

1 A CONCURRENT RESOLUTION to create a task force on neonatal intensive care
2 units.

3 WHEREAS, recent academic studies suggest that neonatal intensive care unit
4 (NICU) admissions vary greatly among hospitals and are difficult to explain based on the
5 gestational age and health of the infant; and

6 WHEREAS, NICU placement carries its own set of unique risks and is an
7 expensive intervention for families and third-party payers; and

8 WHEREAS, NICU beds were originally reserved for infants of the lowest birth
9 weights. Today the majority of newborns in the NICU are of normal birth weight; and

10 WHEREAS, NICU admissions carry risks of infection for newborns, increase acute
11 stress for families, and interfere with breast feeding; and

12 WHEREAS, a 2019 article published in the Journal of Pediatrics titled "Neonatal
13 Intensive Care Variation in Medicaid-Insured Newborns: A Population-Based Study"
14 reported that among infants insured by Medicaid and born in Texas from 2010 to 2014,
15 there was little variation in very low birth weight infants' admissions to the NICU.
16 However, there was "marked variation... in late preterm newborn infants and for special
17 care days and imaging rates." The article concluded that the variation in NICU use was
18 "poorly explained by differences in newborn illness levels"; and

19 WHEREAS, a 2018 article published in the Journal of Pediatrics titled "Variation in
20 Use by NICU Types in the United States" replicated previous findings that there was
21 substantial variation in the use of NICU and suggested that NICU may be misused for
22 some classes of newborn infants; and

23 WHEREAS, a 2018 article published in the Journal of the American Medical
24 Association Pediatrics titled "Association between Neonatal Intensive Care Unit
25 Admission Rates and Illness Acuity" reported that the high illness acuity was a poor
26 predictor of NICU admission in infants greater than 34 weeks of age in the California
27 study; and

1 WHEREAS, the Dartmouth Atlas of Neonatal Intensive Care was released in the
2 fall of 2019 and included the observation that "[o]n the newborn side, most NICUs are
3 'high-margin' services. This is a strong incentive for further building and expansion of
4 NICUs and for keeping beds full, potentially leading to overuse of services, especially in
5 lower-risk newborns"; and

6 WHEREAS, the annual cost of NICU services in the United States was recently
7 estimated to be \$28 billion, and Kentucky's portion, when scaled by population, would be
8 \$312 million;

9 NOW, THEREFORE,

10 ***Be it resolved by the House of Representatives of the General Assembly of the***
11 ***Commonwealth of Kentucky, the Senate concurring therein:***

12 ➔Section 1. The Legislative Research Commission shall establish the Using the
13 Neonatal Intensive Care Unit Wisely Task Force. The task force shall make findings and
14 recommendations on the appropriate role of NICU units in the health of newborns and
15 mothers.

16 ➔Section 2. The task force shall investigate and make findings to the extent
17 possible, for five full calendar years preceding its formation, regarding:

- 18 (1) The Medicaid reimbursement rate for newborns admitted to maternity wards
19 compared to NICU and the Medicaid reimbursement rates by the level of the NICU;
- 20 (2) The amount of money the Medicaid program spent on NICU placements;
- 21 (3) The total amount of money the Medicaid program spent on NICU placements
22 disaggregated by hospital;
- 23 (4) The number of live births by hospital in Kentucky;
- 24 (5) The number of newborns placed in the NICU by hospital in Kentucky;
- 25 (6) Computation of the ratio of NICU placements to total live births by hospital;
- 26 (7) The median gestational age of newborns;
- 27 (8) The median gestational age of a newborn placed in the NICU;

- 1 (9) The median birth weight of newborns;
 - 2 (10) The median birth weight of newborns placed in the NICU;
 - 3 (11) The median 5-minute Apgar score of newborns;
 - 4 (12) The median 5-minute Apgar score of newborns placed in the NICU;
 - 5 (13) The number of newborns placed in the NICU whose gestational age exceeded 34
 - 6 weeks;
 - 7 (14) The number of newborns placed in the NICU whose weight exceeded 5 pounds, 8
 - 8 ounces;
 - 9 (15) The number of newborns placed in the NICU whose 5-minute Apgar scores were
 - 10 equal to or greater than 4;
 - 11 (16) The number of newborns placed in the NICU whose gestational age exceeded 34
 - 12 weeks, whose weight exceeded 5 pounds, 8 ounces, and whose 5-minute Apgar
 - 13 score was equal to or greater than 4;
 - 14 (17) The average length of stay in the NICU of newborns who meet the criteria under
 - 15 subsection (16);
 - 16 (18) The variation, if any, in NICU admission rates by hospital;
 - 17 (19) The role of neonatal abstinence syndrome in NICU placement; and
 - 18 (20) Any other issue the task force determines to be relevant to its inquiry.
- 19 ➔Section 3. The Using the Neonatal Intensive Care Unit Wisely Task Force shall
- 20 be composed of the following members with final membership of the task force being
- 21 subject to the consideration and approval of the Legislative Research Commission:
- 22 (1) Two members of the House of Representatives appointed by the Speaker of the
 - 23 House of Representatives, one of whom shall be designated by the Speaker of the
 - 24 House of Representatives as a co-chair of the task force;
 - 25 (2) One member of the House of Representatives appointed by the Minority Floor
 - 26 Leader of the House of Representatives;
 - 27 (3) Two members of the Senate appointed by the President of the Senate, one of whom

- 1 shall be designated by the President of the Senate as a co-chair of the task force;
- 2 (4) One member of the Senate appointed by the Minority Floor Leader of the Senate;
- 3 (5) The director of the Division of Maternal and Child Health, Department for Public
4 Health, Cabinet for Health and Family Services, or his or her designee;
- 5 (6) The commissioner of the Department for Medicaid Services, Cabinet for Health and
6 Family Services, or his or her designee;
- 7 (7) The secretary of the Cabinet for Health and Family Services, or his or her designee;
- 8 (8) One representative of the Kentucky Hospital Association selected from a list of
9 three individuals submitted by the association;
- 10 (9) One representative of the Kentucky Medical Association selected from a list of
11 three physicians licensed in Kentucky submitted by the association;
- 12 (10) One neonatologist licensed in Kentucky selected from a list of three neonatologists
13 submitted by the Kentucky Perinatal Association;
- 14 (11) One obstetrician licensed in Kentucky selected from a list of three obstetricians
15 submitted by the Kentucky Section of the American College of Obstetricians and
16 Gynecologists;
- 17 (12) One certified nurse midwife licensed in Kentucky selected from a list of three
18 certified nurse midwives submitted by the Kentucky Association of Nurse
19 Practitioners and Nurse Midwives; and
- 20 (13) One representative with a background in health data analytics from a list of two
21 names, one submitted by the University of Louisville and one submitted by the
22 University of Kentucky.

23 ➔Section 4. The task force shall meet at least three times during the 2020 Interim
24 of the General Assembly. The task force shall submit its findings and recommendations
25 for legislative action, if any, to the Legislative Research Commission for referral to the
26 appropriate committee or committees by December 1, 2020. If the task force is unable to
27 obtain sufficient information to complete its objectives, the report shall include a

1 description of the unavailable information, the agencies associated with the information,
2 the challenges presented to the agencies in recording or obtaining the information, and
3 recommendations for policy changes within those agencies that would allow for better
4 documentation of the costs and outcomes associated with the use of NICU units.

5 ➔Section 5. The executive branch of government, including the Cabinet for
6 Health and Family Services, shall promptly provide necessary data, research, and other
7 requested information to assist the task force in the performance of its duties.

8 ➔Section 6. Provisions of this Resolution to the contrary notwithstanding, the
9 Legislative Research Commission shall have the authority to alternatively assign the
10 issues identified herein to an interim joint committee or subcommittee thereof, and to
11 designate a study completion date.