disposal permittee to request an increase in the size of the permitted area to no more than 2 acres total if the applicant is compliant with the permit requirements for the currently permitted area and complies with all permit requirements for the newly permitted area, including posting an additional bond for the newly permitted area.

(Prefiled by the sponsor(s).)

BR117 - Representative Kim Banta
(9/16/2020)

AN ACT relating to mental health and making an appropriation therefor.

Amend KRS 210.365 to make firefighters eligible for crisis intervention team training along with law enforcement officers currently permitted such training; amend KRS 95A.220 with an appropriation of \$1,250,000 each fiscal year for treatment of full-time and volunteer firefighters affected by post-traumatic stress injury (PTSI) and/or post-traumatic stress disorder (PTSD); provide that legitimate personnel actions are not compensable; establish the reference for definitions of PTSD and PTSI; require diagnosis by psychiatrist, psychologist, or counselor; allow certain mental health treatment benefits upon firefighter seeking treatment; APPROPRIATION.

(Prefiled by the sponsor(s).)

BR124 - Representative Joe Graviss
(6/19/2020)

AN ACT relating to state holidays.

Amend KRS 2.110 to remove Robert E. Lee Day, Confederate Memorial Day, and Jefferson Davis Day as state holidays.

(Prefiled by the sponsor(s).)

BR127 - Representative Joe Graviss
(6/19/2020)

AN ACT relating to state holidays.

Amend KRS 2.110 to add the nineteenth of June as a state holiday commemorating Juneteenth National Freedom Day.

(Prefiled by the sponsor(s).)

BR130 - Representative Savannah Maddox, Representative Joseph Fischer, Representative Mark Hart, Representative Thomas Huff, Representative Kim King, Representative Derek Lewis, Representative Bobby McCool, Representative Richard White
(7/7/2020)

AN ACT relating to emergencies and declaring an emergency.

Create a new section of KRS Chapter 39A to define “emergency order”, set parameters for the issuance of an emergency order, and provide for legal action to enforce the parameters; amend Section 39A.090 to apply the emergency order definition to executive orders issued under KRS Chapters 39A to 39F; amend KRS 39A.100 to require that emergency orders issued by the Governor contain an expiration date not greater than 14 days, with extension only as provided by the General Assembly, require that emergency orders issued by a chief executive of a local government contain an expiration date of not greater than 14 days with extension only as provided by the legislative body of the local government, move associated election deadlines if the date of the election is moved, prohibit the suspension of any laws, and specify that no governmental entity may prohibit or severely limit in-person worship; amend KRS 194A.025 to specify that the Secretary for Health and Family Services may not take any action contrary to the specific limitations on actions by the cabinet in the event of infectious or contagious diseases; amend KRS 214.020 to limit actions taken by the Cabinet for Health and Family Services in the event of infectious or contagious disease to 21 days unless extended or changed by the General Assembly, and prohibit similar or related actions taken to extend the time limitation; name the Act the “Ensuring Basic Checks and Balances and Basic Liberties During Emergencies Act; EMERGENCY.

(Prefiled by the sponsor(s).)

BR139 - Representative Joe Graviss
(7/14/2020)

AN ACT relating to on-site sewage disposal systems.

Amend KRS 211.350 to require the Department for Public Health to notify property owners with on-site sewage disposal systems by mail every two years of the need to maintain the system; require the department to conduct an information campaign to increase public awareness at least once every two years; require the department to promulgate a regulation to outline policy for health departments to maintain a list of properties serviced by on-site sewage disposal systems.

(Prefiled by the sponsor(s).)

BR140 - Representative Bobby McCool
(8/20/2020)

AN ACT relating to welding safety.

Create a new section of KRS Chapter 198B to establish requirements for projects requiring structural steel welding such as certification of welders and certified inspectors; provide definitions; EFFECTIVE January 1, 2022.

(Prefiled by the sponsor(s).)

BR141 - Representative Joe Graviss
(7/14/2020)

AN ACT relating to cannabidiol products.

Create a new section of KRS Chapter 217.005 to 217.215 to establish labeling requirements for cannabidiol products.

(Prefiled by the sponsor(s).)

BR146 - Representative Joe Graviss
(7/14/2020)

AN ACT relating to public water and wastewater.

Create new sections of KRS Chapter 74 to define “appointing authority,” “board,” “commissioner,” “governing body,” “joint commissioner,” “joint water commission,” “public service commission,” “public water or wastewater system,” “water association”, and “water district”; establish eligibility requirements for members of a water district, water association, and joint water commission; require online training and continuing education hours for water commissioners; require the Kentucky Public Service Commission to develop best management practices for governing bodies of public water and wastewater utilities; establish penalties for failure to meet training and eligibility requirements; create new sections of Subchapter 70 of KRS Chapter 224 to establish the Public Water and Wastewater Working Group; identify the members and responsibilities of the working group; allow for the creation of stakeholder advisory groups; require the group to report to the Legislative Research Commission by November 1 of each year and develop methods to identify failing public water and wastewater utilities; create a Kentucky Public Water and Wastewater System Protection Panel and name executive branch members of the panel; require the panel to develop metrics to identify systems at risk of insolvency, develop a priority list for intervention by the panel, and promulgate administrative regulations to develop comprehensive criteria for sanctions against governing bodies at risk of failure; identify remedies for failing system and interventions; amend KRS 65.007 to add misfeasance and nonfeasance to reasons for removal by an appointing authority; amend KRS 74.012 to clarify entities and conform to definitions; amend KRS 74.020 to clarify definitions and require commissioners to comply with initial and continuing education; increase initial hours from six to nine; require twelve hours of continuing education every three years; amend KRS 74.025 to allow removal for failure to complete training; amend KRS 74.030 to change reference from commission to board to conform with chapter definitions; amend KRS 74.040 to establish requirements for the chief executive officer and update duties to include financial and water loss audit, rate and operations review, and infrastructure improvement plan and conform definitions; amend KRS 74.080 to update board duties and responsibilities regarding rates, procedures, audits, and planning; allow the commission to

review rates on its own motion and require rate adjustment for full cost recovery; amend KRS 74.100 to require a comprehensive infrastructure improvement plan and conform definitions; amend KRS 74.110 to require notice to the commission when annexing or striking district territory; amend KRS 74.177 to clarify distinction between water district and agricultural district; amend KRS 74.240 to update requirements of the district and require qualified infrastructure improvement plan filed and approved by the commission; amend KRS 74.050, 74.070, 74.280, 74.090, 74.120, 74.130, 74.140, 74.150, 74.160, 74.180, 74.190, 74.200, 74.220, 74.290, 74.300, and 74.330 to conform definitions; amend KRS 74.361 to authorize the commission to investigate merger of water districts after repeated water loss or failure to perform audits; amend KRS 74.370 to clarify the commission’s authority over water districts; amend KRS 74.395 to allow recovery through a surcharge for improvements designed to reduce water loss and specify range over 15 percent; require improvement plan and water loss audit be submitted for surcharge; amend KRS 74.430, 74.440, 74.460, 74.470, 74.480, 74.490, 74.500, 74.510, 74.520, and 74.990 to clarify distinction between joint water commissions and joint commissioners; amend KRS 74.450 to establish eligibility to serve as joint commissioner; amend KRS 91A.040 to require the auditor to obtain a copy of an audit performed on any public water or wastewater system owned by the city; include in the audit report whether the city is compliant in performing the audit and report to Department for Local Government and Kentucky Infrastructure Authority if noncompliant; amend KRS 96.172 to establish eligibility to serve on municipal board of public utilities; amend KRS 96.173 to require expenses incurred to be prudent and reasonable in order to be payable from revenues; amend KRS 96.176 to require financial practices to be consistent with best management practices developed by the Kentucky Public Service Commission; amend KRS 96.181 to require board finances to be consistent with best management practices; amend KRS 96.182 to restrict use of rate receipts for anything not related to the provision of service by the electric and water plant; amend KRS 96.190 to require initial training and continuing education; amend KRS 96.200 to require conformity to best management practices; amend KRS 96.240 to establish requirements for appointees to board of waterworks; amend KRS 96.320 to establish requirements for appointees to cities owning waterworks; amend KRS 96.351 to establish qualifications for members of waterworks commission and waterworks and sewerage commission.

(Prefiled by the sponsor(s).)

BR147 - Representative Joe Graviss
(7/8/2020)

AN ACT relating to soil conservation and making an appropriation therefor.

Create new sections of KRS Chapter 262 to establish a Healthy Soils Program and a Healthy Soils Program fund in the Department for Natural Resources, Division of Conservation; require the department to provide technical advice and assistance and assist with soil health assessments and soil health plans; require the commissioner to approve applications for grants and other types of financial assistance under the Healthy Soils Program; authorize the department to promulgate administrative regulations to implement the

Healthy Soils Program and the Healthy Soils Program fund; amend KRS 146.100 to require the director of the Division of Conservation to have experience in healthy soil practices; amend KRS 224.71-110 to require the Agriculture Water Quality Authority to promote soil restoration, include an organic agriculture organization among appointments to the authority and add healthy soil practices as a committee; amend KRS 262.010 to define “healthy soil practices,” “soil health,” “soil health assessment,” and “watershed health”; amend KRS 262.020 to add restoration, biological diversity, watershed health, and healthy soil practices to the purpose of soil and water conservation districts; amend KRS 262.748 and 262.778 to conform; APPROPRIATION.

(Prefiled by the sponsor(s).)

BR149 - Representative Joe Graviss
(7/14/2020)

AN ACT relating to actuarial analysis on retirement bills.

Amend KRS 6.350 to establish additional requirements for the completion of the actuarial analysis required for bills pertaining to state-administered retirement systems; specify additional requirements projecting costs/savings over a 30 year period rather than 20 years, completing the analysis in a format established by the Legislative Research Commission, and requiring the front page of the analysis to include summary information; provide that Legislative Research Commission shall not transmit a request for analysis unless authorized by a bipartisan working group consisting of 4 members of the General Assembly, but that nothing shall prevent the systems from obtaining an analysis at their own discretion on bills that have been filed, prefiled, or released by the sponsor.

(Prefiled by the sponsor(s).)

BR152 - Representative Terri Branham Clark
(7/14/2020)

AN ACT relating to state employment offices.

Amend KRS 151B.285 to mandate that public employment offices be located in specified locations.

(Prefiled by the sponsor(s).)

BR153 - Representative Matthew Koch
(6/30/2020)

AN ACT relating to property taxes for veteran service organizations.

Create a new section in KRS Chapter 132 to exempt veteran service organizations from ad valorem taxation if over 50 percent of the organization’s annual net income is expended on behalf of veterans and other charitable causes; amend KRS 132.010 to define “veteran service organization”; apply to property assessed on or after January 1, 2022.

(Prefiled by the sponsor(s).)

BR157 - Representative Joe Graviss
(8/19/2020)

AN ACT relating to election districts and making an appropriation therefor.

Create new sections of KRS Chapter 5 to establish the Advisory Redistricting Commission, which shall be composed of members appointed by the General Assembly and members of the public at large; define terms; establish commissioner pay, conditions, powers, and duties; provide that commissioners’ terms correlate with obligations of each census cycle; establish the conditions, powers, and duties of the commission; require the commission to draft redistricting plans for legislative and congressional districts, with parameters prescribed; establish standards to be followed by the commission for commissioners who develop plans; require the commission to submit its redistricting plans to the Legislative Research Commission; require the General Assembly to consider the commission’s plans; allow the General Assembly to enact or reject the plans of the commission by a date certain or to return to the commission for adjustment; provide that if the General Assembly does not enact the plans, the plans shall be returned to the commission, which may incorporate changes requested by the General Assembly, but shall not be required to incorporate changes; require the commission to submit to the General Assembly new redistricting plans for enactment at a date certain; allow General Assembly to enact its own redistricting plans after a date certain; provide for penalties and fine upon conviction of persons attempting to influence, or commissioners accepting influence, per the duties of the commission; include severability clause and delay clause; amend KRS 5.005 to remove the Secretary of State being named as a defendant in any action challenging the constitutionality of any legislative district and replace with the Advisory Redistricting Commission being named the defendant; provide that the Act may be cited as the “Fair Maps Act.”

(Prefiled by the sponsor(s).)

BR158 - Representative Joe Graviss
(7/14/2020)

AN ACT relating to transparency in campaign finance.

Amend KRS 121.015 to define “unauthorized campaign committee”; amend KRS 121.190 to include public disclosure requirements for Internet announcements that expressly advocate for the election or defeat of political candidates or group of candidates; expand the class for public disclosure requirements of paid political advertising and announcements; amend KRS 121.210 to update the statutory reference of unauthorized campaign committees and to provide reporting requirements to the Kentucky Registry of Election Finance; state that this legislation may be cited as the “Campaign Fund Disclosure and Transparency Act of 2021.”

(Prefiled by the sponsor(s).)

BR159 - Representative Joe Graviss
(8/19/2020)

AN ACT relating to a tax credit for volunteer firefighters.

Create a new section of KRS Chapter 141 to establish a \$1,000 refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit; amend KRS 131.190 to allow reporting.

(Prefiled by the sponsor(s).)

BR160 - Senator Phillip Wheeler
(7/9/2020)

AN ACT relating to off-highway vehicles and making an appropriation therefor.

Create a new section of KRS Chapter 189 to define the terms “off-highway vehicle,” “local government,” and “regional authority”; allow a local government that is located within the boundary of a regional authority, to pass an ordinance allowing for the operation of off-highway vehicles (OHVs) on a roadways under local government jurisdiction and state roadways approved by the Transportation Cabinet; allow a local government to petition the Transportation Cabinet to include state-maintained roadways located within the local government’s jurisdiction, for OHV use under local ordinance; prohibits OHV use on fully controlled access highways; outlines OHV ordinance requirements; allow the local government to assess a fee of \$30 for an annual OHV permit for Commonwealth residents and \$50 for nonresidents; specify that all OHV permits expire on April 1 of each year; permit a local government to contract with a regional authority or a private vendor for the issuance of OHV permits; outline OHV operating requirements for OHV permit holders; require OHV passengers under the age of 18 to wear a helmet; outline OHV signage requirement for local governments and the Transportation Cabinet; require reciprocity between local governments who have passed OHV ordinances; allow the Transportation Cabinet to prohibit the operation of OHVs on any public highway that crosses a state highway or any state highway if deemed in the interest of public safety; outline exemptions; amend KRS 189.515 to conform.

(Prefiled by the sponsor(s).)

BR162 - Senator Robby Mills
(7/9/2020)

Urge local governments to make resources available for the protection of monuments, edifices, graves, and lands, and urge peace officers, prosecutors and members of the Kentucky Court of Justice including county attorneys, Commonwealth’s attorneys, and the Kentucky Attorney General to charge and pursue the most stringent violations against defacement and damage of monuments, edifices, graves, and lands, as well as to urge judges of the Circuit, District, and appellate courts to impose and sustain sentences against persons convicted of these offenses to the maximum penalties permitted under law.

(Prefiled by the sponsor(s).)

BR168 - Representative James Tipton
(9/17/2020)

AN ACT relating to dually employed retirement system members.

Amend KRS 61.545 to provide that if a member is working in a regular full-time hazardous duty position that participates in the Kentucky Employees Retirement System or the County Employees Retirement System and is simultaneously employed in a nonhazardous position that is not considered regular full-time with a different participating employer, the member shall participate solely as a hazardous duty member and shall

not participate under the nonhazardous position unless he or she makes an election within 30 days of taking employment in the nonhazardous position; amend KRS 61.680 to conform; specify that provisions shall only apply to prospective nonhazardous employment occurring on or after the effective date of the Act.
(Prefiled by the sponsor(s).)

BR169 - Representative Attica Scott
(9/16/2020)

AN ACT relating to discriminatory practices against a person.
Amend KRS 344.010 to provide definitions of “protective hairstyle” and “race” that include traits historically associated with race; amend KRS 158.148 to provide that school disciplinary codes shall prohibit discrimination on the basis of race; establish the short title of “C.R.O.W.N. Act”.
(Prefiled by the sponsor(s).)

BR176 - Representative Tina Bojanowski, Representative Kim Banta
(7/29/2020)

Direct the commissioner of education to convene a strategic assessment and accountability committee; establish minimum requirements for the composition of the committee; establish the duties of the committee; require the commissioner to report the findings of the committee to the Interim Joint Committee on Education by December 1, 2021, and December 1, 2022, EMERGENCY.
(Prefiled by the sponsor(s).)

BR180 - Representative Joe Graviss
(7/14/2020)

AN ACT relating to state employee compensation.

Amend KRS 18A.355 to provide for an annual increment for state employees amounting to the average of the consumer price index for the two calendar years prior to the biennium.
(Prefiled by the sponsor(s).)

BR196 - Representative Maria Sorolis
(9/14/2020)

AN ACT relating to open records.
Amend KRS 61.882, relating to open records, to require the award of costs and attorney fees if a court finds there was an absence of a good faith basis to believe the requested records were exempt from disclosure.
(Prefiled by the sponsor(s).)

BR197 - Representative Maria Sorolis
(9/14/2020)

AN ACT relating to student health.
Amend KRS 160.645 to require at least 25 minutes of student physical activity each school day; expand requirement to include students up to grade 8; prioritize free-play activities taking place outdoors.
(Prefiled by the sponsor(s).)

BR198 - Representative Maria Sorolis
(9/14/2020)

AN ACT relating to open meetings.
Amend KRS 61.846 to allow an agency or the Attorney General to vacate actions taken at a meeting where the agency failed to give notice of the meeting; amend KRS 61.848 to require a person to be awarded court costs and attorney fees when a court finds no basis in good faith for an agency’s denial of an open meetings complaint, and to allow a court to vacate actions taken at a meeting where the agency failed to give notice of the meeting.
(Prefiled by the sponsor(s).)

BR199 - Representative Maria Sorolis
(9/16/2020)

AN ACT relating to epinephrine auto-injectors.
Create a new section of Subtitle 17A of KRS Chapter 304 to require health benefits plans to cover epinephrine auto-injectors; cap cost-sharing at \$75 per epinephrine auto-injector; allow cost-sharing cap to be adjusted every 5 years for inflation; amend KRS 18A.225 to require the state employee health plan to comply; EFFECTIVE, January 1, 2022.
(Prefiled by the sponsor(s).)

BR215 - Senator Richard Girdler
(8/19/2020)

AN ACT relating to indemnification of prosecutors.
Amend KRS 15.753 to provide that the Finance and Administration Cabinet shall reimburse the Attorney General, a Commonwealth’s attorney, or a county attorney for fees or judgments after being sued for an act or omission in the course of his or her duties.
(Prefiled by the sponsor(s).)

BR216 - Senator Alice Kerr
(8/25/2020)

AN ACT relating to youth mental health protection and declaring an emergency.
Create a new section of KRS Chapter 210 define sexual orientation and gender identity change efforts, mental health professional, and public funds; to prohibit mental health professionals from engaging in sexual orientation and gender identity change efforts with a person under eighteen (18) years of age or a person who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510; require violations to be subject to board discipline; prohibit public funds from being used for sexual orientation and gender identity change efforts; create a new section of KRS Chapter 211 to require the Department for Public Health to develop, produce, and disseminate educational materials regarding sexual orientation and gender identity change efforts; permit the cabinet to contract for the educational materials; add the short title “Mental Health Protection Act”; EMERGENCY.
(Prefiled by the sponsor(s).)

BR217 - Representative Buddy Wheatley
(9/17/2020)

AN ACT relating to polling places.
Amend KRS 117.087 and 118.035 to extend the ending voting hour from 6 p.m. to 7 p.m.
(Prefiled by the sponsor(s).)

BR225 - Representative Jerry Miller
(9/1/2020)

AN ACT relating to actuarial analysis on retirement bills.

Amend KRS 6.350 to establish additional requirements for the completion of the actuarial analysis required for bills pertaining to state-administered retirement systems; specify additional requirements that include projecting costs/savings over a 30-year period rather than 20 years, completing the analysis in a format established by the Legislative Research Commission, and requiring the front page of the analysis to include summary information.
(Prefiled by the sponsor(s).)

BR226 - Senator Mike Nemes
(8/25/2020)

AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

Propose to amend Section 170 of the Constitution of Kentucky to include in the homestead exemption for owners who are sixty-five years of age or older any increase in ad valorem taxes that are assessed after the latter of the year the owner turned sixty-five, the year the owner purchased the property, or the date this provision was ratified by the voters; add the continued biennial inflation indexing of the homestead exemption amount; make various typographical changes of a nonsubstantive nature; provide ballot language; submit to voters for ratification or rejection; apply to property assessed on and after the January 1st immediately following the date of ratification.
(Prefiled by the sponsor(s).)

BR231 - Representative Kim Banta
(8/27/2020)

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.

Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four terms of office, not including partial terms of two years or less, and to prevent members of the House of Representatives from serving more than six terms of office, not including partial terms of two years or less, beginning with those elected in November 2024; provide ballot language; submit to voters for ratification or rejection.
(Prefiled by the sponsor(s).)

BR236 - Representative James Tipton
(8/25/2020)

AN ACT relating to the Kentucky Educational Excellence Scholarship.
Amend KRS 164.7874 to delete the requirement that an eligible high school student and eligible postsecondary student not be a convicted felon for

KEES eligibility purposes.
(Prefiled by the sponsor(s).)

BR239 - Representative Kathy Hinkle
(9/4/2020)

AN ACT relating to nonteaching time for teachers.

Amend KRS 158.060 to require teachers to be provided a minimum of 120 minutes per week for nonteaching activities; specify types of teacher-directed activities to be completed during nonteaching time.

(Prefiled by the sponsor(s).)

BR240 - Representative Kathy Hinkle
(9/4/2020)

AN ACT relating to boards of education.

Amend KRS 160.280 to require local school board members to be offered health insurance at the same rates offered to district employees.

(Prefiled by the sponsor(s).)

BR241 - Representative Walker Wood Thomas
(9/15/2020)

AN ACT relating to an exemption of income taxation for military pensions.

Amend KRS 141.019 to exclude United States military retirees' pension income from income taxation for taxable years beginning on or after January 1, 2021, and before January 1, 2025; require reporting by the Department of Revenue; amend KRS 131.190 to conform.

(Prefiled by the sponsor(s).)

BR243 - Representative Walker Wood Thomas, Representative Kim Banta, Representative McKenzie Cantrell, Representative Cherlynn Stevenson, Representative Nancy Tate
(8/26/2020)

AN ACT relating to interpersonal violence.

Amend KRS 403.720 to include violence against an animal when used as coercive conduct in the definition of "domestic violence and abuse"; amend KRS 403.740 to allow a judge to award possession of a shared domestic animal to the petitioner; amend KRS 456.010 to include violence against an animal when used as coercive conduct in the definition of "dating violence and abuse"; amend KRS 456.060 to allow a judge to award possession of a shared domestic animal to the petitioner.

(Prefiled by the sponsor(s).)

BR244 - Representative Walker Wood Thomas
(9/15/2020)

AN ACT relating to audiology and speech-language pathology.

Create a new section of KRS Chapter 334A.010 to enact and enter into the Audiology and Speech-Language Pathology Interstate Compact with all other jurisdictions that legally join in the compact; declare the purpose of the compact; establish definitions; recognize a multistate licensure privilege to practice for audiologists and speech-language pathologists; recognize a multistate

licensure privilege for audiologists and speech-language pathologists to practice audiology and speech-language pathology via telehealth; establish provisions for active duty military personnel and their spouses; authorize a remote state to take adverse action against an audiologist or speech-language pathologist's privilege to practice within that member state; authorize a home state to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state; create the Audiology and Speech-Language Pathology Compact Commission; provide immunity for party states, officers, employees, or representatives of the Commission who act in accordance with the compact; require the Commission to create a database and reporting system containing licensure, adverse actions, and investigative information on all licensed individuals in member states; establish procedures for rulemaking; authorize the Commission to attempt to resolve disputes related to the compact that arise among member states and between member and non-member states; require provisions of the compact to become effective the day it is enacted into law once a state enters the Compact; provide for severability for any provision in the compact that is contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance.

(Prefiled by the sponsor(s).)

BR245 - Representative Walker Wood Thomas
(9/15/2020)

AN ACT relating to the Psychology Interjurisdictional Compact.

Create a new section of KRS Chapter 319 to enact and enter into the Psychology Interjurisdictional Compact with all other jurisdictions that legally join the compact; declare the purpose of the compact; define terms; allow a psychologist to hold one or more compact state licenses at a time; recognize the right of a psychologist licensed in the compact to practice telepsychology in other compact states where the psychologist is not licensed; establish conditions under which a psychologist licensed to practice in a compact state can practice telepsychology; establish the conditions under which a psychologist licensed to practice in a compact state may be granted a temporary authorization to practice; authorize a home state to take adverse action against a psychologist's license issued by the home state; all a receiving state to take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state; authorize a compact state's ability to issue subpoenas for hearings and investigation as well as cease and desist and injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology and temporary authorization to practice; establish the Psychology Interjurisdictional Compact Commission; require the commission to provide for and maintain a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on psychologists participating in the compact; provide immunity for members, officers, executive director, employees and representatives of the commission who act in accordance with the provisions of the compact; authorize the commission to establish rulemaking procedures; authorize the executive, judicial, and legislative branches of state government to enforce the

provisions of the compact; affirm that rules promulgated will have standing as statutory law; require provisions of the compact to become effective on the date the compact is enacted into law in the seventh compact state.

(Prefiled by the sponsor(s).)

BR283 - Representative Jeffery Donohue
(8/27/2020)

AN ACT relating to bus operation safety.

Create a new section of KRS Chapter 158 to require the Department of Education to develop, in cooperation with the Transportation Cabinet, a risk reduction program for school bus operators; outline requirements of the program; outline school district implementation requirements; require reporting of assaults; specify that the provisions also apply to public charter schools; require the Department of Education to promulgate administrative regulations; create a new section of KRS Chapter 281 to require the Transportation Cabinet to develop a risk reduction program for commercial bus operators; outline requirements; outline implementation requirements; require reporting of assaults; amend KRS 281.990 to establish an initial penalty of \$5,000 for failure to implement the program required; if program is not implemented 14 days after the initial penalty is assessed, an additional fee of \$250 per day shall be assessed until implementation.

(Prefiled by the sponsor(s).)

BR301 - Representative Savannah Maddox, Representative Mark Hart, Representative Joseph Fischer, Representative Thomas Huff, Representative Richard White
(9/9/2020)

AN ACT relating to ensuring basic liberties regarding immunizations and declaring an emergency.

Amend KRS 214.036 to prohibit required immunization of any person by any state agency or instrumentality; create the short title "Ensuring Bodily Autonomy and Informed Consent Act"; EMERGENCY.

(Prefiled by the sponsor(s).)

BR303 - Senator Danny Carroll
(9/18/2020)

AN ACT relating to the safety of canines and felines.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed.

(Prefiled by the sponsor(s).)

BR305 - Senator Danny Carroll
(9/18/2020)

AN ACT relating to assisted-living communities.

Create a new section of KRS 194A.700 to 194A.729 to prohibit certification or certification renewal of an assisted-living community if it is owned, managed, or operated by any person convicted of certain crimes or listed on an abuse list; exempt owner of an assisted-living facility certified as of July 1, 2020; amend KRS 194A.700 to amend definitions; amend KRS 194A.707 to make changes to the appeals and renewal

processes; amend KRS 194A.717 to prohibit on-site staff person from being shared with another level of care; amend KRS 194A.723 to permit the cabinet to initiate injunctive relief in Circuit Court.

(Prefiled by the sponsor(s).)

BR312 - Representative Jeffery Donohue
(9/15/2020)

AN ACT relating to a living wage.

Create a new section of KRS Chapter 337 to require any employer doing business in Kentucky that receives governmental incentives or subsidies to pay its employees a living wage.

(Prefiled by the sponsor(s).)

BR314 - Representative Joni Jenkins, Representative Lisa Willner
(9/4/2020)

AN ACT relating to wages.

Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from \$95,000 to \$500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state minimum wage to \$8.20 per hour on July 1, 2021, \$9.15 per hour on July 1, 2022, \$10.10 per hour on July 1, 2023, \$11 per hour on July 1, 2024, \$12.05 per hour on July 1, 2025, \$13.10 per hour on July 1, 2026, \$13.95 per hour on July 1, 2027, and \$15 per hour on July 1, 2028; raise the state minimum wage for tipped employees to \$2.13 per hour on the effective date of the Act, \$3.05 per hour on July 1, 2022, \$3.95 per hour on July 1, 2023, and \$4.90 per hour on July 1, 2024; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.

(Prefiled by the sponsor(s).)

BR316 - Representative Rachel Roberts, Representative Joni Jenkins, Representative Lisa Willner
(9/4/2020)

AN ACT relating to wages for employment.

Create a new section of KRS Chapter 337 to make it a discriminatory employment action if an employer asks questions about previous salary or wages, relies on previous salary when setting a new salary, or refuses to hire if an applicant does not provide previous salary, except to allow a request for information voluntarily provided in response to an offer of employment; allow previous salary to be considered when required by law, when discovered while looking at other nonsalary information, and for public employee positions; require notice to be posted for employees; amend KRS 337.990 to assess a civil penalty for a violation.

(Prefiled by the sponsor(s).)

BR317 - Representative Cherlynn Stevenson, Representative Joni Jenkins, Representative Lisa Willner
(9/4/2020)

AN ACT relating to earned paid sick leave.

Create a new section of KRS Chapter 337 to require employers to provide earned paid sick leave to employees; provide that employees earn paid sick leave upon the date of hire and can use the leave after being

employed for 90 days; set forth allowable uses of earned paid sick time; designate how notice of need to use sick time is provided by employees; amend KRS 337.990 to establish penalty for employers that fail to follow paid sick leave requirements.

(Prefiled by the sponsor(s).)

BR318 - Representative Josie Raymond, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner
(9/4/2020)

AN ACT relating to employment provisions for employees on parental leave.

Create a new section of KRS Chapter 337 to require employers with 50 or more employees to provide 12 weeks of paid parental leave for an employee who has been employed for at least one year; allow an employee to waive the paid parental leave; provide for the promulgation of administrative regulations.

(Prefiled by the sponsor(s).)

BR319 - Representative Jim Glenn, Representative Joni Jenkins, Representative Lisa Willner
(9/16/2020)

AN ACT relating to workers' compensation.

Amend KRS 342.020 to require an employer to pay for medical benefits at the time of injury and thereafter during disability instead of 780 weeks; amend KRS 342.990 to conform.

(Prefiled by the sponsor(s).)

BR322 - Representative Jeffery Donohue, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner
(9/15/2020)

AN ACT relating to employment.

Amend KRS 336.130 to delete references restricting rights of public employees to organize, associate collectively, or strike; amend KRS 336.180 definition of "labor organization" and delete definitions of "employer" and "employee"; amend KRS 336.990 to conform; amend KRS 67A.6904 to allow urban county governments to make an agreement with a labor organization to require as a condition of employment membership therein; amend KRS 67C.406 to allow consolidated local governments to make an agreement with a labor organization to require as a condition of employment membership therein; amend KRS 70.262, KRS 78.470 and KRS 78.480 to remove exceptions; amend KRS 345.050 to allow public employers to make an agreement with a labor organization to require as a condition of employment membership therein; repeal KRS 65.016, KRS 336.132 and KRS 336.134.

(Prefiled by the sponsor(s).)

BR327 - Representative Danny Bentley
(9/16/2020)

A RESOLUTION proclaiming April 26, 2021, to be Diabetic Ketoacidosis Awareness Day in Kentucky.

Proclaim April 26, 2021, to be Diabetic Ketoacidosis Awareness Day in Kentucky.

(Prefiled by the sponsor(s).)

BR328 - Representative Danny Bentley
(9/16/2020)

AN ACT relating to reimbursement for pharmacist services.

Create a new section of Subtitle 12 of KRS Chapter 304 to establish certain insurance practices relating to the reimbursement of pharmacists; amend KRS 304.14-135 to establish a clean claim form for the reimbursement of certain pharmacist services or procedures; amend KRS 304.17A-844 and 304.17B-011 to conform; amend KRS 18A.225 to require the state employee health plan to comply with pharmacist reimbursement requirements; amend KRS 342.020 to require workers' compensation employers, insurers, and payment obligors to comply with pharmacist reimbursement requirements.

(Prefiled by the sponsor(s).)

BR329 - Representative Danny Bentley
(9/16/2020)

AN ACT relating to the taxation of incontinence products.

Amend KRS 139.472 to exempt prescription incontinence products from sales tax and use tax when sold to a person with a medical diagnosis of incontinence and a prescription for the product; amend KRS 139.190 to allow the Department of Revenue to report the exemption to the Legislative Research Commission by October 1 each year; EFFECTIVE August 1, 2021.

(Prefiled by the sponsor(s).)

BR334 - Representative Dean Schamore, Representative Joni Jenkins, Representative Rachel Roberts
(9/16/2020)

AN ACT relating to prevailing wage in the Commonwealth.

Create new sections of KRS Chapter 337 to create a prevailing wage law for all public works projects; amend KRS 12.020, 99.480, 227.487, 336.015, 337.010, and 337.990 to conform.

(Prefiled by the sponsor(s).)

BR336 - Representative Maria Sorolis, Representative Joni Jenkins, Representative Rachel Roberts, Representative Lisa Willner
(9/16/2020)

AN ACT relating to leave from employment.

Amend KRS 337.415, relating to court-ordered appearances by employees, to prohibit employers from discharging or retaliating against an employee who is a crime victim when the employee takes leave to attend proceedings associated with a crime; require an employee to give an employer reasonable notice to take leave when practicable; provide guidelines for use of paid leave; require the employer to maintain confidentiality of records and communication with employee crime victim; create a private right of action for improper discharge, discrimination, retaliation, and failing to maintain confidentiality; define terms; amend KRS 337.990 to establish penalties in the case of violation by employer.

(Prefiled by the sponsor(s).)

BR344 - Representative Jason Nemes
(9/18/2020)

AN ACT relating to paid parental leave.
Create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and to establish requirements for the paid leave of absence; amend KRS 18A.025 and 18A.110 to conform.
(Prefiled by the sponsor(s).)

BR346 - Representative Dean Schamore
(9/16/2020)

AN ACT relating to public procurement.
Create new sections of KRS Chapter 45A to set forth findings of the General Assembly and establish a policy of the Commonwealth of Kentucky to promote the Kentucky and United States economies by requiring a preference for iron, steel, aluminum, and manufactured goods produced in Kentucky and the United States; define “manufactured in Kentucky,” “manufactured in the United States,” and “United States”; require preference for iron, steel, aluminum, and manufactured goods made in Kentucky in construction and maintenance contracts and subcontracts; provide for a waiver of the Kentucky preference requirement; require preference for iron, steel, aluminum, and manufactured goods made in the United States if the Kentucky waiver is granted; provide for a waiver of the United States preference requirement; establish a short title of “Kentucky Buy American Act”; amend KRS 45A.343, 45A.352, 65.027, 162.070, 164A.575, 176.080, and 424.260 to require compliance.
(Prefiled by the sponsor(s).)

BR362 - Representative Maria Sorolis
(9/18/2020)

AN ACT relating to election districts and making an appropriation therefor.
Create new sections of KRS Chapter 5 to establish the Advisory Redistricting Commission, which shall be composed of members appointed by the General Assembly and members of the public at large; define terms; establish commissioner pay, conditions, powers, and duties; provide that commissioners’ terms correlate with obligations of each census cycle; establish the conditions, powers, and duties of the commission; require the commission to draft redistricting plans for legislative and congressional districts, with parameters prescribed; establish standards to be followed by the commission for commissioners who develop plans; require the commission to submit its redistricting plans to the Legislative Research Commission; require the General Assembly to consider the commission’s plans; allow the General Assembly to enact or reject the plans of the commission by a date certain or to return to the commission for adjustment; provide that if the General Assembly does not enact the plans, the plans shall be returned to the commission, which may incorporate changes requested by the General Assembly, but shall not be required to incorporate changes; require the commission to submit to the General Assembly new redistricting plans for enactment at a date certain; allow General Assembly to enact its own redistricting plans after a date certain; provide for penalties and fine upon conviction

of persons attempting to influence, or commissioners accepting influence, per the duties of the commission; include severability clause and delay clause; amend KRS 5.005 to remove the Secretary of State being named as a defendant in any action challenging the constitutionality of any legislative district and replace with the Advisory Redistricting Commission being named the defendant; provide that the Act may be cited as the “Fair Maps Act.”
(Prefiled by the sponsor(s).)

BRs by Sponsor

* - denotes primary sponsorship of BRs

Senate

Carroll, Danny
BR303*, 305*
Castlen, Matt
BR41*
Girdler, Rick
BR215*
Kerr, Alice Forgy
BR216*
McDaniel, Christian
BR96*, 98*
Mills, Robby
BR162*
Nemes, Michael J.
BR226*
Wheeler, Phillip
BR160*

House

Banta, Kim
BR61, 86*, 99*, 117*, 176, 231*, 243
Bechler, Lynn
BR66*
Bentley, Danny
BR51*, 52*, 56*, 102*, 327*, 328*, 329*
Bojanowski, Tina
BR176*
Booker, Charles
BR22
Branham Clark, Terri
BR152*
Bratcher, Kevin D.
BR86
Brown Jr, George
BR22
Cantrell, McKenzie
BR243
Donohue, Jeffery
BR283*, 312*, 322*
Fischer, Joseph M.
BR130, 301
Flood, Kelly
BR22
Frazier, Deanna
BR61*
Glenn, Jim
BR319*
Gooch Jr., Jim
BR73*
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Controlled substances, risks, benefits, limitations, discussion with patient, requiring - BR52 Opioid depression reversal drug, requiring prescription of - BR52
Taxation
Individual, military pensions, income tax deduction - BR241 Property tax, homestead exemption, owners who are 65 or older, proposed constitutional amendment - BR226 tax, veteran service organization, exemption - BR153 Sales and use tax, incontinence products, exemption - BR329 Volunteer firefighters, income tax credit for - BR159
Taxation, Income--Individual
Military pensions, income tax deduction - BR241 Volunteer firefighters, tax credit for - BR159
Taxation, Property
Homestead exemption, owners who are 65 or older, proposed constitutional amendment - BR226 Veteran service organization, exemption - BR153
Taxation, Sales and Use
Incontinence products, exemption - BR329
Teachers
Nonteaching time, required - BR239
Tourism
Off-highway vehicles, operation on certain public roadways - BR160

Transportation
Buses, risk reduction program, implementation - BR283 Off-highway vehicles, operation on certain public roadways - BR160
Unemployment Compensation
Kentucky Career Center, public employment office locations, mandating - BR152
Unified Local Governments
Emergency orders, more than 28 day limitation, approval by legislative body - BR66 Public water and wastewater systems, governing bodies, eligibility to serve on - BR146
Veterans
Veteran service organization, property tax exemption - BR153 Women Veterans’ Day, designate June 12 - BR68
Wages and Hours
Earned paid sick leave provided by employers, requirement - BR317 Living wage, requirement to pay employees - BR312 Paid parental leave for employees, employers with 50 or more employees - BR318 parental leave, state employees - BR29; BR344 Prevailing wage for public works, creating - BR334 State minimum wage, increase - BR314 Unlawful employment practice, inquiry about previous salary - BR316
Waste Management
Off-site construction or demolition waste disposal, permitted area, increase - BR102
Water Supply
Public Water and Wastewater Working Group, Public Water and Wastewater Protection Panel, creation of - BR146 Watershed health and biodiversity, conservation district goals for - BR147
Women
Maternal mortality and morbidity, prevention of - BR77 Paid parental leave for employees, employers with 50 or more employees - BR318 Women Veteran’s Day, designate June 12 - BR68
Workers’ Compensation
Medical benefits, duration, changes - BR319 Pharmacist reimbursement practices, requirements - BR328
Workforce
Labor organizations, protections on membership - BR322 Wages, requirement to pay living wage - BR312 Welders, requirements for structural steel welding - BR140

Food manufacturing fees,

from page 3

Brooks said she also had concerns about the structure of tier two and that she would follow up with staff.

While the majority of the concerns from lawmakers involved food manufacturers, the proposed regulation changes would make food establishments pay 25 percent more.

In closing, Tate shared additional legislation may be required.

“It’s very disappointing that this flexibility in my opinion is being taken advantage of,” Tate said. “So what I suggest and I am very willing to do is to make an amendment to this bill... and I hope I have sponsors and co-sponsors in order to eliminate this type of activity in the future.”

Proposal to curtail conversion therapy studied

by Jim Hannah

FRANKFORT – A legislative panel heard testimony on proposed legislation to regulate gender identity change efforts, often referred to as conversion therapy.

“We want to acknowledge that there are good and loving people who want this practice to work, who desperately want to believe in this practice,” Rep. Lisa Willner, D-Louisville, said while presenting the proposed measure before the August 25 meeting of the Interim Joint Committee on Licensing, Occupations and Administrative Regulations. “But the facts remain that practices to change sexual orientation ... are dangerous, discredited and sometimes deadly.”

Willner said the proposed bill, titled the Youth Mental Health Act, would prohibit licensed or certified mental health professionals from engaging in sexual orientation and gender identity change efforts on anyone under the age of 18. It would also apply to people over 18 who are considered “vulnerable” under the law.

A second provision would prohibit tax dollars from being distributed to entities that engage in these efforts with a person of any age.

Willner, a psychologist by trade, acknowledged the bill wouldn’t stop all conversion therapy from happening in Kentucky. “But that doesn’t mean we shouldn’t do everything that we can as policymakers to take common-sense, practical steps to protect as many of our Kentucky youths as we possibly can,” she said.



Rep. Lisa Willner, D-Louisville, testifies in support of the proposed Youth Mental Health Act during the August 25 meeting of the the Interim Joint Committee on Licensing, Occupations and Administrative Regulations.

Continued on next page

The proposed bill would not prohibit non-licensed people from engaging in this therapy, partly because of enforcement difficulties, Willner said. The measure also would not prohibit mental health professionals from providing this therapy to adults.

House Majority Whip Chad McCoy, R-Bardstown, asked whether regulating conversion therapy should be left to professional licensing boards. “I really struggle with the concept that we, in the General Assembly, should be dictating best practices here,” he said.

Willner said the boards have told her it would be helpful to have clarification in statute when it comes to addressing conversion therapy. “They do not write regulations unless there is a statute to provide a framework for it,” she added.

Daniel Mingo was one of three people who testified against the proposed bill. He said he overcame his unwanted, same-gender attractions through the kind of therapy the proposed bill would curtail. Mingo said he went on to found a group in Louisville for people who have the same unwanted attractions.

“For the last 17 years I have ministered to, and lay counseled, same-sex attracted and gender dysphoric Christian individuals in Kentucky who have LGBT feelings that for them also are unwanted,” he said. “My concern for this proposed legislation is that it will hurt people I care about.”

Sen. Reginald Thomas, D-Lexington, asked what language in the proposed bill would prevent parents of religious leaders from having discussions with their children about sexual orientation or identification.

“It does not attempt to regulate conversations between parents and children,” Mingo said in response. “What it does do is prevent parents and children from getting professional therapeutic help.”

Senate Majority Caucus Chair Julie Raque Adams, R-Louisville, addressed concerns that the proposed legislation would infringe on the rights of parents.

“It is interesting to me that we view that parental relationship as absolute – that I am the only one that can determine what is right for my children,” said Adams. “The truth is that if I’m a drug addict I lose that right to make those determinations for my kids. The truth is if I want to mutilate my daughter’s genitals that right has been taken away from me. The truth is if I want to marry off my 13-year-old that right has been taken away from me. The truth is if I beat the crap out of my kids those rights are taken away from me.”

“There are instances after instances after instances in which the legislature does modify that parental aspect.”

Sen. Michael J. Nemes, R-Shepherdsville, asked whether conversion therapy was effective or a misguided principle practiced by well-intentioned people.

Sen. Alice Forgy Kerr, R-Lexington, who also testified in support of the legislation, said one fact, in particular, illustrated why conversion therapy was misguided. “People who are subjected to this kind of torture are seven times more likely to commit suicide,” she said.

Mingo disputed Kerr’s assertion. “I think it has been proven effective if you are listening to the people who it has been proven effective for,” he said. “You won’t hear that in the mainstream media. There are thousands upon thousands of people who have walked away successfully from a homosexual lifestyle.”

Nemes said Kerr defended her arguments with statistics while Mingo answered anecdotally.

“One of the things about these bills that has become very clear to me is there are good people on both sides of the issue,” Committee Co-chair Sen. John Schickel, R-Union, said of the proposed bill and similar measures from prior sessions. “They are deeply, deeply, deeply personal. That is why I think so many people are conflicted about them.”

2021 REGULAR SESSION CALENDAR

JANUARY – PART I

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 New Years' Day	2
3	4	5 Part I Convenes (1)	6 (2)	7 (3)	8 (4)	9
10	11	12	13	14	15	16
17	18 Martin Luther King, Jr. Day	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY – PART II

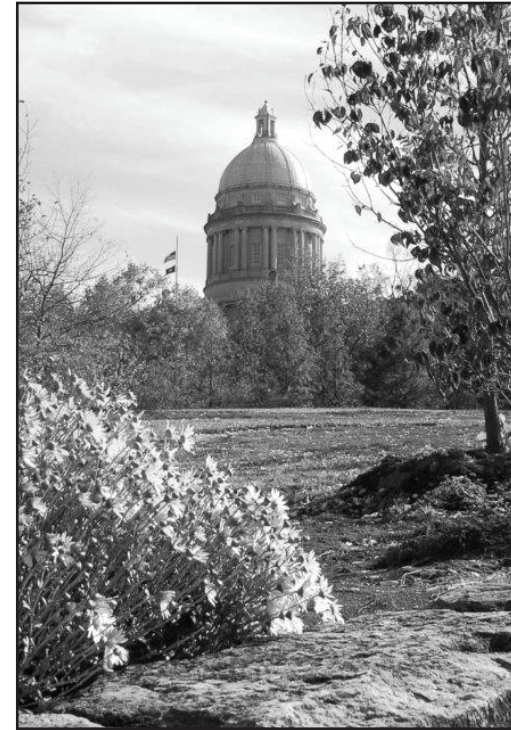
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 Part II Convenes (5)	3 (6)	4 (7)	5 Last Day for Bill Requests (8)	6
7	8 (9)	9 (10)	10 (11)	11 (12)	12 Last day for new Senate bills (13)	13
14	15 Presidents' Day HOLIDAY	16 Last day for new House Bills (14)	17 (15)	18 (16)	19 (17)	20
21	22	23 (18)	24 (19)	25 (20)	26 (21)	27
28						

Denotes break between Parts I and II. Bill drafts may be requested during this period for introduction when Part II convenes.

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 (22)	3 (23)	4 (24)	5	6
7	8 (25)	9 (26)	10 (27)			
14	15 Concurrence (28)	16 Concurrence (29)	17 VETO	18 VETO	19 VETO	20 VETO
21	22 VETO	23 VETO	24 VETO	25 VETO	26 VETO	27 VETO
28	29	30 SINE DIE (30)	31			

() Denotes Legislative Day



Calendar set for General Assembly's 2021 session

LRC Public Information staff report

FRANKFORT – The 2021 Regular Session of the Kentucky General Assembly is scheduled to begin on Jan. 5 and will last 30 legislative days.

As usual during an odd-numbered year, the session will have two parts. The first four days of the session – Jan. 5 to Jan. 8 – will focus on organizational work, such as electing legislative leaders, adopting rules of procedure and organizing committees. The introduction and consideration of legislation can also begin during this time.

The second part of the session begins on Feb. 2, with final adjournment scheduled for March 30.

The veto recess – the period of time when lawmakers commonly return to their home districts while the governor considers the possibility of issuing vetoes – begins on March 17. Lawmakers will return to the Capitol on March 30 for the final day of the session.

The 2021 session calendar is online at: https://legislature.ky.gov/Documents/21RS_Calendar.pdf.

2020 Interim
**LEGISLATIVE
RECORD**

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The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

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