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# INTERIM RECORD

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A SUMMARY OF INTERIM ACTIVITIES

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## Lawmakers study impact of COVID-19 on KY vets

by Jim Hannah  
*LRC Public Information*

FRANKFORT – There have been no reported cases of coronavirus among the residents of Kentucky’s four veterans homes, according to testimony given to a state legislative panel.

“Since the declaration of the emergency in March, we have had seven staff test positive, two of which, after immediate retesting were found to be negative,” Kentucky Department of Veterans Affairs Commissioner Keith Jackson said while testifying on July 29 to the Interim Joint Committee on Veterans, Military Affairs and Public Protection. “Out of those employees, five have returned to work, one remains in quarantine until medically cleared and one staff member resigned prior to returning to work.”

Sen. Jimmy Higdon, R-Lebanon, asked about the turn-around time for a test result. Mark Bowman, another department member who testified, said it now takes 24 hours to 48 hours to receive a result. He said early in the pandemic it was taking up to 10 days.

Jackson attributed the department’s success of curtailing the spread of COVID-19 in the veterans homes to continuous testing of all staff and residents in addition to other aggressive measures.

“One of the unfortunate by-products of our strenuous screening and protective measures has been a restriction on visitation,” Jackson said. “However, each facility has found creative ways to help families keep in touch with their loved ones.” Those include using iPads, phones and plexiglass visitation stations.



Rep. Walker Thomas, R-Hopkinsville, asks about the number of residents of Kentucky’s four veterans homes since COVID-19 forced the facilities to stop accepting new patients. Thomas serves as co-chair of the Committee on Veterans, Military Affairs and Public Protection.

The department is expanding telemedicine with Veterans Affairs medical centers in Lexington, Louisville and Marion, Ill., to decrease the chances residents might be exposed to COVID-19 during doctor visits. The homes have also stopped accepting new residents. Jackson said that had regrettably caused a 7 percent drop in the residential population across the system.

That prompted committee Co-chair Rep. Walker Thomas, R-Hopkinsville, to ask the occupancy of each veterans home. Bowman responded that Eastern Kentucky Veterans Center in Hazard had 98 of 120 beds filled, Central Kentucky Veterans Center in Radcliff had 64 of 120 beds filled, Western Kentucky Veterans Center in Hanson has 80 of 156 beds filled and Thomas-Hood Veterans Center in Wilmore had 145 of 285 beds filled.

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# Covid-19 and Ky vets,

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The department hopes to resume admissions in late August or early September, but Jackson added that would depend on local infection rates.

Jackson said that personal protective equipment remains difficult and expensive to secure for his department, but the veterans homes have sufficient supplies. The department has applied for a more than \$1 million federal grant to build four warehouses for future emergency preparedness storage.

The department also received \$3 million in April from the Coronavirus Aid, Relief and Economic Security (CARES) Act. Jackson characterized the federal tax dollars as “instrumental” in supporting Kentucky’s four veterans homes.

Jackson said his department began offering free day care for children of the nursing home staff during the disruption of in-person schooling and closure of child care facilities. He added that has helped the department to retain staff, something that has been a challenge in recent years. Department officials have said staffing shortages have contributed to the low occupancy rates at some of the homes.

At least two pieces of legislation have been passed in recent years to address the staffing issues. Bowman said one measure passed this past session, known as Senate Bill 149, will ease staff shortages by allowing the department to hire nurse aides on personal service contracts.

## Researchers advocate for permanent expansion of telehealth services

by Jordan Hensley

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FRANKFORT— Despite COVID-19, researchers from the University of Kentucky have continued their work on studying opioid use disorder.

Those researchers shared an update on their projects and advocated for permanently expanding some telehealth services during an Aug. 11 presentation to the Substance Use Recovery Task Force.

According to Sharon Walsh, director for the Center on Drug and Alcohol Research at the University of Kentucky, the expansion of telehealth services across the Commonwealth during the COVID-19 pandemic is having a positive impact on those recovering from opioid use disorder.

“What we’re hearing from partners across the state who are providing care is that their no-show rate for appointments has dropped, in some instances, 30 percent,” Walsh said.

Gov. Andy Beshear expanded telehealth services in March to allow physicians to examine patients over the phone or via video conference to cut down on in-person interactions to slow the spread of COVID-19.

Walsh said prior to this executive order, opioid use disorder treatment was not permitted via telehealth.

“One of the things we’re hoping with our state partners is that once COVID is resolved and the demand for telehealth is not so critical as it is right now, that we’re able to keep some of those regulations rolled back as they are right now,” Walsh added.

As for the University of Kentucky’s research projects, Walsh and Lisa Cassis, vice president for research for the Department of Pharmacology and Nutritional Sciences, reported that the university’s research projects are going well.



Committee co-chair Rep. Russell Webber, R-Shepherdsville, comments during the Aug. 11 Substance Use Recovery Task Force meeting.

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Kentucky was one of four states in the country last year to receive National Institutes of Health funding to prevent and treat opioid use disorder in highly affected communities, according to their presentation.

The Helping to End Addiction Long-term, or HEAL Initiative kicked off in January and focuses on overdose education, naloxone distribution, delivery of medication for opioid use disorder maintenance treatment, and safer opioid prescribing methods and dispensing.

Other University of Kentucky-funded research projects underway include harm reduction initiatives to reduce the spread of HIV and Hepatitis C, according to the presentation.

There are 73 syringe services programs across the Commonwealth providing clean syringes to those with opioid use disorder. Reusing or sharing syringes can cause a variety of health problems, including HIV and Hepatitis C. According to Walsh, these programs also help connect people to treatment services. Research into prevention as treatment for Hepatitis C is also underway as well as programs to aid mothers with opioid use disorder.

# Reports reveal child abuse and foster care needs

by Jordan Hensley



Child Welfare Oversight and Advisory Committee Co-chair Sen. Tom Buford, R-Nicholasville, comments during the July 22 meeting.

FRANKFORT – Lawmakers on the Child Welfare Oversight and Advisory Committee asked experts what more could be done to help children in abusive situations during the committee’s July 22 meeting.

Jill Seyfred, the executive director of Prevent Child Abuse Kentucky, and Kelly Crane, the state policy specialist for Prevent Child Abuse America, presented the committee updated statistics on child abuse across the Commonwealth and country.

Kentucky’s data, which was compiled by the Department for Community Based Services (DCBS), showed 50,660 reports of child abuse met the criteria for investigation last year. The number of children impacted by those investigations was 76,106.

Seyfred said Kentucky’s number remains high, in part, because of mandatory reporting laws and prevention education put in place over the last several years to combat child abuse. She said areas Kentucky could improve on to reduce child abuse included more money for education, families in need of services and social workers.

According to the data, neglect has been the top form of child maltreatment in Kentucky for the last several years. The data also showed drug abuse in the home and mental health issues were major factors in child abuse cases.

“We know that the No. 1 referral source for abuse and neglect cases comes from teachers,” Seyfred said. “Anytime we can work with teachers and help them understand the issues, understand how to report, help them be more comfortable in that role, I think will be a benefit.”

During a DCBS presentation on foster care within the state, several committee members expressed concern over significantly lower intake numbers for March, April and May of this year compared to last year. The impact of COVID-19 closing down schools across Kentucky in March is to blame for the lower intake numbers for those months, according to DCBS data provided to the committee.

“Every superintendent and every school board chair and every counselor in every school system in the state should all be aware of this,” Sen. Whitney Westerfield, R-Crofton, said. “And they should all be put on notice that this is an issue that needs to be given particular attention as they think about reopening and consider how best to do it. Not just educate students, but make sure they have access to resources to address their health.”

Another concern for the committee was social worker caseloads and how long it can take adoptions to move through the court system.

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## INTERIM JOINT COMMITTEE ON AGRICULTURE

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

July 9, 2020

#### Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Agriculture was held on Thursday, July 9, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Commissioner Ryan Quarles, Kentucky Department of Agriculture; Dr. Will Snell, University of Kentucky, College of Agriculture, Food and Environment; and Warren Beeler, Governor's Office of Agricultural Policy.

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

The June 4, 2020 minutes were approved, without objection, by voice vote upon motion made by Senator Thayer and seconded by Representative Reed.

#### The Impact of COVID-19 on Kentucky's Agricultural Industry

Warren Beeler, Governor's Office of Agricultural Policy, stated that estimated funds from tobacco companies for the Fiscal Year 20-21 Master Settlement Agreement is approximately \$106,300,000. The General Assembly Budget receives \$75,436,800, of which \$30,863,200 is set-aside for the Finance and Administration Cabinet for debt service on rural water and sewer lines. The balance is divided between Healthcare, Early Childhood Development and Agriculture programs. Kentucky Ag Development Funds are used for multiple programs such as cost-sharing, investing in youth, beginning farmers, on-farm energy and water, and the newest program is a meat processing investment program.

Mr. Beeler explained that COVID-19 hit the largest meat processing plants in the United States, which left the meat industry in Kentucky struggling to find other smaller local plants for meat processing. The new meat processing investment program for Kentucky farmers has four levels: Level 1 is for United States Department of Agriculture (USDA) inspected plants. Level 2 is for custom or USDA inspected plants which would be eligible for a forgivable loan up to seventy-five percent of a project not to exceed \$37,500. Level 3 is also for custom or USDA inspected

plants which would be eligible for a forgivable loan up to seventy-five percent of a project not to exceed \$250,000. Level 4 would be for new facilities that have not been approved.

He said that the Kentucky Ag Finance Corporation has 729 loans of which \$94 million has been invested; \$87,000 million of which is currently loaned out or obligated. The program is generating between \$800 thousand and \$1 million a month in interest.

In response to Senator Hornback, Mr. Beeler said that there are 3,500 farmers in sixty-three counties invested in the Hopkinsville Grain Elevator and the Agri-energy ethanol plant.

In response to Senator Givens, Mr. Beeler said that the effects of COVID-19 will most likely change the industry permanently. Producers and farmers will have to look at making the industry stronger and more efficient.

In response to Representative Tipton, Mr. Beeler said that Kentucky Agritech specializes in developing agriculture related apps, artificial intelligence, drone and other technology for agriculture. In addition, Ag Development Funds have been funding projects such as iCOW, technology that collects and disseminates livestock data for farmers. There is a need for more advances in technology.

Dr. Will Snell, University of Kentucky College of Agriculture, Food and Environment, said that prior to Covid the farm economy was already in a tough situation. Many producers were hopeful that 2020 would be a better year for production and trade across world-wide markets. Typically when the economy starts to struggle, agriculture has usually been able to maintain a level of stability. Beginning around March 2020 the demand for certain agricultural products such as corn decreased, and a backlog in the supply chain began to emerge. Dr. Snell said that retail food prices increased by 2.3 percent, which has been the average yearly increase for the past twenty years, but farmers were hit with a greater reduction in prices received. Hopefully the decrease in farm cash receipts will not reach the \$400 million - \$500 million projections. On the positive side, the federal government created the Corona Food Assistance Program, and the state has received approximately \$120 million with more to come. There are a lot of farmers who are very vulnerable financially and mentally. He said the long term effects of Covid could include a negative impact on land values, especially if the downward trend in farm income continues and interest rates increase. The uncertainty regarding international trade agreements could also have a negative impact on the industry. Dr. Snell said that Covid had put agriculture and the food market to the fore front, which has caused conversations regarding the food supply and efforts to make improvements to rural broadband and consumers wanting more of a relationship with local markets and producers.

In response to Senator Hornback, Dr. Snell said that some studies concerning large meat processing facilities have shown that producers are losing money while processors are making a huge profit. He said the top 4 meat processors in the country control almost 80 percent of the



market. The Department of Justice is conducting a study evaluating the level of competition in the meat sector to determine if there is a violation of competitive practices.

In response to Senator Hornback, Dr. Snell said that making a projection on how long it will take to turn things around would depend on various unknowns on the supply-side. In his opinion, it would take one to two years before the world economy could begin to slowly rebound. In the future, there will be farmers and producers who will be forced to take jobs off the farm.

In response to Senator Givens, Dr. Snell said that the best thing legislators can do to help young farmers is to continue supporting the Ag. Development Fund and Ag. Finance Corporation. One other thing would be supporting the local food markets. He said the Ag Leadership program is still important in helping farmers to network. He stated that in the future, federal assistance to farmers may be cut.

In response to Senator Hornback, Dr. Snell said that the Corona Food Assistance Program did not particularly help young farmers or beginning farmers who were not established in the business.

In response to Representative Flood, Dr. Snell stated that tough times can create opportunities for urban farmers, women, and minorities. The younger producers are very creative in developing value-added products at the local level.

Commissioner Ryan Quarles, Kentucky Department of Agriculture, said that crop conditions are fair to good across the state, depending on location. He said that there was a lot of interest in the new meat processing investment program through the Ag Development Board. Commissioner Quarles said that some of the bigger existing meat processors are processing at around 90 percent capacity. He said that the Kentucky State Fair will have a large horseshow, large youth livestock shows, outdoor concert series, and a midway. He stated that Kentucky has more than 160 farmers' markets open and doing well. Commissioner Quarles stated that the Kentucky Proud Program has over 8,000 members and there is an opportunity for young people to get involved in the program. He said that the Hunger Initiative had been fortunate to have so many companies donate meat, milk, eggs and other products to the food banks. Through the Hunger Initiative program, food had been provided to school children during the summer. A generous donation made it possible to retrofit ten school buses to provide mobile feeding sites in urban and rural areas of Kentucky. A new company located in Georgetown is now manufacturing hemp masks. He said that there should be between 800 and 900 farmers growing hemp this year and there has been a 10 percent increase in the number of hemp companies that are registered with the Kentucky Department of Agriculture. He also mentioned that there is a potential fee increase from the Cabinet for Health and Family Services (CHFS), Food Safety Branch, regarding food and homebased processors. The annual registration fee is usually \$120 based on the square footage of the kitchen. The new proposed fee could increase some fees up to \$2,400. Another issue with CHFS is a proposal to charge a fee to the food banks and grain elevators.

Commissioner Quarles stated that he will serve on the Governor's AgriTech Taskforce and is excited to see Kentucky become the AgriTech capital of the world. He said that KDA started a similar initiative last year with the University of Kentucky, Alltech, and the Mayor of Lexington. The study is soon to be completed and published at the end of July or August. Hopefully the information can be merged together with the Taskforce.

In response to Senator Hornback, Commissioner Quarles stated that he was notified just a few minutes before the Governor's press conference announcing the AgriTech Taskforce. The Governor's Office is aware of KDA's study of a similar initiative.

Senator Hornback noted that the 2018 Kentucky State Fair facility made a profit for the first time in 30 years. He stated that David Beck and the Fair Board had worked diligently to make changes for the better.

In response to Representative King, Commissioner Quarles said that the produce safety rule was part of a congressional act, the Food Safety Modernization Act (FSMA) several years ago, and the produce safety rule will be implemented this year.

In response to Senator Thayer, Commissioner Quarles, stated that there are 548 known agri-tourism sites across the state. He said Evans Orchard, along with KDA, decided to pursue legal clarification on the amount of people allowed on their agri-tourism property, as a result of the Governor's covid-related closure executive orders.

In response to Representative Graviss, Commissioner Quarles said that the hemp industry depends on the processor and what product is being made. KDA gets several inquiries each month for new ventures wanting to locate in Kentucky. The hemp market has stabilized but there are some cash flow and access to capital issues. Kentucky is still working with the United States Department of Agriculture (USDA) to implement a final rule for hemp by 2021.

Senator Parrett stated that the Kentucky State Fair is one of the best places for urban residents of Kentucky to learn about agriculture. He suggested putting price tags on the farm equipment that is displayed throughout the fairgrounds so people will know how much it costs to farm.

Senator Givens asked if the livestock regulation (302 KAR 022:050) needed to be deferred. Commissioner Quarles said that KDA would be fine with deferring 302 KAR 022:050.

Senator Givens moved to defer 302 KAR 022:050 to the next meeting. Seconded by Senator Thayer. Upon voice vote, without objection, motion passed.

Meeting adjourned.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Minutes of the 2nd Meeting of the 2020 Interim July 8, 2020

### Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 8, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

and Susan Westrom.

Guests: Amy Cabbage, General Counsel, Labor Cabinet; Josh Benton, Deputy Secretary, Labor Cabinet; Eric Friedlander, Secretary, Cabinet for Health and Family Services; Carrie Banahan, Chief Analyst for Health Policy, Cabinet for Health and Family Services; Aaron Thompson, President, Council on Postsecondary Education; and Shaun McKiernan, Director of Budget and Finance, Council on Postsecondary Education.

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

### Unemployment Insurance Update

Amy Cabbage, General Counsel, Labor Cabinet; and Josh Benton, Deputy Secretary, Labor Cabinet, provided an Unemployment Insurance Update.

Josh Benton testified that there had been a significant number of staffing reductions in Unemployment Insurance (UI) over the past several years. A request for proposal (RFP) for a new technology system for UI was released in February of this year. The unemployment office budget decreased from \$41 million in 2010 to \$25 million in 2018. The operating budget for the unemployment insurance office comes from the federal government. Reductions in the budget led to the repurposing of employees and the closing of several local centers.

Mr. Benton stated that UI is designed in federal legislation to be thorough rather than fast. There are 27 variables that can potentially stop a claim. UI eligibility has been expanded to non-traditional workers. The duration of claims has also been extended from 26 weeks to 39 weeks.

The Pandemic Unemployment Assistance (PUA) federal program has been established to provide benefits to individuals who do not typically qualify for UI. The Pandemic Unemployment Compensation (PUC) federal program provides an additional \$600 a week to individuals receiving UI. The PUC program is set to expire at the end of July.

From December 8, 2019, to March 7, 2020, almost 45,000 new claims were filed in Kentucky. During the same time, almost \$110 million of UI funds were distributed. As of March 7, 2020, the Kentucky UI trust fund had a balance of almost \$600 million.

Over 930,000 new claims were filed between March 8, 2020 and June 6, 2020. Roughly 550,000 individuals filed claims. An average of 2,000 to 3,000 duplicate claims are filed every day. Over 90 percent of eligible claims have received an initial payment. Of the claims that are left, there are 300,000 to 400,000 issues that need to be resolved. As of June 6, 2020, \$2.4 billion in UI funds have been distributed. The Kentucky UI trust fund balance is now at zero dollars. As of June 5, 2020, the Federal UI trust fund balance was at \$1.3 billion.

The UI division has had a challenge with being understaffed. Kentucky has contracted with vendors to assist with answering UI calls. It can take three to six months for someone to have a good grasp on how to manage a UI claim.

Kentucky is one of roughly 20 states that have had to take out a loan due to a depleted UI trust fund balance. Kentucky was approved for an \$865 million loan from the federal government in June, 2020. That amount will cover the fund through August.

Amy Cabbage testified that the Labor Cabinet has been handling day-to-day management of the Office of Unemployment Insurance for the past four weeks. The number of claims processors has been increased from 40 to 100.

The Commonwealth has contracted with the accounting firm Ernst & Young to assist in processing claims. Ernst & Young has slightly over 200 employees processing claims and will soon have 100 more. Without outside assistance, it would take four to six months for the Office of Unemployment Insurance to get through the claims backlog. The contract should save Kentucky more than \$15 million. The cost of additional assistance is covered under federal CARES Act funding.

In response to a question from Senator West, Mr. Benton testified that the Office of Unemployment Insurance has not provided in-person services since 2017. He continued to say that unemployment insurance staff has not stopped processing claims.

In response to a question from Representative Rudy, Mr. Benton stated that individuals who have not received their first unemployment check will receive back pay. In response to a follow-up question, Mr. Benton stated that individuals will still receive back pay for the \$600 a week PUC benefit if their claim was not processed until after July 31.

In response to a question from Representative Nemes, Ms. Cabbage testified that the existing statutory scheme in Kentucky Revised Statutes (KRS) Chapter 341 gave the administration the ability to obtain a loan from the federal government. Responding to a follow-up question from Representative Nemes, Ms. Cabbage stated that KRS 341.240, 341.295, 341.611, 341.612, and 341.614 set forth the different funds and how they are funded through existing taxes.

In response to a question from Representative Tipton, Mr. Benton stated that within KRS 341.270 there is an employer tax rate schedule for UI which is based upon the reserve ratio of the UI trust fund. He continued to say that the Commonwealth's loan from the federal government is interest free and that payments are not due until after January 1, 2021. The payment schedule will be quarterly. Ms. Cabbage added that the employer rate will change to Schedule E beginning January 1, 2021.

In response to a question from Representative Hart, Mr. Benton stated that the UI trust fund balance reached zero dollars in mid-June. The Commonwealth has utilized the federal loan since then. The loan is expected to sustain the trust fund until August.

In response to a question from Senator McDaniel, Ms. Cabbage stated that the administration expects it will have to seek additional federal funds for the trust fund. In response to another question from Senator McDaniel, Mr. Benton stated that the administration should have a forecast of how much it expects to request by the end of July. In response to a follow-up question, Mr. Benton said that roughly \$40 million a month was paid out of the UI trust fund before COVID-19.

In response to questions from Senator Meredith, Mr. Benton testified that the data breach to UI occurred inside the technology system. There were a handful of reports that a claimant had seen another individual's information. There is no indication that someone externally was trying to access information to use it for harm. It is unclear how many people saw someone else's information. The conversations about moving UI to the Labor Cabinet had begun prior to the breach. In response to another question, Ms. Cabbage said that Ernst & Young is not involved in system security.

In response to a question from Senator Nemes, Ms. Cabbage testified that the contract with Ernst & Young is for \$7.4 million for the month of July. The firm was selected because of its experience with UI in other states.

The administration believes that the contract will quickly provide 300 processors to work through the backlog of claims.

In response to a question from Senator Buford, Mr. Benton testified that the phone system has been a challenge since day one. The decision was made in March to have a centralized phone number. In response to another question from Senator Buford, Mr. Benton stated that ongoing eligibility evaluations can stop an individual's payments depending on how they answer particular questions. He continued to say that conversations are being held to determine how to streamline the claimant referrals coming to the Legislative Research Commission (LRC).

In response to a question from Senator Givens, Mr. Benton stated that there is \$16 million available to pay for a new technology system. Proposals should be received within the next few months. In response to another question from Senator Givens, Mr. Benton stated that looking back, more help was needed in adjudicating and processing claims than in the call center.

In response to a question from Representative Prunty, Ms. Cabbage stated that the \$865 million loan is for the UI trust fund to pay claimants. Other CARES Act funding will be the source of funding for the contract with Ernst & Young. The \$865 million loan for the trust fund is strictly for traditional UI claims.

In response to a question from Senator McGarvey, Ms. Cabbage testified that Ernst & Young is providing 300 employees for claims processing. Ms. Cabbage estimated that it would take at least a year for the Office of Unemployment Insurance to train another 300 UI staff. In response to a follow-up question, Ms. Cabbage stated that in the administration's judgement the contract with Ernst & Young was the best and cheapest way to work through the claims backlog.

In response to a question from Senator Wheeler, Mr. Benton testified that the Education and Workforce Development Cabinet could not detail LRC staff to its agency to assist in processing claims. In response to a follow-up question, Ms. Cabbage stated that LRC staff could not be detailed due to a combination of federal requirements and separation of powers issues.

In response to a question from Representative Hatton, Mr. Benton testified that the public workforce system in Kentucky is dependent upon federal dollars for operating. The lower the unemployment rate, the less workforce dollars a state receives. He continued to say that Kentucky should consider providing state level resources to stabilize the ebbs and flows of federal funding. In response to another question, Mr. Benton stated that an RFP for improving the UI system was not issued for three years because a certain amount of funds had to be collected before the RFP could be issued.

In response to a question from Senator Castlen, Mr. Benton testified that there were not vendors available to provide adjudication services earlier during the pandemic.

In response to a question from Senator McDaniel, Mr. Benton testified that the payments to non-traditional employees and the provision that payments begin on the first week were in the governor's executive order and Regular Session 2020 Senate Bill 150, which expanded eligibility for UI benefits, and were also rolled up in the CARES Act, which passed later. By the time Kentucky received CARES Act funding, it was paying benefits to those who are not traditionally eligible through federal funds. In response to another question from Senator McDaniel, Mr. Benton stated that the only program expiring July 31 is the additional \$600

a week. The PUA goes through the end of the year.

In response to a question from Senator West, Ms. Cabbage testified that the contract with Ernst & Young was an emergency procurement that was not competitively bid. The administration hopes that at least 80 percent of the backlog will be completed by the end of July. In response to another question, Ms. Cabbage stated that the administration hopes it will not have to renew the contract after July, but that it will remain flexible.

In response to a question from Senator McDaniel, Mr. Benton stated that the Education and Workforce Development Cabinet became aware of the security breach on April 23. In response to another question, Mr. Benton said that the breach was not reported until a request was made by the auditor's and attorney general's offices. In response to further questions, Mr. Benton testified that the cabinet did not initially report the incidents because its internal investigations were still trying to determine whether there was a breach. Mr. Benton stated that the cabinet's legal team reviewed whether or not to report the incidents as a breach.

In response to a question from Representative Hart, Ms. Cabbage testified that the cost for extending the contract with Ernst & Young for August would depend on the volume of work under the contract.

Ms. Cabbage agreed to forward Senator Meredith's suggestion that the administration enter into separate contracts for claims processing and system review, so that other vendors can participate in the process.

#### **Kynect/Health Benefit Exchange**

Eric Friedlander, Secretary, Cabinet for Health and Family Services; and Carrie Banahan, Chief Analyst for Health Policy, Cabinet for Health and Family Services, discussed the Kynect/Health Benefit Exchange.

Carrie Banahan testified that Governor Andy Beshear sent a declaration letter of intent to the Centers for Medicare & Medicaid Services (CMS) on June 16<sup>th</sup> to transition to a state-based exchange beginning January 1<sup>st</sup>, 2022. Kentucky implemented a state-based exchange in 2013 known as Kynect. Through Kynect, over 500,000 people were enrolled into Medicaid and qualified health plan coverage.

In 2017, Kentucky became a state-based exchange on the federal platform. This required individuals to use the federal exchange to apply for qualified health plan coverage. To support federal exchange operations, a user fee is included in an individual's premium amount. In 2018, Kentuckians paid a three percent user fee, totaling \$9.8 million. In 2019, the fee increased to 3.5 percent.

Several states are transitioning from the federal exchange to a state-based exchange. Benefits of transitioning to a state-based exchange include providing Kentuckians a reduction in premium amounts, allowing for greater flexibility and autonomy than a federal exchange, and more. The state-based exchange can be reestablished without any system development costs.

Federal funding in the Kynect health benefit exchange decreased over time from \$49 million in Fiscal Year (FY) 2015 to 0 in FY 2019. By using the federal exchange Kentucky is a net-payer to the federal government, as opposed to receiving federal funds.

In response to a question from Representative Flood, Secretary Friedlander stated that some funds are being made available to local health departments to assist with increasing testing.

In response to a question from Senator McDaniel, Ms. Banahan stated that a one percent broad-based assessment collected annually on insurers funds the operations of the exchange. There will be a one-time system cost of

five million dollars in order to reestablish the state-based exchange. Secretary Friedlander stated that potential savings will pay for the cost to reestablish the exchange. In response to another question from Senator McDaniel, Secretary Friedlander expressed his belief that existing statutes on maximizing federal funds give the authority to move to a state-based exchange.

**Update on Federal COVID 19 Funding**

Aaron Thompson, President, Council on Postsecondary Education; and Shaun McKiernan, Director of Budget and Finance, Council on Postsecondary Education (CPE), provided an update on Federal COVID-19 Funding.

President Thompson testified that Kentucky’s public colleges and universities are estimated to have incurred \$144,853,700 in costs and lost revenues during FY 2020. This equates to 17% of the state general fund dollars allocated to public colleges and universities for the year.

Housing and dining refunds and credits accounted for over 50 percent of costs incurred by public colleges and universities. Tuition costs were not refunded, because classes continued on an online format. The public postsecondary education system lost \$21.5 million in tuition and fee revenues in FY 2020. Another \$17.2 million in ‘other’ revenues were lost.

The CARES Act provided two major pools of funding to colleges and universities. The first fund is the Higher Education Emergency Relief Fund (HEERF). The second fund is the Governor’s Education Emergency Relief Fund (GEERF). Forty-five percent of HEERF funding is reserved for emergency cash grants to students. Another 45 percent of the funding is reserved for institutional grants. Kentucky received \$156 million from the HEERF.

Kentucky’s postsecondary system has awarded 76.9 percent of the \$55 million reserved for students through the HEERF. All funds must be distributed directly to students for emergency needs such as food, shelter, childcare, and more.

Fifty-six percent of the \$54.5 million in funds reserved for institutions through the HEERF have been disbursed. These funds are intended to cover significant COVID-19 related costs.

Kentucky received \$43.8 million through the GEERF. CPE received \$13.8 million to administer to higher education institutions. GEERF dollars can be used for purposes such as enhanced online programming, targeted financial aid for high-need students, and more.

There will be minimal to no tuition increases throughout the system in the 2020-2021 academic year. The proposed system average tuition increase will be 0.7 percent for the upcoming academic year. This will be the lowest increase in decades.

In response to a question from Senator McDaniel, President Thompson stated that Kentucky State University received an additional \$2,358,412 for serving minority and low-income students. Shaun McKiernan testified that the funds to institutions for serving minority and low-income students were not included in the \$110 million that went to public institutions through the other pools of HEERF funds. In response to another question from Senator McDaniel, President Thompson stated that Kentucky State University has not disbursed as much of its student grants as other institutions because it found logistical issues such as incorrect addresses on some student applications. In response to a follow-up question from Senator McDaniel, Mr. McKiernan stated that the Kentucky Community & Technical College System (KCTCS) has not disbursed

much of its institution grant, because it does not have dining or housing expenses. KCTCS is also being cautious with how it spends its funds. He continued to say that Kentucky State University did not provide a specific response for why it has not disbursed much of its institution grant. In response to another question from Senator McDaniel, President Thompson testified that these funds will lapse back to the federal government if they are not utilized.

In response to a question from Senator Givens, President Thompson discussed the importance of keeping tuition low in Kentucky.

In response to a question from Representative Nemes, President Thompson stated that HEERF funds went to public and private postsecondary institutions in Kentucky.

With no further business before the committee, the meeting was adjourned at 3:09 p.m.

**INTERIM JOINT COMMITTEE  
ON APPROPRIATIONS AND  
REVENUE BUDGET REVIEW  
Subcommittee on Economic Development,  
Tourism, and Environmental Protection  
Minutes of the 2nd Meeting  
of the 2020 Interim  
July 8, 2020**

**Call to Order and Roll Call**

The 2nd meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 8, 2020, at 9:00 AM, in Room 154 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Lynn Bechler, Co-Chair; Senator Max Wise; Representatives Terri Branham Clark, David Hale, Savannah Maddox, Ruth Ann Palumbo, Bart Rowland, Dean Schamore, and Russell Webber.

Guests: Patricia J. Knight, CPA, Vice President of Finance and Operations, VisitLEX; and Michelle Allen, Executive Director, Somerset-Pulaski County Convention and Visitors Bureau.

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

**Approval of minutes**

Representative David Hale made a motion to approve the minutes from the June 3 meeting. The motion was seconded by Senator Max Wise, and the minutes were approved without objection.

**Impact of COVID-19 on Kentucky Tourism**

Patricia J. Knight, CPA, Vice President of Finance and Operations, VisitLEX provided an overview of the loss of tourism revenues for Lexington due to the COVID-19 pandemic.

In response to a question from Representative Webber, Ms. Knight confirmed that hotels in Lexington had lost \$60 million from March to the end of June, 2020. Ms. Knight stated that interstate and extended stay hotels have fared better than others during COVID-19 related shut downs. Ms. Knight noted that hotels with meeting spaces have seen large revenue losses due to the pandemic, and that some could eventually be forced to close. Ms. Knight estimated a minimum of two to three years before businesses fully recover.

In response to a question from Senator Wise,

Ms. Knight said that the American Hotel and Lodging Association had implemented guidelines for hotels. Ms. Knight stated that hotel owners and employees are very concerned with making sure their properties are clean and safe places to stay.

In response to a question from Representative Branham Clark, Ms. Knight noted that marketing efforts would be key to help people understand the steps businesses take to ensure safety. Ms. Knight stated that the typical COVID-19 standards for the service industry are having employees in masks, encouragement of visitors and customers to wear masks, ample amounts of hand sanitizer in high contact areas, and impressing upon people the need to social distance.

In response to questions from Representative Maddox, Ms. Knight confirmed that a hotel room is required to be vacant for 48 hours before staff can come in and clean. Ms. Knight stated that with the decrease in the amount people travel, the 48 hour hold hasn’t effected business.

In response to a question from Chair Girdler, Ms. Knight noted that hotels which are not located along interstates or are not extended stay properties have not fared well financially during the COVID-19 pandemic.

In response to a question from Representative Branham Clark, Ms. Knight said that many hospitality businesses located within airports were able to receive benefits through the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Ms. Knight noted that VisitLEX considers the Blue Grass Airport essential to tourism in Lexington.

Michelle Allen, Executive Director, Somerset-Pulaski County Convention and Visitors Bureau provided an overview of the impact that the COVID-19 pandemic has had on tourism in the Lake Cumberland area.

In response to a question Representative Webber, Ms. Allen confirmed that lodging occupancy for the Lake Cumberland area went from 94 percent in the summer of 2019 to an expected 45 percent in the summer of 2020.

In response to a question from Chair Girdler, Ms. Allen noted that the governor’s administration has been helpful and collaborative with local tourism officials. Ms. Allen stated that Kentucky had been behind other states in tourism long before the COVID-19 pandemic.

There being no further business before the subcommittee, the meeting was adjourned at 10:04 AM.

**INTERIM JOINT COMMITTEE  
ON APPROPRIATIONS  
AND REVENUE  
Budget Review Subcommittee on Education  
Minutes of the 2nd Meeting  
of the 2020 Interim  
July 8, 2020**

**Call to Order and Roll Call**

The 2nd meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 8, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senators C.B. Embry Jr., Gerald A. Neal, Johnny Ray Turner, and Mike Wilson; Representatives Kim Banta, Tina Bojanowski, Randy Bridges, Joseph M. Fischer, Kelly Flood, Cluster Howard,



Regina Huff, C. Ed Massey, Bobby McCool, Brandon Reed, Rob Rothenburger, and Attica Scott.

Guests: Dr. Aaron Thompson, President, Council on Postsecondary Education; Dr. Robert L. Jackson, President, Murray State University; Dr. OJ Oleka, President, Association of Independent Kentucky Colleges and Universities (AIKCU)

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

#### **Council on Postsecondary Education (CPE)**

Dr. Aaron Thompson, President, CPE, and Dr. Robert L. Jackson, President, Murray State University, gave a presentation and answered questions regarding the effects of COVID-19 on Postsecondary Education Budgets.

In response to a question from Chair Tipton, Dr. Jackson said that Murray State University is working to mitigate concerns regarding the return of students in the fall. He said the University is installing plexiglass, providing hand sanitizer, planning for social distancing, and ensuring a clean and safe campus for the return of students, faculty, and staff.

In response to a question from Representative Scott, Dr. Thompson said that CPE is exploring solutions to remedy the issues surrounding student visas and virtual learning. He said they hope to find a satisfactory solution very soon.

In response to a question from Representative Howard, Dr. Thompson said that CPE, in conjunction with Area Technology Centers and business leaders, designed a way for students to properly social distance while still allowing them to learn in hands-on courses. Dr. Thompson added that there have been ongoing personnel adjustment conversations. He said concerns about COVID-19 have led some older faculty and staff to look more closely at their options. Dr. Jackson said there is a great concern for the safety of at-risk faculty and staff.

In response to a question from Senator Wilson, Dr. Thompson said CPE has reached out to the United States Department of Education about securing additional funding. He added that some of that federal funding could be used to offset budget cuts.

In response to a question from Representative Rothenburger, Dr. Thompson stated that several community colleges and smaller institutions in Kentucky are at risk of financial hardships if enrollment decreases or they do not receive additional funding.

#### **Association of Independent Kentucky Colleges and Universities (AIKCU)**

Dr. OJ Oleka, President, Association of Independent Kentucky Colleges and Universities (AIKCU) gave a presentation and answered questions regarding the effects of COVID-19 on Postsecondary Education Budgets.

In response to a question from Chair Tipton, Dr. Oleka said that more than 10,000 AIKCU students rely on the Kentucky Tuition Grant to make higher education attainable.

There being no further business to come before the subcommittee, the meeting adjourned at 11:55 a.m.

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

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

July 8, 2020

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

The 2nd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 8, 2020, at 10:30 AM, in Room 149 of the Capitol Annex. Senator Matt Castlen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

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

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

#### **Approval of minutes**

Senator Stephen Meredith made a motion for approval of the minutes from the June 3, 2020, meeting of the subcommittee. The motion was seconded by Representative Danny Bentley, Co-Chair, and the minutes were approved without objection.

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

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

In response to questions from Senator Meredith, Secretary Friedlander noted that the increased Medicaid rate for providers caring for COVID-19 positive patients has paid out less than one million dollars. Secretary Friedlander stated that Medicare pays a higher rate, so providers usually charge Medicare rather than Medicaid when a patient is eligible. Secretary Friedlander said that the cabinet is attempting to determine how much the federal government has given directly to long term care facilities, in order to determine how much assistance those facilities may need from the state. Secretary Friedlander noted that the cabinet would like to see the increased Federal Medical Assistance Percentage (FMAP) rate last until at least the end of the year.

In response to a question from Chair Castlen, Secretary Friedlander stated that \$250 million of the \$436 million provided by the federal government so far for the increased FMAP rate has been spent.

In response to a question from Representative Moser, Secretary Friedlander said that a federal epidemiology grant is being utilized to increase testing and laboratory capacity.

In response to questions from Representative Gibbons Prunty, Mr. Lowery stated that areas of the presentation in which no expenditures are listed represent areas where the cabinet had not yet received an invoice for services, so had not yet paid out any funds. Secretary Friedlander noted that the rate of increase for Medicaid enrollment had slowed, though there was not yet a decrease in new enrollments. Secretary Friedlander said that those seeking rent assistance need to contact their local community action agency.

In response to a question from Co-Chair Bentley, Secretary Friedlander stated that the cabinet continues to work toward implementing 2020 Regular Session Senate Bill 50 regarding the Medicaid Pharmacy Program. Secretary Friedlander said the cabinet hopes to have a request for proposal for bids by August 2020 and plans to

have a contract signed by January 2021.

In response to a question from Representative Webber, Secretary Friedlander said that there is no state requirement that day care centers must close by 5:00 PM.

In response to questions from Chair Castlen, Secretary Friedlander noted that much of the \$40 million dollars in expenditures from the Child Care and Development Block Grant were for the limited duration child care centers that were set up to care for the children of essential health care workers, including what the cabinet called a "hero bonus" to workers in the limited duration child care centers. The rest of the Child Care and Development Block Grant expenditures were one-time stipends that were provided to child care centers that were shut down during the COVID-19 restrictions. Secretary Friedlander stated that the cabinet also provided a reopening stipend to assist child care providers with purchasing items that would be needed for reopening, though the numbers had not yet been updated to reflect those payouts. Secretary Friedlander agreed to provide an exact breakdown of all Child Care and Development Block Grant expenditures. Secretary Friedlander said that the cabinet had been consulting with Representative Moser, the Kentucky Association of Health Care Facilities, and a few personal care providers regarding assistance for personal care homes. The cabinet has seen some success using the stipend model for childcare and intends to utilize stipends for personal care homes moving forward. Secretary Friedlander noted that the number of personal care homes participating in the state supplementation program has increased from 17 to 42. The cabinet's intent is to focus on those 42 participating homes, though the number could rise to 70. Mr. Lowery confirmed that the 6.2 percent increase in the FMAP rate reduces the state share of Medicaid costs only on traditional and Kentucky Children's Health Insurance Program (KCHIP) enrollment populations.

In response to a question from Senator Meredith, Secretary Friedlander said that a lawsuit regarding Medicaid managed care organizations (MCO) is being appealed, and the cabinet will be prepared to provide more information on new MCO contracts after appeal.

In response to a question from Representative Raymond, Secretary Friedlander stated that \$10 million dollars in CARES Act funding has been exhausted for reimbursements for local health departments. Secretary Friedlander noted that the Louisville Metro health department is an independent health department and receives funding through different sources. The Louisville Metro government also received CARES Act funding directly from the federal government.

There being no further business before the subcommittee, the meeting was adjourned at 11:23 AM.

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

### **Budget Review Subcommittee on Justice and Judiciary Minutes of the 1st Meeting of the 2020 Interim July 8, 2020**

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

The 1st meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, July 8, 2020, at 9:00 AM, in Room 149 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, John Schickel, Robin L. Webb, and Whitney Westerfield; Representatives Daniel Elliott, Angie Hatton, Nima Kulkarni, and Jason Petrie.

Guests: Cookie Crews, Commissioner, Department of Corrections (DOC); Randy White, Deputy Commissioner of Adult Institutions, DOC; Nicolai Jilek, Commissioner, Department of Criminal Justice Training (DOCJT); and Frank Kubala, Ed.D., Director of Training Operations, DOCJT.

LRC Staff: Zachary Ireland, Savannah Wiley, and Benjamin Thompson

### **Impact of COVID-19 on the Department of Criminal Justice Training**

Commissioner Nicolai Jilek provided an overview of the Department of Criminal Justice Training's (DOCJT) implementation of COVID-19 safety measures, such as reducing living arrangements from two to one recruit per room, as well as the reduction of class size to a maximum of 30 while ramping up capabilities to follow Centers for Disease Control (CDC) guidelines while training three separate classes simultaneously. Commissioner Jilek stated that with new protocols the DOCJT will be able to train 210 officers per year, while traditionally DOCJT trained 250 new officers per year.

In response to questions from Chair West, Commissioner Jilek stated that as manpower diminishes in an agency, unless the agency can get Kentucky State Police or another nearby agency to assist them, it won't be able to perform its duties at as high a standard as would be normal. Commissioner Jilek noted that a Kentucky Law Enforcement Foundation Program Fund (KLEFPF) stipend of \$4,000 is provided to officers yearly as long as they have at least 40 hours of continuing education. Commissioner Jilek noted that DOCJT provides 200 classes in a typical year, but during the COVID-19 pandemic the DOCJT has been able to provide eight hours of online in-service training to a maximum of 300 officers per week. Commissioner Jilek stated that DOCJT was attempting to obtain a waiver for the remaining 32 hours of in-service training, so that officers can still obtain their KLEFPF stipend.

In response to a question from Co-Chair Nemes, Commissioner Jilek agreed that better pay would attract better candidates. Commissioner Jilek continued by stating increased funding for training would also increase the quality of policing.

In response to a question from Chair West, Commissioner Jilek said that he had just received confirmation that the waiver for the KLEFPF in-service stipend had been approved. Commissioner Jilek noted that the Governor's office had been supportive and understanding of the need for the waiver from the beginning.

### **Impact of COVID-19 on the Department of Corrections**

Commissioner Cookie Crews and Deputy Commissioner Randy White provided an update on the Department of Corrections' (DOC) response to the COVID-19 pandemic and the implementation of safety protocols to protect both corrections officers and inmates.

In response to a question from Senator Schickel, Commissioner Crews confirmed that inmates are still receiving their mail. Commissioner Crews stated that 1,170 inmates had been released due to COVID-19 precautions.

There being no further business before the subcommittee, the meeting was adjourned at 10:15 AM.

## **CHILD WELFARE OVERSIGHT AND ADVISORY COMMITTEE**

### **Minutes**

July 22, 2020

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

The Child Welfare Oversight and Advisory Committee meeting was held on Wednesday, July 22, 2020, at 2:00 PM, in Room 171 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative David Meade, Co-Chair; Senators Julie Raque Adams, Denise Harper Angel, Reginald Thomas, and Whitney Westerfield; Representatives Lynn Bechler, Angie Hatton, Joni L. Jenkins, and Nancy Tate.

Guests: Jill Seyfred, Executive Director, Prevent Child Abuse Kentucky; Kelly Crane, State Policy Specialist, Prevent Child Abuse America; Eric Friedlander, Secretary, Cabinet for Health and Family Services; Marta Miranda-Straub, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Christa Bell, Director, Mary Carpenter, Assistant Director, Division of Protection and Permanency, Department for Community Based Services Cabinet for Health and Family Services; and Kelli Root, Manager, Out of Home Care Branch, Department for Community Based Services, Cabinet for Health and Family Services.

LRC Staff: Ben Payne, Lead Staff, Becky Lancaster, and Shyan Stivers.

#### **Approval of Minutes**

A motion to approve the minutes of the November 11, 2019 meeting was made by Senator Westerfield, seconded by Representative Tate, and approved by voice vote.

#### **Child Abuse - Kentucky and National Perspectives**

Jill Seyfred, Executive Director, Prevent Child Abuse Kentucky (PCAK), stated that the mission of PCAK is to prevent the abuse and neglect of Kentucky's children through advocacy, awareness, education, and training. PCAK has more than 250 partners throughout the state. The highest number of substantiated cases of child abuse or neglect or children in need of services occurs between one to five years of age. Substance abuse was documented as a risk factor in 63 percent of the reports with a finding of substantiated or services needed. According to the Child Fatality and Near Fatality Review Panel from 2013 to 2018, an average of 47.5 children died under circumstances of maltreatment each year in Kentucky. An average of 87.75 Kentucky children are involved in near fatal incidents. In 28 percent of child abuse and neglect cases reviewed by the panel, a bystander issue was identified for failing to make a report of child maltreatment to the appropriate authorities. One in ten children will be victims of child sexual abuse before the age of 18. The prevalence of child sexual abuse is believed to be higher than the rate of substantiations. Research indicates that only 60 percent of victims tell anyone that abuse is occurring.

Ms. Seyfred gave examples of primary child abuse and neglect prevention resources. PCAK has 14 educational programs in Kentucky and serve approximately 15,000 people. A recent report estimates that Kentucky children who have substantiated cases for child abuse and neglect in 2018 will incur costs of over \$19 trillion over their lifetime. PCAK is working with the Kentucky Department for Community Based Services (DCBS) on a recidivism project to educate people who enter the parent education program

to not have a reoccurrence and do not reenter into the DCBS system. She provided findings from the regional meetings with each PCAK partner. She listed the most pressing needs facing the children and families that are working with PCAK. More funding for child abuse prevention and awareness is the main request of PCAK partners.

In response to questions from Senator Buford, Ms. Seyfred stated that the Kentucky Health Access Nurturing Development Services (HANDS) program, the family resource centers, and youth service centers have tremendous impact in each local community. Other than funding, Kentucky can improve on educational trainings on how to report and prevent child abuse and neglect.

Kelly Crane, State Policy Specialist, Prevent Child Abuse America (PCAA), stated that PCAA aims to prevent abuse and neglect before it begins by strengthening families and supporting communities. PCAA has four organizational pillars. The policy pillar advocates for federal and state policies that will have a positive impact on families. The state chapter network promotes prevention strategies and services that improve child well-being and develops programs to help parents raise happy, healthy children. The U.S. child maltreatment rates from 1990 to 2016 have decreased. The 2018 National Child Abuse and Neglect Data System (NCANDS) report stated there were 678,000 victims of child maltreatment and 1,770 deaths. On an annual basis, child maltreatment is more costly than patients that have a stroke or Type 2 diabetes. The costs are related to productivity losses, child welfare, special education, juvenile justice, and healthcare. She listed several prevention strategies that included expanding the HANDS program, promoting positive fatherhood engagement, and increasing economic supports for families.

In response to questions from Senator Buford, Ms. Crane stated that Kentucky's child abuse and neglect reporting laws are more robust than other states. Kentucky may have more child abuse and neglect cases, because there are more people obligated to report the child abuse and neglect.

#### **2020 Foster Care System Update**

Eric Friedlander, Secretary, Cabinet for Health and Family Services (CHFS), introduced Marta Miranda-Straub as the new Commissioner for the Department for Community Based Services (DCBS) at the Cabinet for Health and Family Services. Commissioner Miranda-Straub stated that due to COVID-19, DCBS has put in new systems that are more accessible and flexible for the employees and foster families. Although 80 percent of the DCBS workforce is working remotely, they have maintained face to face interaction with children and families in crisis.

Christa Bell, Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that one of DCBS's priorities is that children in out-of-home care receive quality services and timely achieve permanency. DCBS has expanded in-home services to prevent entry into care and improved the relative service array. In July 2015, there were 7,856 children in care and as of July 2020, there are 9,797 child in care. During the pandemic state of emergency, while courts were closed, the number of children in care did go above 10,000 children.

In response to a question from Representative Buford, Ms. Bell stated that in May of 2020, the highest number of children that were in DCBS care was 10,072 children

Ms. Bell stated that as of July 2020, there are 5,466 total foster homes of which 2,432 are DCBS approved foster homes. There are 3,034 private child placing foster



homes. During the pandemic, foster homes continued to be approved for child placement. DCBS continues to focus on recruitment and retention of qualified staff to maintain manageable caseloads. DCBS has continued the exploration of performance based contracting with providers. In 2020, the average Child Protective Services (CPS) caseload, with CPS not at full staff capacity and with past due investigation cases, per social worker is 27 cases in Kentucky.

Mary Carpenter, Assistant Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that Kentucky is in the 75<sup>th</sup> percentile of states where children in out-of-home care have two or fewer placements. DCBS has worked with regional staff and private partners to address strategies for placement stability. For the state fiscal year (SFY) 2020, the DCBS average timeframe for reunifications of children to birth families is 10.3 months which is an increase from 9.4 months in 2019. For SFY 2020, the DCBS average timeframe for children in care to be adopted is 35.6 months. In SFY 2020, there have been 1,293 adoptions through DCBS in Kentucky. There has been an increase in adoptions primarily since 2018. The overall average number of months for a child to receive permanency, for exit reasons, is 17.9 months in SFY 2020. DCBS is focused on reducing the number of youth who leave cabinet custody without achieving permanency. In 2018, DCBS established the Transitional Services Branch within the Division of Protection and Permanency to focus efforts on the transitional age youth in out-of-home care. The transition planning is for older youth in care to ensure their needs are met and are successful when exiting care. In SFY 2020, there were 709 youths exiting to emancipation and has increased from 665 in SFY 2019. DCBS' goal is to decrease the number of emancipations and have more youth achieve permanency through reunification or adoption.

Ms. Bell stated that due to the state of emergency and the pandemic, monthly caseworker visits and the parent and child visitations were conducted via videoconferencing platforms. Face to face visitations resumed in a phased-in approach at end of May. Due to COVID-19, there have been reduced entries into and exits out of foster care. She stated that the reopening of courts and the increased use of virtual hearings has increased the achievement of permanency for Kentucky children. Kentucky requested and received federal waiver for fingerprinting in order to continue approval of foster families. Foster parent training conducted via videoconferencing platforms. The number of reports with an allegation of child abuse or neglect was reduced beginning in March of 2020, coinciding with schools closing statewide due to COVID-19.

In response to questions and comments from Senator Raque Adams, Ms. Bell stated that DCBS has seen improvements with the caseload in Jefferson County. There has been additional measures put in place to assist with past due investigations and have contracted with an external partner to assist with parts of the work that are appropriate for someone outside of DCBS. Commissioner Miranda-Straub stated that the previous caseload for Jefferson County was 80 to 82 cases per worker, but now the average is approximately 37 cases per worker. DCBS is looking at how to provide more assistance and support to those workers to reduce the caseloads.

In response to questions and comments from Senator Buford, Commissioner Miranda-Straub stated that she does not know the number of additional social workers that are needed to reach manageable caseloads. DCBS is reviewing what a manageable caseload is with added support workers.

She stated that working from home during the pandemic has been a support and morale buster for the staff. It was stated that DCBS has been working with the courts to share data and has a judicial engagement work group to discuss barriers of the cases. Most courts in Kentucky have reopened and are holding court virtually. There are several reasons for the delays in the timeframe of the adoption cases such as the amount of paperwork that is required to give to the adoptive family. DCBS has reduced some documentation if the child has been in the same initial foster home placement. There are also delays with guardian ad litem (GAL) reports and setting court hearings. DCBS is implementing a communication plan for each region to share data with the courts to improve the adoption timelines.

In response to questions and comments from Senator Westerfield, Ms. Bell stated that the number of reports of child abuse and neglect declined significantly when schools closed. The Division of Protection and Permanency has met with the Family Resource Youth Service Center within CHFS to discuss the reporting of child abuse and neglect during school closures. There have been discussions of measures that can be taken to provide supports for families before returning to school in-person or online.

In response to questions and comments from Senator Buford, Ms. Bell stated that number and decrease in child abuse and neglect reporting has been a topic of interest. DCBS has responded with information on supports provided to families through social media platforms. She stated that there will be a report that actively tracks reports of abuse in foster care homes.

Ms. Bell stated that recent programming changes will allow more accurate reporting of maltreatment in care. She stated that programming changes have been made to allow DCBS to accurately capture and separate maltreatment that occurs while in foster care verses previous maltreatment that is reported while a child is in foster care. The DCBS staff monitors the reports of maltreatment and substantiations among DCBS homes, private child placing (PCP), and private child caring (PCC) providers. In SFY 2020, there were 310 reports that were accepted for investigation for youth in a PCP or PCC placement. She stated that 27 reports were substantiated, 38 reports are still open investigations, and 245 reports were unsubstantiated. There is an existing foster parent registry that captures all foster homes in Kentucky along with the reason for closure.

Kelli Root, Manager, Out of Home Care Branch, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that to prevent maltreatment while in care, foster parent background checks will be expanded. DCBS is assessing foster families and their ability to meet the needs of children through more in-depth home studies. DCBS has high quality, preservice training and supportive services to better prepare foster parents to meet the needs of the children in care. Private agencies have the ability to receive the Federal Bureau of Investigation (FBI) rap sheet of a foster parent. Training in trauma-informed care and caring for a sexually abused child is mandatory for all foster parents. The professional development and training for foster parents can be tailored to the specific needs of the family and children in the home. Kentucky's Just in Time training is a web-based service program designed to connect foster parents, kinship, or other caregivers with online training, peer experts, and other resources. Other supports for foster families are the Resource Parent Mentor Program, the Adoption Support for Kentucky program, and the Foster/Adoptive Training Support Network. There are

also local and regional foster parent associations that are active in helping to provide insight and support.

In response to questions and comments from Senator Buford, Ms. Seyfred stated that PCAK provided additional information regarding financial information when discussing prevention of child abuse and neglect. The additional information has been downloaded to the LRC website along with all other meeting materials for this committee meeting.

#### **Adjournment**

There being no further business, the meeting was adjourned at 4:12 PM.

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

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

July 30, 2020

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

The 2nd meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, July 30, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Representative Russell Webber, 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, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Kim Banta, Lynn Bechler, John Blanton, 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: Ashli Watts, President and CEO, Kentucky Chamber of Commerce and Muncie McNamara, Former Executive Director, Kentucky Office of Unemployment Insurance.

LRC Staff: Andrew Manno, Sasche Allen, and Kirsten Parker.

#### **Approval of Minutes**

A motion to approve the minutes of the June 26, 2020 meeting was made by Senator Rick Girdler, seconded by Representative Chris Freeland, and approved by voice vote.

#### **Update on Unemployment Insurance**

Ashli Watts, President and CEO of the Kentucky Chamber of Commerce, gave an overview of the Unemployment Insurance Trust Fund, which are funds used for paying unemployment insurance benefits. In February 2020, the UI Trust Fund was positive and on a Schedule A, which is the schedule most beneficial to employers. Due to the COVID-19 pandemic, businesses began closing either temporarily, permanently, or having to pay to make modifications to comply with safety regulations. As a result, the state's unemployment rate began to rise, and the trust fund balance is now zero. The state took out an almost \$900 million loan with the federal government to replenish the Trust Fund and employers will ultimately be paying the loan off in the future. Unemployment rates have now moved from a Schedule A to a Schedule D which will result in a large tax increase to every Kentucky employer beginning January 2021. Some larger businesses will see over a 2000 percent



tax increase on their UI rates under the new schedule. Ms. Watts proposed several options the Chamber has formulated that could aid in relieving employers and assist with the repayment of the new federal loan. First, the Chamber has reached out to its federal delegation and Majority Leader McConnell about a loan forgiveness or any other assistance from the federal government. Secondly, the Chamber has asked Governor Andy Beshear if any CARES ACT funds would be available to supplement the Trust Fund to offset the massive increase to employers. The third option could be for the General Assembly to follow suit with other states by adopting legislation that would remove the time period of the pandemic from tax evaluations on employers. Lastly, a possible solution could be to model the response to the 2008 Recession. Then Governor Steve Beshear, gathered a task force of business, labor, and state leaders and officials that made recommendations that produced legislation passed in 2010 that saved employers \$450 million and led to the federal loan that was taken out to be paid back a year early, saving an additional \$165 million.

Responding to a question from Co-Chair Russell Webber, Ms. Watts clarified that all benefits paid to those who would not have qualified for traditional unemployment before the pandemic, such as those that are independent contractors, were paid out of federal funds and not from the state's UI Trust Fund.

Answering a question from Senator Jimmy Higdon, Ms. Watts said that the rate for each employer will be different and will be dependent upon how many employees were laid off during the pandemic, how long those employees were laid off, and the size of the company or business. All Kentucky employers however will move to a Schedule D starting January 2021.

Replying to Senator Mike Wilson, Ms. Watts said she agreed that there are differences between the 2008 Recession and the current state of the economy. The 2008 Recession occurred over a longer period of time and had a slower increase in the unemployment rate. She further explained that because it is unknown how long the state will see effects of the pandemic, more funds may have to be requested from the federal government. Answering a follow up, Ms. Watts confirmed that in addition to an unemployment insurance rate increase, employers also had to pay a surcharge after the federal loan was obtained for the 2008 Recession. This surcharge resulted in the federal loan being paid off early, saving employers \$165 million.

Addressing Senator Rick Girdler, Ms. Watts said that the Chamber is very communicative with the Governor's Office and did have phone conversations with the Governor's Office prior to the first shutdown of businesses in March 2020.

Responding to a question from Co-Chair Danny Carroll, Ms. Watts reiterated all benefits paid to those who would not have qualified for traditional unemployment before the pandemic, such as those that are independent contractors, are being paid out of federal funds and not from the state's UI Trust Fund.

Answering questions from Senator Karen Berg, Ms. Watts said that after working with economists, the Chamber is hopeful that once there are treatments or vaccines developed to combat COVID-19, the economy should recover more quickly than it did with the 2008 Recession. Responding to a follow up, she said businesses have done everything they can to keep Kentuckians safe through the pandemic, the Chamber worked closely with the Governor's Office on reopening plans, and the Chamber encourages wearing face coverings as a safety measure.

Replying to Co-Chair Danny Carroll, Ms. Watts stated the Chamber was not consulted by the Governor's Office about the most recent mandate on restaurants to operate at an indoor seating capacity of 25 percent.

The former Executive Director of the Office of Unemployment Insurance, Muncie McNamara, testified about his tenure as executive director from January 16, 2020 to May 5, 2020 and the conditions surrounding the Office of Unemployment Insurance's response to the closing of the state's economy as a result of the COVID-19 outbreak. He detailed his personal experiences with implementing three newly created unemployment insurance programs that covered those not covered by traditional unemployment insurance, guiding his staff in processing an overwhelming amount of claims with an antiquated computer system, data breaches that occurred during his time with the Office of Unemployment Insurance, issues he had with decision making of his superiors, and the circumstances involving his termination from the Education and Workforce Development Cabinet.

Answering questions from Co-Chair Russell Webber, Mr. McNamara said there were no personal discussions between him and the Governor's Office pertaining to the March shutdown, a more reasonable measured response should have been taken before issuing benefits to claimants who would not have qualified for traditional unemployment, and more time should have been taken to make modifications to the computer system to adequately handle claimants that qualified for the three new unemployment insurance programs.

Responding to a question from Co-Chair Carroll, Mr. McNamara explained that through his conversations with the Deputy Secretary of the Education and Workforce Development Cabinet, Josh Benton, he gathered that Governor Andy Beshear had inquired about providing benefits to those recently released from correctional facilities, but he advised that it could not be done because they had no connection to workforce before the COVID-19 pandemic. Answering a follow up question, he said that he had been told about state issued employee phones being collected after he was terminated but did not have firsthand knowledge of that information.

Addressing Senator Jimmy Higdon, Mr. McNamara said at the start of the pandemic there were already limited staff members that were able to adjudicate complicated claims.

Replying to Representative John Blanton, Mr. McNamara reiterated that through his conversations with the Deputy Secretary of the Education and Workforce Development Cabinet, Josh Benton, he gathered that Governor Andy Beshear had inquired about providing benefits to those recently released from correctional facilities, but he advised that it could not be done because they had no connection to workforce before the COVID-19 pandemic. The question was posed to him but he could not speak to the intent of the Governor.

Answering an inquiry from Representative Kim Banta, Mr. McNamara stated that he was made aware of a data breach on April 22, 2020, before the Education and Workforce Development Cabinet publicly acknowledged a separate data breach on April 23, 2020.

Responding to Representative Savannah Maddox, Mr. McNamara said he was not aware of the statute requiring reporting of a data breach to the Attorney General at the time of the breach. He said that the Office of Unemployment Insurance did take steps to try and prevent the issue from occurring again but is not certain that it was a permanent fix

due to the age of the computer system that is used.

Addressing a question from Representative Daniel Elliott, Mr. McNamara said he was aware of large amounts of claims being waived of investigation in the beginning of the pandemic when the Office was attempting to quickly process claims, especially those that would normally require further investigation or that would not normally qualify for traditional unemployment. Federally, each individual claim is required to be adjudicated, and as a result the Office of Unemployment Insurance was instructed by the U.S. Department of Labor to discontinue this process.

Replying to Representative Lynn Bechler, Mr. McNamara stated he was unaware of the form used for mandatory reporting to the Attorney General regarding data breaches at the time of the initial data breaches at the Office of Unemployment Insurance. He was also unaware of the Education and Workforce Development Cabinet's protocol on data breaches at the time but did report the breach to the information technology department.

Answering questions from Senator Karen Berg, Mr. McNamara said when he began his tenure as Executive Director in January 2020 the Office of Unemployment Insurance was understaffed and had a backlog of unemployment insurance claims. He also stated that after a majority of the field offices had previously been closed, the Cabinet had reopened some of those and was working to add 40 additional positions to combat staffing issues. Replying to a follow up, he explained the administrative budget is federally funded.

Responding to Co-Chair Danny Carroll, Mr. McNamara said, in his opinion, the Office of Unemployment Insurance was understaffed before the COVID-19 pandemic. Reopening field offices gave people another option for service and decreased telephone wait times.

Addressing a question from Representative Chris Freeland, Mr. McNamara said he was unaware of why employees of the Legislative Research Committee were not utilized to assist in processing unemployment insurance claims.

Replying to Representative Thomas Huff, Mr. McNamara stated that staff members from other departments of the Education and Workforce Development Cabinet and from the Governor's Office were also assisting with adjudicating claims.

Answering questions from Representative Jason Petrie, Mr. McNamara said that he raised concerns about an appointment to the Unemployment Insurance Commission to the Deputy Secretary and General Counsel of the Education and Workforce Development Cabinet.

Responding to Co-Chair Russell Webber, Mr. McNamara confirmed that he received a corrective action letter the same day that he raised concerns about an appointment to the Unemployment Insurance Commission to the Deputy Secretary and General Counsel of the Education and Workforce Development Cabinet due to what he considered a conflict of interest.

Addressing Co-Chair Danny Carroll, Mr. McNamara indicated that he wrote a letter raising concerns regarding required training for new employees but was aware of the training prior to the day he submitted his letter. Responding to a follow up, he said that it was possible that the data breaches were a data entry mistake but could not be certain. Answering another follow up question, he stated that he did apply for his position through the proper channels and was not offered a position prior to applying through the Governor's transition website.

Replying to Co-Chair Russell Webber, Mr. McNamara

said when he wrote his letter raising concerns about the unemployment insurance call centers, it was submitted to the Deputy Secretary of the Education and Workforce Cabinet, the Commissioner of Workforce Investment, and the Director of Human Resources. It was given to the Director of Human Resources to be put in Mr. McNamara's personnel file.

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

## **INTERIM JOINT COMMITTEE ON EDUCATION**

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

July 7, 2020

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

The 2nd meeting of the Interim Joint Committee on Education was held on Tuesday, July 7, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and staff 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, Robert Stivers II, Reginald Thomas, Stephen West, and Mike Wilson; 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.

LRC Staff: Jo Carole Ellis, Joshua Collins, Christal White, and Maurya Allen.

Senator Wise welcomed the members attending both in-person or remotely and recognized Co-Chair Huff.

#### **Approval of Minutes – June 2, 2020**

The minutes of the previous meeting were approved by voice vote.

#### **Critical Needs for Reopening Schools**

Presenting the critical needs for reopening schools were Dr. Jim Flynn, Executive Director, Kentucky Association of School Superintendents (KASS); Eddie Campbell, President, Kentucky Education Association (KEA); and Eric Kennedy, Director of Advocacy, Kentucky School Boards Association, (KSBA).

Mr. Kennedy said the biggest needs, issues, and concerns identified on the board's questionnaire to reopen schools safely were providing multiple modes of instruction; staffing needs; funding and procurement for additional classroom materials, cleaning supplies and other virus mitigation measures; additional instruction, compliance, and support from students, families, and staff; the burden of liability on a board or district; and expectations for statewide assessments.

Mr. Kennedy said while safety, health, and well-being are top priorities for students and staff, survey results indicated a concern for district, school board, and individual employee liability. Healthy at school requirements, guidance, provisions, and requirements must be included as part of the plan.

Mr. Kennedy discussed legal questions that could arise, such as changing from the initially-selected form of learning to another mode during the school

year. He said concerns about the Family Educational Rights and Privacy Act (FERPA) may affect having a live-stream video feed from classroom instruction to in-home learning. Another concern is whether the General Assembly will waive the 170 student minimum days of attendance for the upcoming school year.

Mr. Kennedy said KSBA supports the American Academy of Pediatrics back-to-school recommendations for the overall health, well-being, and education of students, including in-person instruction as often and safely as possible and mitigating the risk of COVID-19 transmission as safely as possible. Concerns about staffing shortages may become an issue as retirements, leaves of absence, or being unavailable to work due to underlying health conditions or fear. Other concerns may be the ability to acquire cleaning supplies and masks for heightened cleaning standards, the ability to quickly procure instructional equipment as a result of shipping and supply-chain shortages, and the funding for these necessities.

With the General Assembly not being in session, the state of the economy and the downturn in economic activity and tax receipts, the most likely means to receive needed funding for K-12 will need to be provided from additional federal relief. Mr. Kennedy encouraged members to advocate at the federal level for relief in a timely manner.

The virus mitigation guidance for best practices or requirements to allow in-person learning is another point of concern. The inability to achieve social distancing at the recommended levels requires masks be worn at all times, which is a point of consternation for students, staff, families, and the overall community. Mr. Kennedy asked everyone to reach out to district leadership with concerns or input to make this work as best it can. With Kentucky being a diverse state, survey results have varied greatly.

COVID-19 liability for districts, school boards, and individual employees may be addressed in federal legislation with reasonable liability protection.

Standardized assessment and school accountability cannot be waived without USDE approval. Because the 2020-2021 school year is expected to be even more atypical, KSBA supports another waiver of testing for this school year and will continue discussion with the USDE, KDE, and the General Assembly moving forward.

Mr. Kennedy thanked the members for recognizing that public education is mandated by our Constitution and is essential to the quality and well-being of all Kentuckians, the economy, and all essential employees.

Mr. Campbell said every public district and worksite face unique challenges to ensure the health and safety of everyone. The guidance provided will be best practices that can be uniquely adapted to each school situation. Schools are places where communities gather, celebrate, encourage, and educate the next generation. It is critical that plans for reopening are made by each school and school district and that the voices of those who work closely with students play a large part in the final decision. He said interaction in a healthy and safe manner is crucial and believes in-person learning is the most effective teaching method.

Confusion surrounding the reopening of school falls into categories of resources, responsibilities, and health and safety issues. While many agree the most effective means is in-person learning, reality requires educators to service students in a variety of ways. Needed equity in resources includes access to technology and high-speed internet, nutrition and moral support, and curriculum resources to be successful. Mr. Campbell said resources will be needed for cleaning, sanitation, and personal protective equipment (PPE). He said teachers should not be expected to spend their money for materials and supplies while taking on additional teaching duties without compensation. Educators spend countless hours planning, creating materials, grading, assessing and providing feedback to students, monitoring halls, unloading and loading buses, having parent calls and conferences, and other duties as part of their normal routine in a regular school year. With COVID-19, educators will be asked to continue their regular routine but will also need to provide distance learning, monitor students before and after school due to extended schedules, give up valuable family time, conduct temperature checks, maintain logs, do contract tracing, and be responsible for sanitation efforts, among other duties. Teachers will be expected to perform extra duties without additional compensation, insurance, or protection. Clear definitions of an educator's workday, requirements for worker protections, and reasonable job expectations are critical moving forward.

Mr. Campbell said a lack of parent, educator, and student safety in communities will impact teaching and learning. As teachers are asked to step into an at-risk environment, communities should set a good example by embracing and following the recommended PPE suggested guidance. He said additional resources for mandatory testing and for workers impacted by COVID-19 will be crucial and asked the committee to work toward extending the protections provided by Senate Bill 177. Mr. Campbell said student attendance, relief from mandatory testing, and provisions for emergency leave for educators who are directly or indirectly impacted by COVID-19 are critical needs to address.

Dr. Flynn said the pandemic has affirmed the importance of schools for students' mental, physical, social,



and emotional development and well-being; providing a safe environment; and the impact on the economy. With flexibility and funding being an important part, he advocated for more federal support as schools prepare to open. He agreed with Mr. Kennedy's assessment on logistics, personnel, flexibility, funding, and resources. He said many schools have exhausted their CARES funds in preparation for reopening.

Dr. Flynn said flexibility in instruction time for the school calendar should be a priority, given the potential of an in-person shutdown. He said schools greatly appreciate the relief provided in Senate Bill 177, and additional relief will be needed for this year, especially with multiple modes of instruction.

Calendar flexibilities and relief will be needed on the 170-day requirement in preparation for possible in-person shutdowns. Dr. Flynn said in-person instruction is more effective than non-traditional instruction (NTI) and said additional flexibility is needed for instructional minutes during the school days, logistics for social distancing, student arrivals and departures, personnel issues including the mental and physical well-being of staff, staff vulnerability, implementation of in-person instruction, expanded teaching, staffing shortages, additional workloads, and concerns of logistical and financial challenges during the reopening phases.

Dr. Flynn said temperature checks are a highly discussed topic due to the benefit vs. cost because scientific evidence indicates many young people do not present symptoms, including fevers. Logistical and financial challenges are also being weighed in the decision making. Other issues will undoubtedly arise moving forward, and flexibility among every educational entity will be important during this time.

Senator Wise commented classroom teaching during the first six weeks of a school year is important in developing healthy relationships with other students and highly encourages in-person classroom environments when possible.

Responding to a question from Senator Wilson, Dr. Flynn said statewide teacher shortages differ depending on the area of need, grade level, and location. Senator Wilson said Bowling Green is experiencing more teachers than available positions and requested district-specific statistics and data from KDE regarding teacher shortages.

In response to a question from Representative Tipton regarding student learning loss given the uncertainty of return to the classroom this fall, Mr. Kennedy said local districts are determining additional avenues as uncharted territories are navigated. He expressed superintendents' concerns about the loss of student learning and districts' plans to assess student levels moving forward. Mr. Kennedy said extra support will be given to local districts.

Senator Stivers said student safety and a quality education are priorities and questioned the results of distance learning vs. traditional instruction. Dr. Flynn said distance vs. in-person learning depends on the individual student's need for interaction. Schools are planning both remote and in-person instruction and are determining how to assess student needs and learning. Mr. Kennedy said standardized testing will return at some point and more accurate data will be provided as to the most appropriate teaching method.

In response to a question by Senator Higdon, Mr. Kennedy said funding from the CARES Act for grades K-12 was distributed by federal law based on a share of Title 1 funding, and the distribution is provided on KDE's website.

In response to a question by Representative Huff,

Dr. Flynn said KDE is prioritizing its work with districts to insure Individual Education Plans (IEPs) are followed, but specifics have not yet been completed. In response to her follow-up question, Mr. Kennedy said all special-needs services will be provided. IEP students will be provided additional services through distance-learning instruction and services.

Responding to a question from Representative Bojanowski, Mr. Kennedy said federal or unpaid leave is approved through Dec. 31<sup>st</sup>. Additional funding for emergency paid sick leave and emergency FMLA with various circumstances will be requested for quarantined employees, and individual discretion will be used. Dr. Flynn said it is necessary to honor and respect the daily responsibilities of educators and their families as well as multiple needs for various services that may be required. He said educators are aware that a high-quality education and keeping students on task for required learning is a challenge that will involve decision-making from parents, counselor, teachers, and administrators. Mr. Campbell said flexibility, safety, and high-quality education must be efficient and effective for students.

#### **Update on Restarting School Athletics**

Julian Tackett, Commissioner, Kentucky High School Athletics Association (KHSAA), reported the association's largest fundraiser, the Sweet 16 Basketball Tournament, was cancelled due to COVID-19. With sports being the top tool for dropout prevention, KHSAA has been communicating and working with schools to determine how to move forward at the local level. KHSAA is currently planning for fall sports as KHSAA remains optimistic a balance between playing sports and other concerns can be achieved. He said KHSAA will continue to be a good custodian of the best program to prevent dropouts and keep students interested in school.

Senator Wise said keeping an open dialogue as it relates to sports is important for student mental health with emphasis on achieving a common goal in a safe way. In response to his questions, Mr. Tackett said contracts for out-of-state travel must be reaffirmed with local boards of education as safety concerns are addressed. In a follow-up question, he said contact versus non-contact sports and indoor versus outdoor sports will be a determining factor and adjustments will be made as the school year moves forward.

In response to a question by Representative Riley, Mr. Tackett said previous discussions have included all sports and adjustments must be made as needed.

#### **COVID-19 AND SEEK Funding**

Kentucky Department of Education (KDE) presenters were Kevin Brown, Interim Commissioner; Robin Kinney, Associate Commissioner, Office of Finance and Operations; Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support; David Cook, Director, Innovation and Partner Engagement; and Chay Ritter, Branch Manager, Office of Finance and Operations.

In response to an earlier question by Representative Bojanowski, Mr. Brown said public health officials and teachers have expressed concerns regarding districts opening up with guidelines instead of requirements, making it impossible to implement social distancing within many areas of schools. Social distancing and masks rules will be required in common areas when social distancing is not possible. Many options are being considered among the districts, and Mr. Brown encouraged teachers to approach district leaders and local health departments. In response to a follow-up question, Mr. Brown said there is flexibility in

addressing Senate Bill 1 safety concerns while at the same time meeting CDC guidelines for increased air circulation. According to Ms. Foster, guidance documents for logistics relating to COVID-19 were released on July 6<sup>th</sup> and are available on KDE's website. Senator Wise said Senate Bill 8 provided schools additional flexibility on the locking of doors.

Responding to a question by Senator Higdon, Ms. Kinney said two large amounts of funding was distributed under the Federal CARES Act. Grades K-12 received \$193 Million for ESSER funding and \$30 Million from the Governor's Emergency Education Relief Funds (GEERF), which are in the process of being distributed to local school districts. Ten percent of the ESSER funds was withheld to provide services from the KDE to all local school districts for virtual learning and professional development. The \$30 Million GEERF funds can be used for remote learning technology and increased food services costs. Ms. Foster said the primary funds have been allocated and are hopeful more funds will be approved in the future. Ms. Kinney said school districts received some CARES funds for child care operations at the district level from the Cabinet for Health and Family Services (CHFS). The Federal Emergency Management Administration may assist in PPE and sanitizing efforts.

Ms. Kinney said that through the Governor's Executive Orders, action by the General Assembly in Senate Bill 177, and KBE's waivers, all parties have worked to provide support and relief necessary for local school districts to meet the needs of students, families, local district staff, and communities across the Commonwealth. Senate Bill 177 provided emergency relief for school districts during the state of emergency declared in response to COVID-19, providing an unlimited number of NTI days allowing virtual or distance learning. As no one could predict how this ever changing and unprecedented pandemic would unfold, Senate Bill 177 allowed districts to wind down the school year and allowed for the funding structure to be temporary, explainable, flexible, predictable, verifiable, familiar, and to not incentivize or discourage decisions for in-person or remote instruction. KDE will work with the General Assembly during the 2021 Regular Session to tweak or modify the legislation as needed.

Ms. Kinney said that during school year 2021 KDE will be maintaining the same average daily attendance (ADA) related data choices that districts made for 2019-2020 and will temporarily "decouple" attendance driven participation and move to a participation model focusing on student engagement. The district calendar and attendance decisions will not be impacted by funding.

Although Senate Bill 177 did not extend to future school years, the bill allowed input from everyone involved in education on a daily basis and was thoughtful in allowing districts to wind down the school year after the pandemic.

At a special meeting of the Kentucky Board of Education (KBE) on March 18, KBE granted a blanket waiver for NTI regulations. This allowed districts who were currently participating in the NTI program to go through an abbreviated application process and explain how they would deliver quality NTI for the remainder of the 2019-2020 school year. KDE issued emergency NTI guidance for schools and districts.

Mr. Cook said prior to the COVID-19 emergency, districts used NTI for more traditional health and safety concerns, and NTI was capped at 10 days per school year. NTI days use a substituted ADA from the prior year. Districts were required to apply for NTI in the spring (120



days prior to the school year approved). During 2019-2020, 83 school districts used “regular” NTI prior to the COVID-19 emergency. In a regular year, NTI saves around 500 days of instruction that would be lost due to closure.

Mr. Cook said NTI uses the concept of participation to identify which students are engaged in instruction during NTI days. Participation measures the interactions between teachers and students in the same way presence is measured in the classroom. While it doesn’t replace grading, NTI measures if the students are participating in instruction. The quality of their participation is found in the grading, just as it is for students seated in the classroom.

During the COVID-19 pandemic, 5,640 NTI days were used to provide instruction to students. During the COVID-19 emergency in the spring of 2020, districts collected and submitted weekly district-level participation information to KDE based on participation information submitted by teachers at the local level. Participation rates were above 90 percent for the spring 2020 closure. For the 2020-2021 school year, all Kentucky public school districts have been approved for the NTI program, and many schools have shifted from a paper-based to a digital-based delivery approach. Many districts are using federal funds from the CARES Act to provide more devices and hot spots to students without internet access.

Students who are in-person will have their physical presence count as their participation. Students who are in an NTI situation, whether part-time or full-time, will have participation recorded by teachers using a variety of types of interactions, including video chats, phone calls, group chats, using google classroom, and submission of instructional packets for paper-based students.

Responding to a question from Representative Willner, Mr. Brown said mask wearing is a public health, KDE, and KBE expectation during the pandemic. Teachers will need to be creative and use their classroom management skills to deal with students not in compliance. While much of the effort can be taught at home or outside of school, the community must work together to ensure masks are essential when students are on a bus, walking inside the school, or when required in the classroom.

In response to a question from Representative Bojanowski, Mr. Brown said temperature checks are a frequently discussed topic. He said the Department of Public Health provided non-touch digital thermometers. Flexibility for temperature checks could include checks on the bus, as students exit the bus, upon arrival at the school, or upon entry to the school. While temperature checks are not fool proof, it is the best and most frequent indicator of illness. Mr. Flynn said the American Society of Pediatric Health will provide a report to determine changes in temperature checks since the beginning of the pandemic, and equipment and means will still be a logistical concern.

Responding to a question from Senator Givens, Mr. Brown said districts were able to convert NTI into a technology-based program instead of paper packets. The NTI hybrid model may come to a close with the end of the pandemic or it could be extended after the emergency. Long-term policy discussions will continue so preparations can be made to accommodate the unknown factors.

In response to a question by Senator West, Mr. Brown said KDE has a 16-item guidance document for schools. He said there won’t be mask police but schools should follow the best public advice, remain 6 ft. apart; and do temperature checks. During the pandemic, KDE will follow the recommendations of public health officials to safely protect students and staff. KDE will act in good faith and

give its best effort in implementing the expectations.

Responding to a question by Senator Thomas, Mr. Brown said KDE is partially headed in a direction to offer on-line classes in high school. He said many discussions among various groups will include professional development days and be in the future for the time being. Remote instruction will have a place in education until a new normal can be achieved.

The next IJCE meeting will be August 18<sup>th</sup> at 10:30 a.m.

There being no further business before the committee, the meeting adjourned at 12:35 p.m.

## **INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES**

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

June 25, 2020

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

The 1st meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Thursday, June 25, 2020, at 1:00 PM. 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, 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: Nancy Galvagni, President, Jim Musser, Vice President of Health Policy, Kentucky Hospital Association; John Inman, Director of Advocacy and Government Affairs, Kentucky Primary Care Association; Sally Jordan, Chief Executive Officer, HealthPoint Family Care; Michael Stanley, Chief Executive Officer, Grace Health; Bart Hardin, Director, Government Relations, Barry Swanson, Chief Procurement Officer, University of Kentucky Healthcare; Shannon Rickett, Assistant Vice President, Government Relations University of Louisville Healthcare; Paul Brophy, Executive Director for Employer and Individual, Kevin Crawford, External Affairs UnitedHealthcare Kentucky; Dr. Brent Wright, President, Kentucky Medical Association; Sheila A. Schuster, Ph.D. Licensed Psychologist, Executive Director, Kentucky Mental Health Coalition; Donna Veno, Program Manager, Kentucky Telehealth Program, Robert Putt, Executive Director, Office of Health Data and Analytics, Cabinet for Health and Family Services; and Adam Mathers, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, CSA, Ben Payne, Chris Joffrion, Dana Simmons, Becky Lancaster, Hillary McGoodwin, and Shyan Stivers.

#### **COVID-19: Hospital Preparedness and Capacity**

Nancy Galvagni, President, Kentucky Hospital Association (KHA), stated that prior to the pandemic some hospitals were facing financial challenges. Kentucky hospitals collectively have suffered financial losses of \$1.6 billion from March to the end of June 2020. Only 53 out

of 118 Kentucky hospitals have received enough federal relief to cover the losses due to COVID-19 to date. Many Kentucky hospitals have resorted to cost-cutting efforts that include furloughing thousands of employees. Despite the hospitals’ cost-cutting efforts, 65 Kentucky hospitals have accumulated approximately \$750 million in losses. KHA is working with the United States Department of Health and Human Services (HHS) to send more of the federal relief money to Kentucky hospitals. If hospital losses are not covered it could affect the long-term sustainability of Kentucky hospitals. The behavioral health hospitals have also felt the impact of the federal response.

Ms. Galvagni stated that Kentucky hospitals have approximately 1,350 intensive care unit (ICU) beds available for use. Kentucky was able to surge the number of additional ICU beds to 3,228 for relief during the pandemic. Approximately 40 percent of COVID-19 patients needed ICU care at some point in their hospital stay. Kentucky had approximately 9,959 total staffed beds and was able to surge the number of beds with an additional 10,000 beds. When the shutdown happened in March, Kentucky’s inpatient volume dropped an average of 40 percent. The out-patient drop was down as much as 90 percent in some hospitals. In general, patients have been slow to return to the hospitals. As the elective procedures have resumed, hospitals are reporting that the inpatient beds and volume is improving. The emergency department volume is down approximately 50 percent. Hospitals are stating that patients are waiting longer to seek treatment. KHA has partnered with Kentucky Medical Association (KMA) to create public service announcements to let the public know it is safe to come back to the doctors’ offices and the hospitals. Telehealth has allowed people to stay in their home and not be exposed to COVID-19. Many of the waivers that Kentucky received during the pandemic were key to allowing hospitals to provide telehealth.

KHA would like to see providers be able to continue to provide telehealth to patients and be paid equal to office visits. KHA would like to see telehealth allowed to be provided in both rural and urban areas because at times telehealth was restricted to only rural areas. KHA would like to see all Medicare and Medicaid providers be able to continue to bill and be paid for telehealth services.

In response to questions and comments from Senator Alvarado, Ms. Galvagni stated that there are approximately 20 hospitals in Kentucky that are in vulnerable situations and fit the criteria of other hospitals in the United States that have closed. It is key that the hospital losses from the pandemic shutdown are covered by the federal government. She has not heard that hospital staff are leaving the state to find work elsewhere. Other states are actively recruiting hospital staff in Kentucky. KHA is planning to do a debriefing to figure how Kentucky hospitals can do things better in the future.

In response to questions and comments from Representative Frazier, Ms. Galvagni stated that one-third of the beds that were created were within the walls of a hospital.

In response to questions and comments from Representative Willner, Ms. Galvagni stated that KHA is reviewing the telehealth statutes in Kentucky to determine if additional legislative changes need to be made. Medicare sets many of the standards but the state laws discuss coverage for private commercial payers.

In response to questions and comments from Representative Marzian, Ms. Galvagni stated that KHA supports keeping coverage in place and the Medicaid expansion.

## **COVID-19: Impact on Rural Health Care Providers**

John Inman, Director of Advocacy and Government Affairs, Kentucky Primary Care Association (KPCA), stated that KPCA includes 51 independent, rural health clinics and 27 federally qualified health centers in Kentucky. Rural health care providers treat over one million patients per year in Kentucky. Over 350,000 of those patients are Medicaid members. Many rural health care providers treat patients regardless of their ability to pay for services. Rural health care providers offer primary care, dental services, behavioral health services, substance use disorder treatments, pediatric care, and obstetrician-gynecologist (OB-GYN) services to communities. Many rural health care providers have set up telehealth services to provide care to patients. Many rural health care providers have seen an 80 percent decline in revenues and have still been able to operate and provide care. KPCA is in favor of keeping the telehealth federal waivers permanently. KPCA has successfully partnered with the Department for Public Health to provide members with personal protective equipment (PPE), guidance, and support throughout the pandemic.

Mike Stanley, Chief Executive Officer, Grace Health, stated that Grace Health serves southeastern Kentucky's most vulnerable population. Prior to the Governor's Executive Order, Grace Health's emergency management team and providers followed the Centers for Disease Control and Prevention (CDC) guidelines and created a protocol with telehealth to care for its patients. Grace Health was able to identify gaps in care and incorporated the inclusion of patient vital signs into the lab-draw visit protocol to insure that providers had additional clinical data for the telehealth visits. Through May 31, 2020, total visits decreased by 24 percent and total patient visit revenue decreased by 32 percent from the previous year. Grace Health did not have a mandatory furlough of staff; however, staff was reduced by 28 percent at the lowest point of the pandemic. Grace Health had to close 41 school-based health sites, because all schools in its districts moved to online instruction. Grace Health received PPE from the state until May when it no longer qualified due to low volume of COVID-19 cases. Additional funds will be needed to cover losses beginning on June 1, 2020, because the patient levels are not at budgeted levels.

Sally Jordan, Chief Executive Officer, HealthPoint Family Care, stated that HealthPoint Family Care has six main locations and 20 school-based locations. Eighty-five percent of HealthPoint Family Care's patients have incomes at or below the federal poverty level. HealthPoint Family Care began modified operations and testing for COVID-19 on March 14, 2020. HealthPoint Family Care has been able to carry on with its mission, but the financial stability has been greatly impacted. The costs of providing services has increased; however, the volume and reimbursements have decreased. Stopping in-person visits had the largest impact on the organization. Telehealth did not address childhood immunizations, and many have been missed during the pandemic. Many patients are reluctant to return to a provider's office. HealthPoint Family Care medical volume dropped 40 percent and the dental volume dropped 20 percent from 2019 volumes. HealthPoint Family Care eliminated 48 positions that equals 25 percent of the total staff. HealthPoint Family Care's revenue is down 17 percent against the same time period in 2019. HealthPoint Family Care received \$2.4 million between federal grants and the direct relief fund. HealthPoint Family Care is concerned with the continued low volume of patients.

In response to questions and comments from Representative Marzian, Ms. Jordan stated that HealthPoint Family Care's bottom line would improve with Medicaid expansion. If the expansion was stopped, HealthPoint Family Care would have some financial risk. She stated that the fear is that if the expansion is cut back many patients would lose coverage and not be able to care for themselves. Mr. Inman stated that the Medicaid population that is treated by KPCA providers runs from 40 percent to 80 percent of all patients. There would be a significant impact if KPCA providers were to lose the Medicaid expansion population.

In response to questions and comments from Senator Alvarado, Mr. Stanley stated that Grace Health did as much research as possible on the patients that had the best test results then decided to go with Solera. Grace Health is not receiving reagents or chemical detection tests, as hoped because they are going to areas with the greater number of cases of COVID-19. He does not have results or information regarding COVID-19 antibody tests. Ms. Jordan stated that HealthPoint Family Care has not tested patients for the COVID-19 antibody. HealthPoint Family Care is waiting for guidelines on how to treat patients and protocols to follow for testing. HealthPoint Family Care has done the Abbott blood test on staff working with COVID-19 patients with all results coming back negative across Boone, Kenton, Campbell, and Jessamine counties.

In response to questions and comments from Senator Meredith, Mr. Inman stated that KPCA has started a network for purchasing PPE from different vendors. KPCA is beginning to stock pile PPE in case there is an increase in COVID-19 cases. The Kentucky Department for Public Health has been great partner to KPCA in supplying PPE and other supplies throughout the pandemic.

In response to questions and comments from Representative Gibbons Prunty, Ms. Jordan stated that HealthPoint Family Care is concerned that payers do not have all of the patient's information that HealthPoint Family Care has access in order to provide complete care.

### **COVID-19: Pandemic Field Hospitals**

Bart Hardin, Director, Government Relations, University of Kentucky (UK) Healthcare, stated that UK Healthcare has grown into a level one trauma center and is the largest academic medical center in Kentucky. UK Healthcare has 70 clinics that exceed 2 million visits per year. As COVID-19 began to spread in the late 2019, UK Healthcare began to look at estimates and information from many sources to see how it could be impacted. On March 25, 2020, UK Healthcare ran a model to project COVID-19 related spikes, and it was projected that UK Healthcare would have a hospital census of 1,575 patients of which 619 would need an ICU bed for treatment. After much consultation, UK Healthcare made the decision to move forward creating an alternative sight at the UK Nutter Field House with 400 additional beds.

Barry Swanson, Chief Procurement Officer, University of Kentucky Healthcare, stated that in March 2020, it was requested that he and his staff procure the contracts to have the alternative sight operational by mid-April 2020. UK Healthcare signed a 30 day contract with Emergency Disaster Services (EDS) on April 2, 2020, construction began on April 3, 2020, and the alternative site was operational on April 10, 2020. Termination of the contract was issued on May 7, 2020, and the contract was not renewed. Mr. Hardin stated that the total spend on the alternative site project was approximately \$7.3 million of which \$6.7 million went to emergency and disaster relief. UK Healthcare has requested reimbursement from Federal

Emergency Management Agency (FEMA). UK Healthcare stands firm that with the information that was given, the correct decision was made to create the field hospital for the citizens within the service area.

Shannon Rickett, Assistant Vice President, Government Relations, University of Louisville (U of L) Healthcare, stated that U of L Healthcare did not play an active role in setting up the field hospital at the Kentucky Fairgrounds in Louisville. U of L Healthcare was aware of the field hospital's location and capability but did not participate in the development or operations of the site. U of L Healthcare understood that if the health systems in the Commonwealth became overwhelmed with patients, the field hospital would be available for use.

In response to questions and comments from Senator Alvarado, Ms. Rickett stated that she does not know when the contracts for the Louisville field hospital were procured. She does not have any detailed information regarding the Louisville field hospital. Mr. Hardin stated that if UK Healthcare is not reimbursed by FEMA that the UK Healthcare system would pay for the loss, not the students of the university. UK Healthcare is a self-sustaining entity and the loss would be an operational loss with no impact to students or tax payers. Adam Mather, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services, stated that the Louisville field hospital was created, and the cost directly to FEMA was approximately \$2 million with an original plan of \$125 million. He stated that U of L Healthcare did not make any decisions regarding the Louisville field hospital.

In response to questions and comments from Senator Carroll, Inspector General Mather stated that there were very few contracts and no state dollars used for the Louisville field hospital. Many of the beds and materials used were from the Emergency Management field hospitals, and no rent was charged because the fairgrounds are state property.

In response to questions and comments from Senator Raque Adams, Inspector General Mather stated that U of L did not play a part in the Louisville field hospital. He believes that the \$2 million has been paid.

In response to questions and comments from Representative Moser, Mr. Hardin stated that UK Healthcare would not be creating a second field hospital if the number of COVID-19 cases were to spike again. UK Healthcare believes that it can do things internally and within existing facilities to handle the COVID-19 cases.

### **Update on Telehealth**

Robert Putt, Executive Director, Office of Health Data and Analytics, Cabinet for Health and Family Services (CHFS), stated in 2018 the General Assembly required that Medicaid and health benefit plans cover and reimburse a telehealth service at the same rate as an in-person service by July 1, 2019. The mission of the Kentucky Telehealth Program is to implement telehealth services and develop standards, guidance, resources, and education to help promote access to healthcare services in the Commonwealth. A Telehealth Steering Committee was formed and has 22 members representing various associations and departments within CHFS. The Telehealth Steering Committee assists with conducting an assessment and survey of telehealth services and opportunities in Kentucky. There are 10 workgroups charged with addressing specific areas of interest and reporting to the Interim Telehealth Steering Committee.

Donna Veno, Program Manager, Kentucky Telehealth Program, Cabinet for Health and Family Services, gave an overview of several different workgroups that report to the



Steering Committee. She discussed the various policies, standards, and developments that each workgroup is working to secure better telehealth outcomes for patients and providers. Mr. Putt discussed how telehealth has benefited inpatient and outpatient services. Telehealth has increased access to substance use disorder treatments and the engagement of family members and significant others in treatment. Ms. Veno reviewed the actions and guidance that Medicaid took to accommodate telehealth visits during the COVID-19 pandemic. Provider services using telehealth during COVID-19 totaled over \$31 million in services compared to about \$1 million prior to COVID-19. The Medicaid telehealth claims that were fee-for-service in the three months prior to COVID-19 totaled \$95,686 and during the three months of COVID-19, the fee-for-service claims totaled \$6,953,575. CHFS will work with professional licensure boards on needed regulatory amendments for post-COVID-19 telehealth use.

Dr. Brent Wright, President, Kentucky Medical Association (KMA), stated that when the pandemic happened it showed that telehealth became PPE. With social distancing in place, providers had to rethink how their practices would function. Kentucky had progressive telehealth legislation in place. When the pandemic started KMA moved quickly to transfer practice to make sure the providers could provide care to patients. In April 2020, KMA conducted a survey of approximately 300 providers that showed a dramatic increase in patient visits conducted by telehealth. KMA found that there are still patients who do not have the technology to allow for a video telehealth visit. The solution was to use a phone call which were not covered by insurance; however, insurers began to lighten the restrictions during the pandemic. KMA is committed to advocating for changes to increase telehealth coverage for better patient care.

Sheila A. Schuster, Ph.D. Licensed Psychologist, Executive Director, Kentucky Mental Health Coalition, stated that she has heard from all areas of behavioral health care with informal findings that community mental health centers (CMHC) could not open due lack of PPE. CMHC went from no patient usage of telehealth services to 70 to 85 percent of the patients using telehealth services. CHMC had service problems with young children, elderly adults, patients with limited technology resources, patients with limited cognitive abilities, and homeless patients. Many patients have limited phone minutes or data usage. There were concerns with patient confidentiality when the patient's computer may be a central home location. There were some billing and reimbursement issues however most problems have been overcome. Telehealth is a critical tool for patient care but not a substitute for all one on one patient care. She is worried about the increased needs for behavioral health post-pandemic. Telehealth has helped to address mental health needs that were not being met because people could not get to their services.

Paul Brophy, Executive Director for Employer and Individual, UnitedHealthcare Kentucky, stated that telehealth is using technology to provide healthcare and services at a distance. At UnitedHealthcare telehealth includes telemedicine, telesite, and telepharmacy services. Prior to COVID-19, UnitedHealthcare had approximately 1,000 doctors using telehealth services and now there are 14,000 doctors using telehealth services. Virtual visits are expected to surpass 1 billion by 2021. UnitedHealthcare has two telehealth methods of connecting with doctors. Early claim data indicates a significant shift in the use of telehealth for behavioral health care. UnitedHealthcare has

remote patient monitoring capabilities to allow frequent engagement with people who need more care and may involve sending out equipment to patients to collect health information.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:25 PM.

## **INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES**

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

July 29, 2020

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

The 2nd meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, July 29, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Ralph Alvarado, 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, 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, Josie Raymond, Steve Riley, Steve Sheldon, Cherlynn Stevenson, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Tricia Okeson, Deputy Commissioner, Captain Doug Thoroughman, Acting State Epidemiologist, Department for Public Health, Cabinet for Health and Family Services; Morgan Ransdell, General Counsel of Board and Commissioner, Board of Nursing, Cabinet for Health and Family Services; Sarah Vanover, Division Director, Division of Child Care, Laura Begin, Regulation Coordinator, and Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Chris Joffrion, Dana Simmons, Becky Lancaster, Hillary McGoodwin, and Shyan Stivers.

#### **Approval of Minutes**

A motion to approve the minutes of the June 25, 2020 meeting was made by Representative Burch, seconded by Senator Wise, and approved by voice vote.

#### **Update on 2020 Regular Session House Bill 129 and Implementation**

Tricia Okeson, Deputy Commissioner, Department for Public Health (DPH), Cabinet for Health and Family Services, stated that the goals for the Public Health Transformation are to: relieve the fiscal instability of the current system; introduce a streamlined and focused model which includes clearly defined public health priorities and legislative mandates; prevent duplication of effort and reduce waste internally and externally; and to support data-driven decisions to best promote community health outcomes. There are five focus areas with statutory and regulatory services. The Kentucky Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Kentucky Health Access Nurturing Development Services (HANDS), harm reduction, and substance use disorder (SUD) programs are services provided by DPH.

Other programs that may be implemented are decided on by the local public health departments' priorities. She discussed enacted legislation regarding the public health transformation structure. Despite the magnitude of the COVID-19 response effort, DPH has emphasized the importance of continued work toward public health transformation.

DPH and local health departments will continue to identify areas to address in order to improve efficiencies and effectiveness such as the local health department merit system. Deputy Commissioner Okeson stated that COVID-19 has interrupted progress in many ways such as the local health departments are primarily focused on emergency response. She stated that the Public Health Transformation is a change in culture and may take some time to complete. DPH is expecting to have negotiations with the federal government regarding continued funding. Data systems will require improved integration to support data driven decision making. Continued involvement and education of various participants such as boards of health, county, state and federal government will be needed for the public health transformation.

In response to questions and comments from Representative Moser, Deputy Commissioner Okeson stated that the 2020 budget legislation needed a different structure to match the public health transformation but that was not able to happen. She not aware of any programs that were not funded and the pension contributions allowed the health departments to continue with all the services that were required.

In response to questions and comments from Representative Tate, Deputy Commissioner Okeson stated that she was not a part of any discussions on services that were considered essential and non-essential services during the COVID-19 pandemic.

In response to questions and comments from Senator Meredith, Deputy Commissioner Okeson stated that the contact tracing is going well. Contract tracing is continuing and DPH has developed a technology solution that is being implemented across the state. DPH is hiring additional staff to do the contact tracing work. The local health departments are increasing staff. DPH is making contact with people that need to be isolated or quarantined. The local health departments have access to the vendor contracts and can determine how many staff members need to be hired through the vendors.

#### **Infectious Disease Update**

Captain Doug Thoroughman, Acting State Epidemiologist, Department for Public Health, Cabinet for Health and Family Services, gave an overview of how the COVID-19 began. He stated that COVID-19 was caused by 2019 Novel Coronavirus (SARS-CoV2) and was similar to SARS and MERS. He gave an overview of the virus' incubation period and symptoms. As of July 23, 2020, Kentucky had 25,147 cases of COVID-19 and the United States had approximately 3,952,273 cases of COVID-19. He shared specific data regarding the testing, hospitalization, and death rates related to COVID-19 testing. He shared a chart that displayed the percentages of the Kentucky population, COVID-19 cases, and COVID-19 deaths in each age group.

Mr. Thoroughman gave information on Human Immunodeficiency Virus (HIV) regarding the transmission and treatment. HIV is a reportable disease in Kentucky. He stated that 11,239 total HIV infections have been diagnosed and reported since the start of the HIV epidemic in 1982. In 2018, the Kentucky diagnosis rate was 8.1 per 100,000



population compared to an annual estimated national HIV diagnosis rate of 11.4 per 100,000 population. He shared specific data regarding the testing, hospitalization, and death rates related to HIV testing from January 2017 to June 2020. He stated that there are 73 operating syringe services programs (SSPs) in 62 counties in Kentucky. CHFS' goal is to have a 75 percent reduction in new HIV infections by 2025 and a 90 percent reduction by 2030.

Mr. Thoroughman provided background information on the influenza virus. He stated that flu season is typically October to the following May. There were 58,587 positive tests reported from October 2016 to May 2020. He shared specific data regarding influenza hospitalization and death rates. He discussed a graph that displayed the effects of social distancing on the spread of influenza. He provided background information on the Hepatitis A virus (HAV). He reviewed data regarding the HAV testing, hospitalizations and death rates from January 2017 to June 2020. He presented a graph of Kentucky showing the rates of HAV cases per county from August 2017 to December 2019. He gave a summary of the Hepatitis C virus (HCV). He summarized data regarding the HCV testing, hospitalizations, and death rates from January 2017 to June 2020.

Mr. Thoroughman provided a step by step summary of how the cause of death information is collected and processed. He shared two examples of completed death certificates. He shared a graph that listed the Kentucky drug overdose mortality monthly surveillance estimates from April 2019 to March 2020. There was an incline in fatal overdoses in the most recent months. He presented a graph of the number of suicides among Kentucky residents for each month between April 2019 and March 2020. He presented a graph from DCBS that displayed the number of intakes with allegations of child abuse and/or neglect from January to June in both 2019 and 2020. The number of allegations are significantly lower in 2020 beginning in March due to people the social distancing and the closing of schools during the COVID-19 pandemic.

In response to questions and comments from Senator Alvarado, Mr. Thoroughman stated that if someone commits suicide then suicide is reported as the cause of death on the death certificate. He stated that there are long-term care (LTC) facilities in Kentucky that have only had a few cases of COVID-19, those patients have healed, and no further cases of the virus were detected. He stated that two-thirds of all LTC facilities in Kentucky have had at least one case of COVID-19 in the facility.

In response to questions and comments from Representative Bojanowski, Mr. Thoroughman stated that there is direct evidence from epidemiologic investigations regarding COVID-19 asymptomatic transmission. He stated that there are not problems accessing national COVID-19 data but there is confusion about the data. CHFS data is still going to the Centers for Disease Control and Prevention (CDC) despite all claims that the United States Department for Health and Human Services (HHS) is taking the data, and the CDC is not seeing the data. The information that HHS is receiving directly is hospitalization data for ventilator use, intensive care unit (ICU) beds, and hospital beds. CHFS is canvassing all the known laboratories in Kentucky that are testing for COVID-19 to have the most complete data possible.

In response to questions and comments from Senator Givens, Mr. Thoroughman stated that COVID-19 will be an ongoing topic of conversation a year from now. He stated that if a vaccine becomes available and is effective

anxiety and case levels may lower dramatically. CHFS is trying to manage the risk of COVID-19 transmission by recommending that people follow the precautions like wearing a mask in public, social distancing, and not gathering in large groups for a period time. The goal is to keep the rate of transmission low enough that the hospitals are not overwhelmed. Kentucky has a lower incident rate and mortality rate compared to most states.

In response to questions and comments from Representative Tate, Mr. Thoroughman stated that visitors have been prohibited in LTC facilities to reduce exposure to COVID-19. The workers would be the only people that could bring the virus into the LTC facility however, workers must be there to care for the patients. He stated that because there is asymptomatic transmission, workers can bring it into the buildings. CHFS has a team of people who work on outbreak investigations for LTC facilities. CHFS has worked tirelessly to manage the outbreaks and to teach the workers how to reduce the risk of transmission once the virus is in the facility. CHFS has taken measures to try to ensure that workers are not wearing scrubs or uniforms from home to work and vice versa.

In response to questions and comments from Senator Danny Carroll, Mr. Thoroughman stated that when COVID-19 came about there was not enough testing capacity, so the Food and Drug Administration (FDA) initially required laboratories to be approved by the FDA for a short time. Many laboratories that had never tested for infectious diseases prior to COVID-19 began testing. Initially, there was confusion and issues contacting new laboratories to inform the laboratory how to report and what had to be reported. He stated that CHFS is conservative in the counts and follows the CDC case definitions when reporting positive tests. There are two reporting mechanisms, the labs are to directly report any positive cases of reportable diseases and the clinicians are also required to report positive cases. Both reports are put together by CHFS so that positive cases are not counted twice. COVID-19 is listed as the cause of death only if COVID-19 contributed to the death. The Governor told CHFS what updated data that he wanted to receive daily. He stated that it is hard to receive clean data on how many people are hospitalized for a given illness, on a ventilator for an illness, or in an ICU bed for that illness. The information is received through the hospital referring mechanism called WEB EOC.

In response to questions and comments from Senator Wise, Mr. Thoroughman stated that it could happen but is not likely for someone who survived COVID-19 to test negative for the COVID-19 antibodies.

In response to questions and comments from Representative Moser, Mr. Thoroughman stated that each new test type created has its own sensitivity and specificity characteristics meaning the degree to which they will truly detect a true positive or negative result. The PCR tests are the most reliable but have a longer turnaround time for results. Some labs are still on a 7 to 14 day turnaround period for test results which is past the isolation period. CHFS is looking at other test types but it is not known when those tests will be approved or recommended.

In response to questions and comments from Representative Sheldon, Mr. Thoroughman stated that CHFS is following recommendations by the CDC and HHS. Texas, Arizona, Florida, and South Carolina had large increases in COVID-19 cases that are beginning to stress the hospital systems in those states. Kentucky wants to avoid overwhelming the healthcare system with COVID-19 patients. Kentucky had six weeks with increasing numbers

of positive COVID-19 cases.

In response to questions and comments from Representative Bentley, Mr. Thoroughman stated that CHFS counts all the positive PCR, antigen, antibody tests as cases depending on the other characteristics. He stated that positive antigen and antibody tests account for less than 10 percent of the COVID-19 cases in Kentucky.

#### **Consideration of Referred Administrative Regulations with Amendments**

The following referred administrative regulations with amendments were placed on the agenda for consideration: **201KAR 020:650 Proposed** - licensed certified professional midwives permitted medical tests and formulary and **201 KAR 020:670 Proposed** - licensed certified professional midwives consultation, collaboration, and referral provisions. Morgan Ransdell, General Counsel of Board and Commissioner, Board of Nursing, Cabinet for Health and Family Services, testified in favor of the amendments. A motion to accept the referred administrative regulations with amendments was made by Senator Alvarado, seconded by Representative Moser, and approved by voice vote.

#### **Administrative Regulations: For Discussion Only**

The following administrative regulations were placed on the agenda for discussion only: **201 KAR 002:095 Proposed** - pharmacist interns and **201 KAR 022:170 Proposed** - Physical Therapy Compact Commission. The administrative regulations above have been reviewed by the committee.

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

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 002:175 Proposed** - Emergency prescription refills of up to a seventy-two (72) hour supply or greater than a seventy-two (72) hour supply; **201 KAR 002:230 Proposed** - special limited pharmacy permit - central Fill; **201 KAR 008:550 Proposed** - anesthesia and sedation; **201 KAR 008:590 Proposed** - teledentistry; **201 KAR 020:057 Proposed** - scope and standards of practice of advanced practice registered nurses; **201 KAR 020:162 Proposed** - disciplinary proceedings; **201 KAR 020:230 Proposed** - renewal of licenses; **201 KAR 020:370 Proposed** - applications for licensure; **201 KAR 020:410 Proposed** - expungement of records; **201 KAR 020:600 Proposed** - standards for training programs for licensed certified professional midwives; **201 KAR 020:610 Proposed** - approval process for training programs for licensed certified professional midwives; **201 KAR 020:620 Proposed** - licensing requirements for licensed certified professional midwives; **201 KAR 020:630 Proposed** - disciplinary actions for licensed certified professional midwives; **201 KAR 020:640 Proposed** - requirements for informed consent for licensed certified professional midwives; **201 KAR 020:660 Proposed** - licensed certified professional midwives duty to report; **201 KAR 020:680 Proposed** - licensed certified professional midwives client records; **201 KAR 020:690 Proposed** - licensed certified professional midwives transfer guidelines; **202 KAR 007:555 Proposed** - ground agencies; **895 KAR 001:002 Proposed & Emergency** - repeal of 895 KAR 1:001, 895 KAR 1:010, 895 KAR 1:015, 895 KAR 1:020, 895 KAR 1:025, 895 KAR 1:030, 895 KAR 1:035, 895 KAR 1:040, 895 KAR 1:045, 895 KAR 1:050, and 895 KAR 1:055; **900 KAR 006:075 Proposed & Emergency** - certificate of need nonsubstantive review; **902 KAR 002:065 Proposed** - Immunization requirements for long-term care facilities; **902 KAR 020:036 Proposed** - operation and services

for personal care homes; **920 KAR 001:070 Proposed** - deaf and hard of hearing services; **921 KAR 002:015 Proposed & Emergency** - supplemental programs for persons who are aged, blind, or have a disability; **922 KAR 002:090 Proposed** - child-care center licensure; and **922 KAR 002:100 Proposed** - certification of family child-care homes. Questions and comments were made by Senator Alvarado and Senator Danny Carroll. Laura Begin, Regulation Coordinator, Department for Community Based Services, Cabinet for Health and Family Services, responded to questions regarding the administrative regulations.

The following referred administrative regulation was placed on the agenda for consideration: **201 KAR 009:270 Proposed** - Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. Comments and concerns regarding the regulation were made by Senator Alvarado and Representative Moser. A motion to defer this administrative regulation was made by Senator Alvarado and seconded by Representative Moser, and accepted. The administrative regulation **201 KAR 009:270 Proposed** was deferred.

#### **Administrative Regulations**

The following administrative regulation was placed on the agenda for review: **922 KAR 002:400 Emergency** - enhanced requirements for certified and licensed child care as result of a declared state of emergency. Questions and comments regarding the regulation were made by Senator Alvarado and Senator Danny Carroll. Sarah Vanover, Division Director, Division of Child Care, Laura Begin, Regulation Coordinator, and Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, testified in regards the administrative regulations. A motion to find the administrative regulation **922 KAR 002:400 Emergency** deficient was made by Senator Danny Carroll and seconded by Senator Meredith. After a roll call vote of 17 yes votes, 8 no votes, and 0 pass votes, **922 KAR 002:400 Emergency** administrative regulation was declared deficient.

The following administrative regulation was placed on the agenda for review: **902 KAR 002:190 Emergency** - covering the face in response to declared national or state public health emergency. Questions and comments were made by Senator Alvarado. Eric Friedlander, Secretary, Cabinet for Health and Family Services, testified in regards to **902 KAR 002:190 Emergency** administrative regulation. Wesley Duke, General Counsel, and Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, were present to testify if required. The administrative regulation **902 KAR 002:190 Emergency** was reviewed.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:08 PM.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

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

July 9, 2020

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

The 2nd meeting of the Interim Joint Committee on Judiciary was held on Thursday, July 9, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Jason Petrie, 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, Gerald A. Neal, Michael J. Nemes, John Schickel, Wil Schroder, Robert Stivers II, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Charles Booker, Kevin D. Bratcher, McKenzie Cantrell, Daniel Elliott, Joseph M. Fischer, Chris Harris, 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:** Chief Joe Monroe, Shawn Butler, JD Chaney, Sheriff Keith Cain, Kate Shanks, Robert Hudson, Cindy Effinger, and Rob Mattingly.

**LRC Staff:** Katie Comstock and Yvonne Beghtol.

#### **Approval of the Minutes**

Senator Nemes made a motion to approve the June 04, 2020 minutes, seconded by President Stivers, and passed by voice vote.

#### **Body Cameras**

Shawn Butler, Executive Director of the Kentucky Association of Chiefs of Police (KACP), stated that the KACP worked with the Kentucky League of Cities (KLC) in 2018 on the open records statute, and with the Kentucky Association of Counties (KACO) to develop a model policy for Kentucky police and sheriffs.

Chief Joe Monroe, University of Kentucky Police Department, stated that in 2013 approximately 33% of municipal police departments in the United States had some form of a body cam program, which increased to over 50% by 2016. Currently, only two states require the use of body cameras, and 24 other states have laws governing the required policy, storage, or specific procedures for police body camera programs. The total cost estimates range from \$1,000 to \$5,000 per officer, depending on the camera selection, storage requirements, and licensing software provided by different vendors.

Chief Monroe reviewed pros and cons of body cameras. Pros include better transparency, improving trust, reducing complaints, fewer use of force incidents, quicker resolution of complaints, providing coaching opportunities, and holding officers and citizens accountable. A major con is that no matter where the body camera is fastened to the officer, it does not give a true perspective of what the officer sees and experiences in real time.

There are significant start-up and maintenance costs. Storage and retention are the major expenses. There has to be an employee to manage the program as well as audit the videos. Body cameras can lead to a distrust by officers who feel the administration is spying on them, although body cameras are meant to protect and keep the officer from frivolous complaints. The uploading of body cameras can be time consuming. Smaller agencies may not have the infrastructure to upload videos quickly. If a mandatory program is going to be put in place, funding has to be considered. Smaller agencies will not be able to afford these types of programs.

In response to Chairman Petrie, Chief Monroe estimated that the annual cost for a body camera and video storage will be \$1,500 to \$1,800 per officer.

In response to Representative Bratcher, Chief Monroe stated that several police departments across the state share the belief that body cameras are a great way to record confessions.

Sheriff Keith Cain of Daviess County stated that requiring officers to wear body cameras will help build trust

in the community by providing police accountability. Sheriff Cain stated that many agencies are in favor of equipping officers with cameras. He estimated that 30 officers could be equipped with body cameras for about \$50,000 the first year. However, the licensing, systems maintenance, and data management is where the majority of the cost is incurred, totaling approximately \$40,000 annually. Another cost would be the hiring of full-time employees to maintain the system, manage the data, and respond to open records requests. This cost is estimated at \$60,000 per year. All of these costs brings the five-year total to approximately \$500,000, which is beyond his budget. Sheriff Cain added that officers who have earned the trust of their community know that it was earned and is not a permanent condition.

JD Chaney, Executive Director/CEO of KLC, stated that the Kentucky Sheriff's Association encourages the adoption of body cameras for police officers. The 2018 body camera legislation balanced the open records law with personal privacy interests. As a result, many organizations have already voluntarily adopted wearing body cameras. If the recording contains anything related to the use of force by an officer, the request for release of the records cannot be denied. Both the plaintiff and defense attorneys have access to the recordings through the open records process. The KLC concluded a survey with their members which indicated 95% of police departments with over 50 employees require and utilize body cameras. The number goes down for smaller departments. Mr. Chaney agrees that the majority of the cost for having body cameras is in the storage, maintenance, and open records requests. Mr. Chaney stated that much of the time and expense dealing with police officer bill of rights claims go away when you can produce video evidence.

In response to Chairman Petrie, Chief Monroe stated that the use of body cameras is worth the cost. Sheriff Cain responded that he is confident that body cameras are worth the investment but that his department does not have the money. It would be up to the General Assembly to determine if the cost is worth it and to help find the funding. Mr. Chaney added that it may depend on how active the police department is and whether or not the General Assembly would assist in providing funding.

In response to Senator Webb, Chief Monroe stated that the University of Kentucky Police Department has an internal policy making body cameras mandatory in certain incidents. Since the chance for camera malfunctioning is possible, the devices are to be tested and a spare is to be on hand.

Senator Schickel stated that this policy needs to be at a city level and not a state level.

In response to Senator Wheeler, Chief Monroe stated that the University of Kentucky Police Department's policy is retention of camera data for a minimum of 30 days. Having the Commonwealth provide the data storage would be a helpful option.

In response to President Stivers, Chief Monroe stated that the release of video recordings has to have guidance and a policy of best practices, as well as making sure these policies specify the different types of releases, to protect the right to privacy in certain situations. Sheriff Cain added that these issues mandate moving forward very cautiously.

In response to Senator West, Chief Monroe stated that storage of recordings can be in the cloud on a virtual server or onsite if security standards are met. Storage retention is specified in the contract with the vendor. The threat of having someone hack into your system depends on your firewall security and can be an issue whether storing



remotely or internally.

In response to Senator Neal, Chief Monroe stated that University of Kentucky officers want to be recorded to show their accountability and behavior.

In response to Senator Carroll, Chief Monroe advised that some vendors are working on providing livestreaming. The upload technology would depend on the capability of the Wi-Fi or network speed.

#### **COVID-19 Liabilities**

Kate Shanks, Vice President of Public Affairs for the Kentucky Chamber of Commerce, reviewed the challenges for businesses during the COVID-19 pandemic. A recent CDC survey shows that more than half of those who contracted COVID-19 could not pinpoint where they came into contact with it. There are more than 3,000 lawsuits filed across the United States, with approximately 50 being in Kentucky. The concern from the Chamber of Commerce is whether or not courts are ready to handle this issue. Legislators are intervening to help provide clarity by putting in a safe harbor, providing civil protections for businesses that meet the safe harbor standards, and providing protection for businesses that manufacture personal protective equipment (PPE) in lieu of their typical products. Kentucky passed SB 150, addressing concerns regarding the PPE manufacturing and protecting healthcare professionals. Unless there was gross negligence, over 80% of Americans show support of COVID-19 lawsuit protection for businesses. The Chamber of Commerce has made a coalition with more than 20 organizations that represent public and private employers to address this issue. Ms. Shanks added that as we talk and work on recovery, we also need to talk about the economic recovery. The economic recovery should not be stalled or stopped because of lawsuits and inadequate protection for businesses.

Robert Hudson, an attorney with Frost Brown Todd, began by stating two reasons why COVID related tort immunity can be good public policy. The first being tort liability can promote public safety. Employers already operate under legal requirements to maintain safe work places. Kentucky OSHA has a general duty clause that imposes a broad base obligation on employers to maintain safe work places. One positive COVID test may require an employer to shut down an entire part of their business for an extended period of time. Secondly, tort liability may be too large of a burden for some employers during these difficult times. Kentucky employers face compliance responsibilities with respect to extensive new rules from the executive branch and federal government which change often. The CDC guidance on returning to work after exposures changed twice, masks were deemed not helpful, then change to being helpful, and the federal government extensively changed its employment laws. OSHA stated that employers must conduct an investigation into the cause of any positive COVID-19 tests, as if the employer is an expert on the spread of this disease. Mr. Hudson asks that legislators consider whether tort liability serves public policy, given the preexisting legal and operational protections, and the interest of justice in subjecting employers to a challenging layer of judicial scrutiny.

Cindy Effinger, an attorney with McBrayer Law Firm, confirmed that businesses have had to navigate through these new laws and regulations to remain open or to reopen. Ms. Effinger stated that businesses are asking what their liability as a business is, so they can comply. Each COVID-19 death represents a possible lawsuit. Ms. Effinger stated that there is no consistency with the safety messages from Governor Beshear or the CDC. Because of

the multiple interpretations, businesses do not have proper guidance to determine how they will be judged in the legal system.

In response to Chairman Petrie, Ms. Effinger stated that, as of July 7, 2020, 50 employer liability, banking, civil rights, and lawsuits against the state have been filed in Kentucky related to COVID-19.

Rob Mattingly, an attorney with DeCamillis & Mattingly, stated that there needs to be protection for employers, employees, and the public. Bringing a case related to COVID-19 can be difficult due to the burden of proof as to where you contracted the disease. Civil liability should require people and businesses to act reasonable. Businesses can be protected through legislation when the business acts reasonably. Preexisting OSHA guidelines are based upon employers acting reasonable. There are required infection protocols already in place. Mr. Mattingly stated that the legislative body may not need to move forward in enacting more legislation toward COVID-19 liability. Mr. Mattingly mentioned that some businesses purchased business interruption insurance and the insurance companies do not want to pay the businesses, which kicks it back on Frankfort, unemployment, and different agencies.

Chairman Petrie stated that he would be interested in updates through the interim as to the number of lawsuits and types, as well as the business interruption proceedings. Senator Webb added that an inquiry as to the complaint versus the agency's ability to enforce or investigate would also be of interest. Senator Wheeler agreed that businesses are trying to comply with the changing regulations and that the issue lies mainly with insurance companies that do not want to pay out on contracts or liability premiums.

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

## **INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS**

### **Minutes of the 2nd Meeting of the 2020 Interim July 30, 2020**

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

The 2nd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Thursday, July 30, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Tom Buford, Denise Harper Angel, Jimmy Higdon, 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, and Ken Jackson, Commissioner Kentucky Horse Racing Commission (KHRC); Jim Averitt, Vice President, Amanda Stephens, President, and Randy Donohue, Member, Kentucky Harness Horseman's Association; Joe Costa, President & Chief Executive

Officer, The Red Mile; Mike Ziegler, Executive Director of Racing, Churchill Downs; Allyson Taylor, Commissioner, Alcoholic Beverage Control Board; and Julie Campbell, Board Administrator, Kentucky Cosmetology Board.

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

#### **Consideration of Minutes from June 26, 2020, meeting**

Representative Moser motioned to approve the minutes from the June 26, 2020, meeting, and Senator Schickel seconded the motion. The minutes were adopted by voice vote.

#### **Implementation of 2020 Regular Session House Bill 415**

Ms. Taylor discussed the status of the administrative regulations being promulgated in response to House Bill 415. She introduced the Secretary of the Cabinet Kerry Harvey and Joshua Newton, ABC Board, who were available remotely to answer questions. Ms. Taylor noted that three goals were used as the basis for drafting the regulations. The ABC Board did not have a preconceived agenda. The three primary goals were to implement legislative intent, respect the three-tier system, and ensure that the Kentucky producers and suppliers are on the same footing with out-of-state producers and suppliers. She said it is important that all entities follow Kentucky law.

Ms. Taylor said all stakeholders were consulted before the drafting of the administrative regulations. She said conference calls were held with local and national associations, including the United States Distillers and the Wine Institute. She noted the ABC Board is willing to make changes to the regulations as public comments are accepted.

Responding to a question from Chairman Koenig, Ms. Taylor said the timeline is on schedule for promulgation of the regulations. LRC staff said they should be on the agenda for the Administrative Regulations Committee October 2020 meeting. She said final adoption will depend on how many public comments there are and how extensive the changes are. The computer system will be functional to apply for the licenses as soon as the regulation is approved.

Senator Higdon said his constituents have concerns that there is language contained in the administrative regulations that would allow out-of-state wholesalers and distributors the ability to ship products into Kentucky, and this was not the legislative intent. Chairman Koenig said the ABC Board is open to making additional changes and listening to input. Senator Higdon reiterated that out-of-state distributors do not need to be included.

Senator Raque Adams said she is hearing concern that out-of-state importers will be included in the regulation language, and she cautioned against this. Chairman Koenig said questions should be about process and not specific language at this time.

Senator Thayer said House Bill 415 was the most important bill the Kentucky General Assembly passed last session. He noted revenue streams are important for the bourbon industry right now as they have been hit hard by the Covid-19 pandemic and rioting in our downtown cities. He encouraged the ABC Board to follow the statute and legislative intent when finalizing the regulations.

Senator Thomas said he is a member of the Administrative Regulations Subcommittee and looks forward to hearing the administrative regulations at the October meeting.

#### **Agency Amendment to 201 KAR 12:030 on Military Reciprocity**

Julie Campbell, KCB Board Administrator, explained



the amendment to 201 KAR 12:030. Representative Koch made the motion to accept the agency amendment, and Senator Schickel seconded the motion. Motion carried by voice vote and the amendment was adopted.

#### **Kentucky Horse Racing Commission**

Marc Guilfoil, KHRC Executive Director, and Jennifer Wolsing, KHRC General Counsel, explained the administrative regulations. Ms. Wolsing said the KHRC is seeking approval for numerous proposed regulatory amendments, all of which passed 8-0 at the racing commission in December of 2019, and passed unanimously at the Administrative Regulations Subcommittee meeting in June of 2020 with no deficiencies. She said the regulations are seeking to establish a new Harness Horseman's Association called the Kentucky Harness Association (KHA).

Ms. Wolsing said Kentucky stands on the brink of substantial improvements to its standard bred industry. The Red Mile, Churchill Downs, and Keeneland have collectively spent over \$250 million in physical plants to help build a Standardbred circuit. Currently, the commission only allows for one harness horseman's association, the Kentucky Harness Horseman's Association (KHHA). The KHHA has been in place for over 40 years, but during this time the industry has become much more diverse in its population base. The commission believes that the industry could benefit from having additional representation to ensure that all groups are represented across Standardbred racing. This precedent and its benefits are particularly evident in the Thoroughbred industry.

Ken Jackson, KHRC Commissioner and owner of Kentuckiana Farms, said harness racing is in a really good position. He noted Churchill, Keeneland, and the Red Mile, in collaboration, have put over a quarter of a billion dollars in harness racing. This is unprecedented anywhere else in the world, and this type of investment needs to be protected. Three racetracks should never be allowed to fail again in Kentucky.

Joe Costa, President and Chief Executive Officer, The Red Mile, said he is supportive of the KHRC decision to allow for the formation of an additional horseman's organization with the regulation change. It is important to help the industry grow and allows for more voices and greater representation in the industry.

Mike Ziegler, Executive Director of Racing, Churchill Downs, said Churchill is supportive of the regulations as well. He is excited about the success of the sport in the future.

Senator Thayer said he has had the pleasure of working with the harness industry since 2005, when the Breeder's Incentive fund was passed. He said the business is strong and he has friends on both sides of the issue. He noted friction and competition is good for all industries and is supportive of the regulations.

Responding to a question from Representative Miller regarding problems in the Standardbred racing industry, Mr. Jackson said the regulation will allow another organization to potentially advocate for the industry and enter into agreements with the racing associations. It also allows a representative for that organization to sit on an advisory committee that decides how funds should be spent and distributed for the betterment of the entire industry. He noted that the new organization helps to better prepare for the future and to ensure purse funding is spent the proper way to advance the racing and breeding industry.

Responding to questions from Senator Higdon regarding transparency, Ms. Wolsing said there is

representation of the harness industry on the KHRC. Senator Higdon said his constituent, Mr. Jim Averitt, Vice President, Kentucky Harness Horseman's Association (KHHA), did not feel the KHRC posted the regulation on the agenda prior to the meeting in a transparent manner. He said there was no notification to their organization that notified them that another group was being formed in direct competition with their efforts.

Ms. Wolsing explained the process of the KHRC for notification of meetings and agenda items. She said there was a public notice and comment period and a public meeting where people could voice concerns or positive comments, and they accepted written comments. The KHRC sent out a statement of consideration to people who had requested this through open records. She also noted their subcommittee meeting was open to the public as well so she felt like the KHRC had provided ample notice of the regulations.

Responding to a question from Representative Burch, Ms. Wolsing said comments were solicited from racing associations on the regulations about any needed amendments to the language. Representative Burch believes all the interested parties need more time to work together and iron out their differences. Mr. Jackson said the KHHA is opposed because they do not want any other group to have input on the industry but themselves. He encourages members of the KHHA to get involved with the new organization. It will be run professionally, and will foster the growth of the harness industry. He noted it is time for change, and the thoroughbred industry has embraced having more than one organization call the shots.

Chairman Koenig said the regulations followed the correct process. They will go into the effect at the end of the meeting instead of waiting for the 90-day time period.

Representative Westrom said she is very concerned that the new Kentucky Harness Association is operating with no social media contacts, no website or by-laws, and no membership list. She said three people representing the harness industry is not enough to protect its interests, and she does not like division in an industry.

Chairman Koenig allowed testimony for opposition to the regulations. Mr. Averitt, Vice-President, Ms. Amanda Stephens, President, KHHA, and Mr. Randy Donohue, member, KHHA, testified that they are in strong opposition to the regulations being proposed by the KHRC. Mr. Averitt alleged that Mr. Jackson had a majority of the votes already in place before the meeting started and insisted the KHHA did not receive a formal notice that the new association was being created and would be in direct competition with KHHA. The changes would allow the KHA to negotiate with the race tracks and serve on an advisory panel that helps to determine how millions of tax payer dollars are spent within the Standardbred industry.

Responding to a question from Chairman Koenig, Mr. Averitt said he does not believe the KHRC violated the open meeting records law. He does believe there was not appropriate due process, and that the Thoroughbred industry is not in support, as previously stated in the meeting. He asked Chairman Koenig to distribute a letter to the members. The Chairman allowed for one letter to be distributed but denied the second letter as he had not reviewed the document.

Mr. Averitt stressed to the committee that the proposed changes only benefit the tracks (Red Mile and Churchill Downs) at the expense of thousands of rank and file horsemen. It would allow the racetracks to pit the two competing associations against each other, which would result in a financial race to the bottom for the horsemen.

Mr. Donohue asked if there were criticisms or complaints of the KHHA. He said it is of utmost importance to keep the historical racing dollars in Kentucky. It is not in the best interest of Kentucky to write a blank check to the state's program as the money tends to go out-of-state. A blank check to a group that is unknown can be problematic. Ms. Stephens added that the KHA's group of three representatives is not representative of diversity of the industry.

Senator Thayer said that Mr. Averitt's testimony is offensive and he owes an apology to the committee members. The administrative regulations have followed the correct process and the timeline is even more inclusive to public comments now that the review period has increased from 30 to 90 days.

Senator Higdon said the Averitt family is a well-known harness racing family who are well respected in his district. He said their concerns are valid and they feel the hearing was in name only and the vote was taken by the KHRC without full notice and disclosure to all interested parties.

Responding to a question from Senator Thomas, Mr. Averitt said the KHHA will lose money due to this change and creation of a new organization. Senator Thomas said business competition is good for the industry.

Responding to a question from Representative Westrom, Mr. Averitt said that the KHHA will not be able to work with the KHA for the good of the industry. Ms. Stephens said the KHHA should have been formally contacted before the KHA was created.

With no further business before the committee, the meeting adjourned at 11:50 AM.

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

### **Minutes of the 2nd Meeting of the 2020 Interim July 28, 2020**

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

The second meeting of the Interim Joint Committee on Local Government was held on Tuesday, July 28, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Senator Wil Schroder, 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, Stan Humphries, Christian McDaniel, Morgan McGarvey, Robby Mills, Michael J. Nemes, and Damon Thayer; Representatives Danny Bentley, Randy Bridges, George Brown Jr, Jeffery Donohue, Deanna Frazier, Joe Graviss, Cluster Howard, Regina Huff, Kim King, Adam Koenig, Stan Lee, Jerry T. Miller, Brandon Reed, Rob Rothenburger, John Sims Jr, and Ashley Tackett Laferty.

Guests: Senator Robert Stivers, Senate President; Max Fuller and David Moore, Department of Housing, Buildings and Construction; Chief Art Ealum, Shawn Butler, Jeff Liles, Anthony Lucas, and Pat Crowley, Kentucky Association of Chiefs of Police; and Sheriff Keith Cain, Kentucky Sheriffs' Association.

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

#### **Approval of Minutes**

Upon the motion of Representative Koenig, seconded by Senator Thayer, the minutes from the June 24, 2020 meeting were approved.

### **Consideration of Administrative Regulation**

The committee considered referred Administrative Regulation, 815 KAR 020:191, promulgated by the Department of Housing, Buildings and Construction, which related to the Division of Plumbing's minimum fixture requirements. Deputy Commissioner Max Fuller, and David Moore, Director of the Division of Plumbing, represented the Department and discussed the proposed changes.

### **Law Enforcement Issues and Reform for the 2021 Session**

Mr. Shawn Butler, Executive Director of the Kentucky Association of Chiefs of Police (KACP), told the Committee that in every legislative session, many bills dealing with criminal justice are filed. Given the current situation with law enforcement issues in the state and around the nation, he and Chief Ealum were grateful to appear before the Committee to briefly discuss some of the issues and legislation that the General Assembly would likely be dealing with during the 2021 session.

Chief Art Ealum, Owensboro Police Department and President of the KACP, stated that he wanted to briefly mention the Association's positions and thoughts on various law enforcement issues and legislation that are likely to be considered and discussed during the 2021 legislative session.

Regarding the use of force and choke holds, national discussions have been going on since the situation involving George Floyd. The KACP believes that choke holds should be strictly banned in most situations. There are, however, times when an officer is fighting for his life and that is the only tool available to him. Choke holds should meet the continuum of deadly force and as such should be used only in a deadly force encounter.

When considering defunding the police and reallocating those resources, the KACP believes doing so takes away from the communities that they serve. Eighty percent of police department budgets are dedicated to personnel. Defunding efforts would mean either losing personnel or losing training. The KACP requests the General Assembly to dedicate more money to training.

The KACP has had discussions with the Kentucky Law Enforcement Council (KLEC) regarding strengthening existing decertification legislation that has been in effect since 2018. The KACP wishes to ensure that agencies hiring police officers who have been terminated from another department are aware of these officers' performance backgrounds so these departments may make sound hiring decisions.

In response to a question from Senator Schroder, Chief Ealum stated that no-knock warrants should not be used to recover property or in drug searches. No-knock warrants are rarely utilized in most agencies. Mr. Butler added that KACP supports everything Senator Stivers has discussed but reserves judgement until they actually see the legislation.

In response to a question from Representative Koenig, Chief Ealum said it would depend on the agencies. The Department of Criminal Justice Training (DOCJT) trains using krav maga and some jujitsu techniques. The Owensboro Police Department uses its own defensive

tactics instructors. A neck restraint might be used to stop a combative person, but no technique would be used to compress the carotid artery. The Owensboro Police Department does not teach choke holds. Mr. Butler noted that a police officer has to justify the use of deadly force when employing a choke hold according to most police department policies. Most police departments do not train in the use of this hold. Chief Ealum noted that most defensive tactics instructors will be certified through DOCJT. Officers will get additional training in different places. The problem is that police departments do not train enough to become mixed martial arts experts. The training has to consist of techniques the officers can practice and use. Departments have to eliminate holds that can cause injuries. Mr. Butler added that KACP accredited police departments cannot use choke holds and carotid artery restricting techniques.

Referring to untrained constables, Representative Koenig commented that since constables are not trained, their police powers should be eliminated in order for criminal justice reform to occur.

In response to a question from Senator Schroder, Chief Ealum replied that the training includes a 20-week academy, and most counties have in-house academies. Training is all inclusive, and includes physical fitness, target practice, de-escalation techniques, legal issues, and other subjects.

In response to a question from Representative King, Chief Ealum said that citizens can show support by being accessible and present. Citizens should talk to people that actually know the job when it comes to the issue of defunding the police.

In response to a question from Representative Graviss, Chief Ealum stated that his department has not considered studying cultural humility.

In response to a question from Senator Mills, Chief Ealum said the first thing police departments do when hiring officers from out of state is that they conduct an internet search on the applicant. Applicants get with the KLEC for reciprocity training evaluation. Most out of state police officers have reciprocity and have the same amount of training. Complete background checks are done and psychological tests are performed. Mr. Butler added that a seven-year review of the applicant's social media history is available from a vendor who performs these types of searches.

Representative Donohue commented that he supports getting more funds for police departments, because training is critical.

In response to a question from Representative Meredith, Mr. Butler replied that training in use of force can be different depending on the agency, but the training has to comply with state law. There can be small differences. Chief Ealum added that having policies can be great, but it is the application of the policy that is important.

In response to a question from Representative Miller, Chief Ealum said police officers are trained to aim their weapons for the center mass of the portion of the body they can see.

Representative Frazier commented that she reached out to DOCJT and about ten percent of the classroom scenario instruction they conduct is in de-escalation and bias training.

In response to a question from Representative Howard, Chief Ealum said that greater pay will attract more qualified police officer candidates. Regarding de-escalation training, there are many forms of this, such as crisis intervention training. Chief Elam noted that use of force is a response to resistance directed at the officer and is used to prevent the

person from injuring themselves or other persons.

Daviess County Sheriff Keith Cain, representing the Kentucky Sheriffs Association (KSA), told the Committee that some have suggested that further restrictions on what is already a somewhat restricted procedure would take away a tool needed by law enforcement. Few, if any, of Kentucky's 120 sheriffs historically or currently utilize no-knock warrants. To his knowledge, the Daviess County Sheriff's Office has never asked a judge to issue a no-knock warrant, and in polling other sheriffs, not one was found who would endorse their use.

The risk to both officers and suspects, as well as to innocent bystanders, is so predictably high that they outweigh any perceived advantage of being authorized for forcible entry into someone's home without announcing the presence of police officers with a search warrant. The Castle Doctrine, which in Kentucky is set forth in KRS 503.055, recognizes that people have the right to defend themselves in their own homes and makes it even more critically important that police officers clearly identify themselves before forcibly entering a home. In the past there have been discussions about the risk of losing physical evidence if officers knock and announce their presence, but it is hard to imagine a case where that evidence is so crucial that it would make sense to ask for a no-knock warrant.

While there are conceivably some extreme scenarios in which applying for a no-knock search warrant might be justified, those exceptions can be carefully articulated in the bill that is currently being drafted. Concerning the bill, the issue of "qualified immunity" has also come under scrutiny. Some have said that "qualified immunity" is a license for law enforcement to get away with violating someone's rights and therefore that standard should be abandoned. The term "qualified immunity" is most commonly used in federal court cases brought against officers and their employing agencies, so it is not certain that "qualified immunity" is an issue for purview by the state legislature.

The issue of qualified immunity comes up in federal civil litigations. In the most simple of terms, qualified immunity means that a person bringing a lawsuit has to prove that the officer in question violated their constitutional rights and in doing so the officers knew, or should have known that they were violating that person's rights. Since each case is decided upon its own merits, until a court case is decided regarding a particular kind of conduct or action occurs, there is no way for law enforcement agencies to be put on notice.

In a time when many communities have serious questions about whether people who are sworn to protect them will be held accountable when they violate that oath, it is incumbent upon law enforcement to answer those questions.

Senator Robert Stivers, Senate President, told the Committee that he is sponsoring a bill that would not allow no-knock search warrants to be used as a stand-alone tool by police. This is, of course, in response to the no-knock, stand-alone search warrant served at 1:00 a.m. in Louisville for the Breonna Taylor case. The federal government generally disallows the service under their rules and guidelines of any warrant after 10 pm and before 6 am absent exigent circumstances. There are times you do not want to knock prior to entry when serving an arrest warrant. But in a situation like that, you should also possess a secondary search warrant. The search warrant would allow the seizure of evidence when securing a space after entry. The no-knock search warrant would not be a standalone tool, but would be used as a secondary tool. No-knock warrants should be used



by individuals who are trained in tactical situations. The obtaining of such a warrant should require that a supervisor sign off, and be taken before a judge. Forum shopping of the granting of these warrants should be controlled. There is the question of separation of powers between the legislative and judicial branches of government and as a result, what is allowed as evidence if proper procedure is not followed. There should be entity liability, but to what degree there should be individual liability is still under question. There is no attempt to broaden or remove qualified immunity. But where someone was willfully, wantonly, or grossly negligent in obtaining warrants, the person should be held individually liable. There must be more discussions with the judicial branch as to what may be introduced in a civil or criminal case when someone believes their rights to have been violated during the service of a no-knock warrant.

Another aspect of the proposal would be that police officers would have to seek advice before asking for a no-knock warrant, and the Commonwealth's Attorney or County Attorney would weigh in as well.

The circumstances which have brought about these discussions are the result of bad policing. But that in no way means that police are bad. They are a viable and integral part of our civilized society, and cannot be commended enough for what they do.

There being no further business, the meeting was adjourned at 9:55 a.m.

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

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

July 28, 2020

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

The second meeting of the Interim Joint Committee on State Government was held on Tuesday, July 28, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Senator Wil Schroder, 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, Tom Burch, McKenzie Cantrell, Jeffery Donohue, Jim DuPlessis, Joseph M. Fischer, Kelly Flood, Jim Glenn, Derrick Graham, Joe Graviss, Richard Heath, Samara Heavrin, Joni L. Jenkins, Matthew Koch, Derek Lewis, Mary Lou Marzian, Patti Minter, Jason Nemes, Jason Petrie, Attica Scott, Steve Sheldon, James Tipton, Ken Upchurch, Russell Webber, and Lisa Willner.

Guests: John Steffen, Kentucky Registry of Election Finance; Michael Adams, Secretary of State.

LRC Staff: Alisha Miller, Michael Callan, Roberta Kiser, and Peggy Sciantarelli.

#### **Approval of Minutes**

A motion to approve the minutes of the June 24, 2020, meeting was adopted without objection.

#### **Kentucky Registry of Election Finance – Update on the Electronic Reporting System**

John Steffen, Executive Director, Kentucky Registry of Election Finance, provided an update on the Registry's electronic reporting system. The system is a work in progress that is being improved on a daily basis, but it is taking longer than expected to complete. Developers

indicate that the project is more complicated and more detailed than anticipated. The Registry is continuing to work with Kentucky Interactive, the project developers. The new reporting system has been in development for two or three years.

Candidates are able to file their reports now, and that function was available for the 30-day pre-primary report. Second quarter report filings encountered a few "bugs" but were successful, for the most part. Bringing old data from previous reports into the new system has caused some difficulty and is one of the main obstacles. When the first reports were filed for the 2020 primary, the reports were not initially available online, but Registry staff did a great job providing information to people upon request. The data for the primary reports is online, but that report function and its searchability will be improved.

Mr. Steffen said he believes the new system is good and that the final product will meet expectations. Most candidates and their treasurers have been patient when using the new system. They understand that it is a work in progress, and the Registry is working to get it fully implemented to everyone's advantage. The developers have recently been focusing on committee reports. Most committees are now in production and can file their reports.

Mr. Steffen discussed questions that he received in a letter from Senator Thayer and Representative Jerry Miller. Users currently cannot print reports—an issue that has been raised by others. That feature will be added in the future. Also, in the new system, candidates who raise \$3,000 or less are not required to file reports. The cell phone app is not developed yet but will be ready in the future. However, candidates may still use their cell phones to log into their accounts on the Registry website in order to file a report. Some have been unable to access their cumulative balances. The Registry is trying to resolve that problem, and Mr. Steffen suggested that anyone who encounters this problem should notify his office. The new system has required spousal information for contributors, but that information was only supposed to be required for contributors to statewide candidates. This was a misunderstanding on the part of the developers, and they have been informed to make that change.

Mr. Steffen acknowledged the need for improvements to the new system. It can be tweaked as needed and as laws change but will always be subject to improvement. The Registry welcomes input and feedback, and Registry staff are always willing to work with anyone who has questions about the system.

Mr. Steffen discussed possible legislative changes to consider during the 2021 Regular Session. The statement of intent currently has to be filed with county clerks, the Secretary of State, and also online with the Registry. He suggested that candidates be required to only file the statement electronically with the Registry. He believes county clerks would agree with that change. Any statutory amendment should perhaps include a penalty for noncompliance and would need to clarify that filing of the statement is mandatory.

Mr. Steffen said that legislation sponsored by Senator Thayer two or three years ago was successful in establishing the single \$3,000 threshold for reporting, but it also deleted the post-report filing requirement for candidates raising less than \$3,000. He believes that is not in the best interest of disclosure. When candidates who raise \$3,000 or less in the primary switch over to the general election—and automatically have up to \$3,000 to bring forward—that money would not be accounted for. He suggested that

requiring \$3,000-or-less candidates to file a 30-day post report in the primary would be beneficial to everyone and would enhance accountability.

Senator Thayer thanked Mr. Steffen for his testimony. He also noted that Mr. Steffen is one of his constituents and also serves his country as a lieutenant colonel in the United States JAG Corps. Senator Thayer said that since sponsoring SB 4 (2019 RS), which established mandatory electronic filing, beginning with the 2020 primary, he had been anxious about how the process would work. It is true that the electronic reporting system is a work in progress, but he wants to make sure that the "bugs" are worked out before the 60-day pre-general-election report is due. He thanked Representative Miller and Representative Bratcher and others for their interest, and he thanked Mr. Steffen for addressing concerns that have been raised.

Senator Thayer asked about the manpower and resources of Kentucky Interactive and whether there had been other bidders for the electronic reporting system. Mr. Steffen said there were no other bidders, as Kentucky Interactive already had a master agreement with the state and was available to do the work. He believes Kentucky Interactive was faced with a manpower issue when one of the developers left, which led to a slow start. The intricacies of the project were also more than expected. Kentucky Interactive now has sufficient resources devoted to the project.

Senator Thayer asked whether the public will be able to access the information in a more user-friendly manner than previously. Mr. Steffen said he is confident that reports will be available online as soon as they are submitted by the candidates. A lot was lacking at the beginning of the 2020 primary process, but the reports were available in time for the primary and will continue to be in the future. Senator Thayer thanked Mr. Steffen for that commitment and for the work of Registry staff and the staff of Kentucky Interactive. He said his primary motive for promoting electronic filing and additional reporting was in order to increase transparency, and because he believes the public deserves to have instant access.

Representative Graviss thanked Mr. Steffen for his service and said the Registry has excellent and helpful staff. He asked whether the system requires a person's name to be listed if they contribute \$100 or less. Mr. Steffen said the system requires the candidate to enter that information so that the Registry can track the origin of the money, but the name of the contributor would not be published.

Representative Miller asked whether there is a penalty for a candidate who decides to spend above the \$3,000 threshold less than 60 days before the general election. Mr. Steffen said candidates would be allowed to change their mind without penalty before the first report is due each cycle—whether it be the 60-day or 30-day pre-report. But if they exceed the \$3,000 limit and do not timely take the required action, there is a minimum \$500 penalty.

Representative DuPlessis said that he has been filing electronically under the old reporting system. He once received a \$99 donation from someone registered with the opposing political party. Their name had been published, and this caused some problems for the contributor. Mr. Steffen confirmed that the name would not be published under the new system.

There were no further questions, and Senator Schroder thanked Mr. Steffen for his service and for his testimony.

#### **Secretary of State – Overview of the 2020 Primary Election**

Secretary of State Michael Adams discussed the 2020



primary and the upcoming November general election. In his opening statement, he said Kentucky's June 23 primary election was a nationally recognized success and had the highest turnout in many years. After two weeks of in-person early voting, there was no spike in COVID-19 cases. That is a testament to the wisdom of the election plan, the Governor's efforts to obtain the necessary personal protective equipment, the patience of election workers and voters in following CDC guidelines, and the legislature's willingness to work across party lines to enact legislation that gave the Governor and the Secretary of State flexibility to design a new election plan for a state of emergency.

He said his colleagues in other states, both Democrat and Republican, wanted to know how Kentucky conducted such a successful primary during a pandemic. What sets Kentucky apart is that the General Assembly, the State Board of Elections, the county boards of election, the Governor, and the Secretary of State all worked together in a bipartisan way to fashion fair and clear rules well in advance of the primary and to consistently message the new procedures to inform and reassure voters. This contributed to the high turnout. During and since his campaign for office of Secretary of State, his goal has been to maximize Kentuckians' confidence in the election system. He emphasized that election rules must be not only fair but also seen as fair.

The Secretary said that three lawsuits are pending against him in his official capacity that seek to undo or redo significant parts of Kentucky's election system. The plaintiffs in all the cases are, or are sponsored by, left-leaning special interest groups. Most of the plaintiffs' lawyers do not live or vote in Kentucky. They are based in New York, San Francisco, and Washington DC. They are telling the judges in these cases that he, the legislature, the Governor, and the State Board of Elections cannot be trusted to run the state's elections. In the days before the June 23 primary, voices outside the state attacked the Commonwealth with accusations of racism and vote suppression and with demands for Congress to intervene and take over Kentucky elections. This led to his phones and State Board of Elections' phones being flooded with angry and sometimes profane out-of-state callers. Those calls likely impeded incoming calls from Kentuckians trying to find out where or how to vote.

The Secretary said that Kentucky voters had confidence in the rules and the system. That confidence came from Kentuckians watching him, the legislature, the State Board of Elections, and the Governor, work together in a bipartisan way—compromising, and agreeing to a plan that took all sides' concerns into account. If the left-wing out-of-state legal establishment is allowed to decide the election rules for November, at least half of the electorate will not have confidence in the system. A simple online search reveals that the lawsuit plaintiffs and their lawyers have made 365 campaign contributions totaling about \$168,000. The lawsuits are not politically neutral, with only one contribution going to a Republican. Election rules cannot be established on a results-oriented basis. If the rules are not perceived as fair, at best, voters will stay home rather than vote; at worst, they will revolt. Democracy cannot function unless the people entrusted by the voters with responsibility can clearly exercise that responsibility and be accountable to the voters.

Secretary Adams said that in the June primary, absentee voting worked well. It was convenient and virtually fraud-proof. Absentee voting has been in the state's constitution since 1945 but in a typical election is

used by fewer than two percent of voters. However, many more than two percent qualify for an absentee ballot. Even if the classes of absentee eligible voters is not expanded for November, he believes a minimum of about 20 percent of voters may vote absentee. It may be possible to expand absentee voting beyond the current groups of voters who qualify, but he is dubious that the plan used for the primary can be fully replicated in all respects. Turnout is expected to be 250 percent higher in November than in June, and it is not obvious that county clerks or the post office can manage a 250 percent increase in absentee ballots. That is based on feedback from state and local election officials of both major political parties. They, as well as he, are concerned that going from 750,000 absentee ballots to 1.875 million absentee ballots or more could overload the system.

Early voting worked in June. Not all county clerks are in favor of expanding absentee voting for November, but they universally support in-person early voting. Early voting is much less expensive and labor-intensive and can be done in a way that keeps voters and election workers safe.

For in-person voting on election day, there is concern that the schools and churches typically used for election day might not be available. There is also concern about finding enough poll workers who are not of advanced age and therefore more vulnerable to harm from the coronavirus. Many more voting locations will be available for the general election than for the primary, but that will ultimately depend on the willingness of Kentuckians to be good citizens and lend a hand.

Secretary Adams said that conducting a primary during the pandemic prompted an upgrade of voting equipment in some counties where prior voting equipment did not allow for a paper trail. It is his opinion that paper ballots counted electronically is the "gold standard." It provides the speed of a quick count but also the security of a paper trail. It has been his goal for more than a decade to introduce paper balloting to every Kentucky county.

He said that several suggestions for election reform that were offered in his "Easy to Vote" bill (HB 596/2020 RS), sponsored by Representative Nemes, were implemented in the June primary with some success. That bill died in committee, but he plans to offer more election legislation for the 2021 legislative session. It may provide that registered independents may serve as poll workers and allow counties to offer centralized multi-precinct voting locations—options that proved workable and popular with election officials and voters during the June primary.

Concluding his opening statement, the Secretary said that efforts to keep voters safe and ensure that they are not disenfranchised by the coronavirus were possible only because of emergency powers that were granted by the legislature. He said he has used, and will continue to use, those powers in a limited way—reluctantly, and only where necessary. As procedures are developed for November, he plans to modify existing election rules only to the extent necessary to keep Kentuckians safe and ensure a successful election—and not for the purpose of implementing his own, or anyone else's, policy preferences.

Senator Thayer said that the Secretary's ability to work in agreement with the Governor would not have happened without legislation that was passed by the General Assembly. Governor Beshear vetoed the legislation, and the legislature subsequently overrode the veto. He thanked the members who voted for the initial bill and those who voted to override. He said that, based on the Governor's public statements, he believes voting would otherwise

likely have been 100 percent by mail-in ballots, which he would unalterably oppose. He appreciates the system that was used for the June primary, but he is not a fan of early voting. Campaigns are meant to peak on election day. Early voting does not account for insurgent candidacies, like that of Representative Charles Booker. It does not account for national or local events such as those that occurred during the three or four weeks before the primary and which ultimately affected how Democrats voted. Early voting shows no favor to underfunded candidates and less well-known candidates. He hopes that voting will not be allowed three weeks in advance of the November election and that it will not be necessary to wait a week after election day to know the results.

Senator Thayer said he is glad to hear that there will be more polling locations in November. He thinks that county clerks did an excellent job observing CDC protocols during the June primary—and that they can do that again in November. He thanked the Secretary for an excellent report and said he is looking forward to hearing the plan he will be submitting to the Governor for the general election.

Representative Graviss complimented Secretary Adams for his report and thanked him for his service and the helpfulness of his staff. He said he knows the Secretary has been working to clean the voter rolls. He asked how much time that will require and which categories of voters will be purged. He also inquired about the expected cost of conducting a safe and efficient November election. Secretary Adams said that about two-thirds of the federal dollars had been spent. The June primary was the most expensive election Kentucky has ever had. It would not have been possible without the additional funds provided through the CARES Act. A usual election costs \$8 or \$10 million. It is not clear yet how much the November election will cost, but it will cost more. If absentee voting is not expanded, it will probably cost at least an additional \$2 million, which would likely consume the remaining federal stimulus funds. His office, State Board of Elections staff, and county clerks are in the process of assessing load capacity for the various voting models. If every county expands the classes of qualified absentee voters, the cost will increase a lot because that is the most expensive way to conduct an election. Without additional funds, the Commonwealth cannot afford to expand absentee voting beyond the current classes qualified under law. It is possible that Congress or the state budget might provide more funding. The first priority, though, is safety, and the second priority is money.

The Secretary said that part of his bipartisan agreement with the Governor in April was that his office would receive help to clean the voter rolls. He estimates that they include about 30,000 voters who have either moved away or died. Normally, the cleanup would take another 2½ years; under current state law, a voter cannot be removed until two federal general elections have passed after notification that the person has moved or is deceased. He hopes to get the rolls cleaned as soon as possible and before the end of 2022. According to the agreement with the Governor, letters will be sent to request consent from people who should be removed. Permission is not needed to remove the names of deceased voters, which probably number in the thousands. His office is working with the Governor and the state's Bureau of Vital Statistics to confirm whether voters are deceased.

Representative Bratcher asked about votes that were not counted in June because of technicalities. Secretary Adams said he does not have that information and that there is no statewide aggregate of that type of information. He

suggested that the legislature consider enacting legislation to provide audit authority over the counties in order to obtain that information. Currently, it is only available from counties that offer it. He said, on average, about 4.5-5.0 percent of ballots are not counted due to voter error, but he believes the rate of voter error in June was lower than it was in the last two election cycles. He added that whether a person has voted is a matter of public record. Representative Bratcher said he did not expect to be a fan of early voting but that it had worked well in Jefferson County. He hopes, however, that in November the results will be available on election day instead of a week later.

Secretary Adams said he was surprised that more people voted in person on election day than voted early in the prior two weeks prior. He believes that promotion of early voting helped determine success of the June primary. He thinks the Governor's concerns about the timeline for reporting election results are somewhat assuaged. Secretary Adams said he is hopeful that early voting will be available earlier in November. He thinks it is not unreasonable to expect that ballots will be returned earlier and that vote totals will be available sooner than a week after election day.

Rep. Donohue complimented Secretary Adams and the Governor for their efforts. He said he believes early voting is an excellent idea and that the positive elements of the June primary should be continued or expanded for the general election.

Representative Tipton complimented the Secretary and his staff. He said the county clerks he has spoken with are anxious to receive the rules for November as quickly as possible. They like to have flexibility, since what works in one county might not in others. Anderson County, one of the counties he represents, had drive-in voting in June, and it worked well. That county has a facility available in November that will permit drive-in voting for two or three days. He also asked about the need for more poll workers for the general election. Secretary Adams said he hopes to provide a plan to the Governor in early August. He expressed sympathy for candidates who are trying to campaign in a pandemic atmosphere. He wants to provide them clarity and make their job as easy as possible. He said clerks should have flexibility and that some had displayed great ingenuity during the June primary. One complaint from both sides of the aisle about the primary's initial plan was that it was overly deferential to county clerks with respect to polling locations. It is likely that the approach will be different for the general election. There may be a formula that provides for the number of locations per county, based on population and geography; or he and the Governor may need to sign off on reduction of voting sites in the counties.

Secretary Adams said it is the responsibility of the local political party committees to recruit poll workers, but that task has usually been left to the county clerks. It is not his office's responsibility, but he is doing everything he can to help and has established a portal for that purpose. People have been calling his office to volunteer as poll workers, and their information is being provided to county clerks.

Representative Nemes thanked the Secretary for his work on HB 596. He also expressed thanks to Jefferson County Clerk Bobbie Holsclaw and Oldham County Clerk Julie Barr for doing a good job during the June primary. He was, and remains, strongly opposed to having only one polling location in Jefferson County. He is in favor of expanding access to voting. He also suggested that the Secretary and the Governor should come jointly to the legislature to propose needed changes in election law. Since

time is not as constrained as it was for the June primary, he believes this should happen in a special session prior to the November general election. That would provide more legitimacy for the election and would be bipartisan in nature. Responding to a question from Representative Nemes, Secretary Adams clarified that the decrease in the percentage of spoiled primary ballots was in reference to absentee votes.

Senator Schroder announced that Representative Flood, who is attending by videoconference, has submitted a comment, asking that he assure the committee members that Fayette County legislators are meeting with their county clerk to discuss getting more poll workers.

Rep. Minter praised the Secretary and the Governor for their bipartisan work to make the primary safe and to create voter confidence in the system. The people in her district like early voting and mail-in voting. They also want more poll locations. The one in Warren County worked well, and the county clerk's office did a fantastic job, but some voters had access problems. The single polling place was 20 minutes outside Bowling Green. She asked when the location and number of polling places will be decided, and by whom. Secretary Adams said it is important to have the information sooner than later. It will depend on the election plan, which will be more specific for the general election than it was for the primary. He does not think that he or the Governor should make that decision. Local input is needed, but a floor also should be established regarding the number and location of the polling sites.

Representative Graham commended the Secretary and the Governor for working together in a bipartisan manner. He said he has concerns about possible procedural changes for early voting. He asked Secretary Adams whether he will discuss his recommendations for the general election with members of the legislature—the State Government Committee, in particular. Secretary Adams said he will be happy to do that. He stated that the legislature should not be a bystander in the process. In advance of the primary, he consulted with members of legislative leadership. He cautioned, however, that the more bureaucratic and time-consuming the process becomes, the longer it will take to complete a plan for November. Representative Graham stated that voting is one of the most important rights of citizens, and he is concerned that it could be restricted in the general election. He wants to ensure that there is transparency in the process and that no one is hindered from voting in the fall.

Secretary Adams said that early voting should be made easier. The November election plan should make it clear that voters will not be expected to make an appointment in order to vote early. He believes one reason more people voted in person on election day in June instead of voting early is that they thought it required an appointment. Voters were also confused because they heard conflicting information across county lines. Senator Schroder agreed. He said his constituents had come to him with questions about early voting.

Representative Miller thanked the Secretary for his commentary. He agreed that more voting locations are needed and suggested that there should be at least one in each legislative district. He suggested also that early voting not take place until the weekend preceding election day. Secretary Adams said he believes more than three or four days will be needed to accommodate early voting. Also, he intends to recommend keeping the polls open for Saturday voting.

Representative Marzian said she was happy that the two major political parties were able to work together. She asked whether excuse-free absentee voting will be allowed in November due to COVID concerns. Secretary Adams said that has not been determined yet. The plan will try to ensure the protection of voters by allowing them to vote absentee, which will also help prevent the polling sites from being overcome. But if too many people vote absentee—as 75 percent did in the primary—that might be too much and could potentially crash the system. From the perspective of county clerks, it was necessary for them to close their offices for a long period of time after the primary in order to process 750,000 absentee ballots. The plan for November has to consider the load capacity of county clerks' offices, as well as determine the proper set of excuses for voting absentee that would not result in out-of-control numbers. Representative Marzian asked whether there is sufficient time to prepare for November, and Secretary Adams responded affirmatively. He said the Governor wants a quick agreement, and so does he.

Representative Burch said many absentee ballots do not get counted, because the voter fails to properly sign the envelopes. He suggested changing the law to require only one signature. Secretary Adams said that is an excellent point and is being looked at. One option would be to suspend the legal requirement for two signatures. He thinks it is especially confusing to people who return their ballot in a drop box, probably thinking they do not need to sign an outside envelope if it is not going to be mailed. He thinks the best solution would be to require notification to people who fail to sign.

Representative Derek Lewis complimented the Secretary. He said the county clerks in his district—Laurel, Clay and Leslie Counties—are concerned about having sufficient resources to handle the expected increase in November turnout. Secretary Adams said the remaining federal funds will be spent to reimburse the counties. The funds could be used, for example, to hire additional staff and poll workers, increase compensation for poll workers, or pay postage costs for absentee ballots. The question is how to balance the various options for distributing the funds.

Senator McGarvey thanked Secretary Adams for his willingness to work across the aisle and to get as many people as possible to vote—and as safely as possible. He said that although there are time constraints, he thinks it is time for the legislature to deal with the election process—which he believes is the most important topic that the Interim Joint Committee on State Government can consider before the November election. He agreed with Secretary Adams' earlier comment that the election must not only be fair but also seen as fair. He said many of his constituents expressed a preference for mail-in voting, and he would like the general election to include a robust mail-in voting program. He is concerned that limiting that option now could lead to problems later. He thinks the Secretary is correct in wanting to quickly prepare the plan for November. He is glad to hear that early voting will potentially be allowed on Saturdays and that there will be a robust effort to have more polling locations for in-person voting. He said that Jefferson County needed more than one site for the primary and will need more than one in the general election.

Senator McGarvey said that at least one plan being considered by Congress would provide about \$17 million to Kentucky, over and above the funds previously received from the CARES Act. He questioned what it would cost to fully fund a mail-in voting program like the one that worked well in June. Secretary Adams said Jefferson County clerk

Holsclaw has assured him and the State Board of Elections that there will be more than one location in November. He said he likes an idea posed by the state Democrat caucus—that there should be at least one “super center” for voting in every locale. That would address the problem of voters who go to the wrong precinct and end up not voting.

Secretary Adams said he has a bipartisan task force working on budgeting for the general election. He cannot with confidence give a flat number for the projected cost, but he can say that the most aggressive early voting model is a good bargain compared to the cost of absentee voting. Postage is the biggest cost component of absentee voting, and it is very expensive. Postage costs in November could potentially be \$6-\$8 million. It is hard to plan around that, when only about \$2.5 million federal dollars remain available. He has spoken with Senator McConnell and Congressman Yarmuth about funding. He told them his goal is to come back to them with a plan that includes a price tag and not just ask for an arbitrary amount of money. He said his office is in the process of assessing internally the different price points for different election models. He also said his door is always open for input from legislators of both parties.

Senator McDaniel thanked the Secretary for his testimony. He went on to say that it is a fundamental obligation of the General Assembly to ensure safe, fair, and honest elections, as well as safety of the public. He invited the Secretary to attend the September meeting of the Interim Joint Committee on Appropriations and Revenue to discuss the November election and its expected cost. He said the General Assembly will work to find a way to meet the cost—and thus enable a safe, fair, and honest election to be conducted in November. Secretary Adams said he would be happy to speak at the September meeting.

Senator Schroder spoke about the failure of some voters to receive their absentee ballots in the mail in time to be counted for the June primary. He asked whether this type of error has been reported to the Secretary of State’s office and how it is being addressed. Secretary Adams said his office receives calls daily from people who have been in that type of situation. Reliability, cost, and the potential for fraud are concerns regarding mail-in voting. He is confident that the fraud issue is being managed, but cost and the failure rate of the postal service remain concerns. The capacity of the county clerks to process the ballots is also of concern. He acknowledged, however, that the clerks and the postal service in June did an amazing job, although they did make some mistakes.

Secretary Adams said the postal service has indicated that their public goal for delivery of election mail is 96 percent. When the average voter error rate of about five percent is combined with the error rate for mail delivery, that totals almost 10 percent of votes. That does not mean that mail in voting should not be an option. He said that he and the Governor amended the rule late in the game to reassure voters that they may still vote if they had not received their ballot for the primary. The legislature might want to make permanent some of the changes that were made, though some should be reserved for a state of emergency only. Secretary Adams reminded the committee members that he welcomes the perspective and suggestions of all members of the General Assembly.

Senator Schroder thanked him for his testimony and also for agreeing to meet with the Appropriations and Revenue Committee in September. He announced that the next meeting of the Interim Joint Committee on State Government will be August 27 at the Kentucky State Fair.

Videoconferencing will not be available for that meeting. There were no further questions, and the meeting was adjourned at 12:11 p.m.

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

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

June 26, 2020

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

The 1st meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Friday, June 26, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Phillip Pratt, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Phillip Pratt, Co-Chair; Representative Tommy Turner, Co-Chair; Senators Denise Harper Angel, Alice Forgy Kerr, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Lynn Bechler, Tina Bojanowski, Terri Branham Clark, Jeffery Donohue, Deanna Frazier, Chris Freeland, Chris Fugate, Robert Goforth, Jim Gooch Jr., David Hale, Richard Heath, Cluster Howard, Kim King, Adam Koenig, Bobby McCool, Michael Meredith, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Rachel Roberts, Steve Sheldon, Maria Sorolis, Cherlynn Stevenson, Richard White, and Rob Wiederstein.

Guests: Travis Burton, Director of Political Affairs, Kentucky Chamber of Commerce; Dr. Kris Williams, Chancellor, Kentucky Community and Technical College System; Bradley Stevenson, Executive Director, Child Care Council of Kentucky; Jennifer Washburn, Executive Director, iKids Childhood Enrichment Center; Todd Griffin, President, Kentucky Retail Federation; Shannon Stiglitz, Senior Vice President of Government Affairs, Kentucky Retail Federation; Dan Galvin, owner, Galvin’s; and Debbie Long, owner, Dudley’s.

LRC Staff: Andrew Manno, Janie Boyd, and Sasche Allen.

#### **Impact of COVID-19 on Businesses and What Comes Next**

According to a Chamber survey taken between late April and early May, businesses across the state have had to completely change their operations and as a result almost 80 percent of the Chamber’s members said they have seen a significantly loss of revenue,. Fifty-five percent were already facing cash flow issues, 28 percent said they had had to suspend operations, and 33 percent at that point had had to lay off employees. In response, the Kentucky Chamber of Commerce, in partnership with KCTCS, launched Restart Kentucky and has worked to provide their members questions and answers on their website, the procurement of personal protective equipment, webinars, paycheck protection program loan education and advocacy, and a Who’s Hiring campaign. The organization has also started a “We See You” local chamber campaign, formed a task force for reopening recommendations, provided masks and hand sanitizer, and formed a partnership with the Kentucky Department of Education. Some of the topics covered by the webinars that were offered included “The Impact of COVID-19 on Restaurants and Retail in Kentucky”, “Reopening the Economy: A Review of States’ Response to COVID-19”, “Addressing COVID-19 Legal

Liability Risks for Employers”, and “On the Front Line: Kentucky Hospitals in the Age of COVID-19”. Some of the issues that the business community worked on during COVID-19 were the reopening of schools, legal liability, hospitality reopening plans, CARES funding for small business grants, child care, safely reopening businesses, and opposing unnecessary obstacles to reopening businesses.

KCTCS has been working with leadership from the Kentucky Council on Postsecondary Education and the Governor’s Office to finalize reopening plans for the fall session for all 16 colleges in the KCTCS network. Most institutions have announced they plan to offer several options to students but also have contingency plans. KCTCS will be carefully following the Healthy at Work requirements. They will be requiring health checks as students enter campus, face coverings, appropriate social distancing, and strict cleaning protocols. Due to the abrupt closing of the spring session of classes, there are currently four stages of KCTCS’s restart plan. Stage one went through May 31, 2020 which included technical faculty and students making up lab coursework on campuses only, the opening of workforce assessment centers, and minimal system office access. Stage two went through June 30, 2020 which included less than 50 percent of faculty and staff in facilities, students with appointments could access student services, technical faculty and students continued to complete coursework, and all Summer 1 courses were offered online only. Stage three will be July 1, 2020 to July 31, 2020 and will allow up to 50 percent of faculty and staff on campus, permit students with appointments access student services, allow some face to face Summer 2 classes to take place on site in labs, and permit meetings of up to 50 people. Stage four will be from August 1, 2020 through December 18, 2020. During this stage, fall session classes will begin on August 17, 2020 in a variety of formats including online and face to face. All student services will also be offered on all campuses. Actions in stage four are subject to approval by the Kentucky Council on Postsecondary Education and subject to change.

Answering a question from Representative Kim King, Dr. Kris Williams said with the current size of most classrooms social distance requirements should be easy to implement, but it may be more challenging when students have to be in classrooms where machines and other types of equipment are used. As a result, campuses have adopted hybrid models as an option that will have half of a class in a classroom at a time to achieve social distancing. In certain lab classes and technical classes such as welding, actual physical barriers were already in place.

In response to Representative Tina Bojanowski, Mr. Travis Burton said examples unnecessary obstacles to reopening businesses included requesting information from businesses that would compromise their privacy such as proprietary information.

Replying to a question from Senator Mike Wilson, Mr. Burton said the interim period of the year will give the Chamber the opportunity to reflect on what worked well during this time and what did not.

Representative Deanna Frazier made comments about addressing issues with childcare and providing care for the elderly.

Addressing a question from Representative Steve Sheldon, Mr. Burton said the Chamber is aware of the issue employers have been having with getting employees back in the workplace due to some employees receiving unemployment pay, unemployment emergency pay, and stimulus finds. Due to different types of businesses



reopening at different planned phases, the issue is difficult to access at this time.

Co-Chair Phillip Pratt made comments about the large amount companies across the state that have been unable to fill positions as businesses have begun to reopen.

### **Impact of COVID-19 and Reopening of Child Care Providers**

In 2013 there were 4400 childcare providers throughout the state but that has decreased to 2172 in 2020. This decrease is partially due to a freeze being put on federal block grant funds for childcare assistance in 2013. Bradley Stevenson, Executive Director of the Child Care Council of Kentucky, said he believes the effects of COVID-19 will have a similar effect and will cause major issues for working parents in Kentucky. A survey conducted by the Prichard Committee for Academic Excellence, that received over 1500 responses, found that Kentucky's childcare capacity before the COVID-19 pandemic was 165,314. However, as a result of the pandemic 11 to 15 percent of those providers may have to potentially close permanently. Daycares were ordered to close in March 18, 2020, and some have yet to reopen due to staffing issues, lack of access to supplies, and employees who are collecting unemployment. On June 15, 2020, licensed childcare providers were eligible to reopen with strict guidelines that included increased cleaning and limited group sizes. About 60 percent of facilities have reopened with 40 percent remaining closed.

The Child Care Council of Kentucky has worked to create Reopen Childcare Kentucky in conjunction with 80 other interested parties throughout the state including childcare providers, healthcare providers, postsecondary institutions, and the Kentucky Chamber of Commerce. Collectively, they submitted reopening recommendations to the Governor's Office. One of the childcare facilities involved in Reopen Childcare Kentucky is iKids Childhood Enrichment Center. The Executive Director, Jennifer Washburn, explained her experience as a small business owner during the COVID-19 pandemic. Throughout the pandemic, iKids has operated as a limited duration center adhering to National Association for the Education of Young Children accreditation guidelines by providing care to the community's healthcare and emergency responders. Choosing to operate as a limited duration center, iKids lost more than \$23,000 in April 2020. The receipt of a PPP loan covered losses for April and May but was fully exhausted June 12, 2020, which was the case for most childcare facilities across the state. Ms. Washburn explained that her facility is licensed for 97 children but operates with 89 for a lower teacher to child ratio. iKids receives funds through Kentucky Child Care Subsidy, which pays \$20 a day for qualifying families, for about five children but relies mainly on parent contributions and tuition. With the newly mandated group size reductions, Ms. Washburn's facility is down 20 child care spots which will equal out to a 22.4 percent reduction in revenue. With the staffing requirements of each class coverage, as well as staff for wellness checks and additional staff to reduce break contacts, the staffing hours have increased by 20 percent. The decrease in revenue and increase in staffing hours is not reflective of the rest of the industry. Ms. Washburn said that most of the other childcare facilities she has been in contact with will more than likely have revenue losses of 60 to 70 percent and increase in costs is around 50 percent.

After comments from Representative Michael Meredith, Mr. Stevenson said that the Child Care Council of Kentucky submitted a comprehensive reopening plan

to the Governor's Office, but there is some paperwork that each individual childcare facility is supposed to submit to the Governor's Office. Ms. Washburn further explained that each individual childcare facility would not have their own reopening plans to submit to the Governor's Office. The emergency regulations that each facility has to follow are those that have caused issues for some facilities thus far in the reopening schedule. Answering follow up questions regarding specific requirements listed in the emergency regulations, which allowed childcare facilities to reopen on June 15, 2020, Ms. Washburn said that group sizes have been limited to 10 children and each group cannot intermingle throughout the day.

Co-Chair Danny Carroll gave details about his facility and how they have implemented the emergency regulations to reopen. He said he does not believe the data and statistics support the strict regulations that have been put in place.

Representative Josie Raymond made comments about the limited group sizes, parents who may no longer have the part time childcare option, and how the childcare issue across the state is disproportionately affecting women.

Answering a question from Representative Lynn Bechler, Mr. Stevenson said that the discrepancy in statistics he mentioned, that were from a survey conducted by the Prichard Committee for Academic Excellence, compared to those of Travis Burton, Director of Political Affairs for the Kentucky Chamber of Commerce, were a result of the Chamber using a national study of childcare facilities. The study conducted by the Prichard Committee for Academic Excellence was a statewide survey of 1500 childcare facilities. Responding to a follow up question, Ms. Washburn said that after reaching out to Executive Branch leadership weeks prior, she had not received a response from them as of yet.

Representative Tina Bojanowski made remarks regarding the hourly pay of childcare employees, the lack of healthcare coverage for childcare employees, and the readiness levels of children entering kindergarten.

Addressing a question from Representative Kim King, Mr. Stevenson said the Child Care Council of Kentucky worked to create Reopen Childcare Kentucky in conjunction with 80 other interested parties throughout the state including childcare providers, healthcare providers, postsecondary institutions, and the Kentucky Chamber of Commerce to collectively submit a comprehensive reopening plan to the Governor's Office. The recommendations that were submitted did not include the reduction in group sizes or not intermingling children.

Replying to Representative Maria Sorolis, Ms. Washburn explained that the guidelines and requirements of childcare facilities are not consistent with proposed school reopening guidelines and requirements. She said that the two sets of guidelines should be more cohesive, because many childcare facilities will be providing after school care, which will make following their requirements very difficult with the separation aspect and group size limitations.

Answering questions from Senator Mike Wilson, Mr. Stevenson reiterated that a large portion of their recommendations were used in the emergency regulations, but the smaller group sizes and not intermingling children was not a part of their recommendations. Responding to a follow up question, Mr. Stevenson said the regulations that were in place before the COVID-19 pandemic would be sufficient. Some limited duration centers are still operating under regulations that were in place while most other facilities were closed. These regulations do not require the smaller group sizes.

Responding to comments made by Representative Jim Gooch regarding children with development issues and children's need for structure, Ms. Washburn said that when children are taken out of their routine, creative behaviors or tantrums may begin. A childcare center offers developmental, psychological, and social benefits.

Addressing a question from Representative Deanna Frazier, Ms. Washburn said subsidies did not remain the same while childcare facilities were closed. Subsidies changed from being based on attendance of subsidized children to being paid based on enrollment numbers of subsidized children before the pandemic.

Replying to a question from Representative Michael Meredith, Ms. Washburn said thinks that centers such as hers with lower numbers of subsidized children compared to those facilities with higher numbers of subsidized children are being effected in the same way. Quality will suffer and prices of childcare will increase if things continue on the current path.

### **Impact of COVID-19 on Retail Businesses and the Shop Healthy Initiative**

The Kentucky Retail Federation (KRF) represents various different types of businesses including traditional retail, grocery, agribusiness stores, propane, pharmacies, restaurants, convenience stores, vending machines, among others. The state's retail industry supports for over a half million jobs, pays more than \$9 billion in wages annually, and collects the state's sales and use taxes. When the state was faced with closures, retail businesses and the KRF was not prepared for managing business closures, health concerns, product shortages, executive orders, local orders, or health department rules. Members of the KRF did work quickly to adjust by providing protection for employees, providing senior hours for customers vulnerable to COVID-19, encouraging curbside service, learning new shopping practices, implementing self-enforced capacity limits, and coordinating with the Governor's Office. The KRF also had to determine were businesses were to be deemed essential to remain operating such as grocery stores, pharmacies, and farm supply stores. Shannon Stiglitz, Senior Vice President of Government Affairs for the Kentucky Retail Federation, said that the KRF worked well with communicating product shortage information to the Governor's Office. There has also been communication with the Department of Agriculture about price increases. Ms. Stiglitz explained issues that have come up include those with regulations being imposed by several different sources including state and local offices and coordinating with public health. She said the KRF was consulted about regulations before retailers were permitted to reopen. Todd Griffin, President of the KRF, detailed the Shop Healthy KY campaign that assisted the public in knowing how to navigate stores after retailers reopened.

The General Assembly passed SB 150 at the end of the 2020 Regular Session that allowed for restaurants to sell alcohol by the package, sell to-go alcohol by the drink, and sell raw foods and grocery items. Restaurants have faced challenges such as a lack of guidance and reopening communications; possible inability to properly socially distance and abide by capacity limits; loss of customer base; access to PPE; and possible issues with the paycheck protection program. Dan Galvin, owner of Galvin's restaurant in Georgetown, and Debbie Long, owner of Dudley's in Lexington, described their experiences and challenges as restaurant owners during this time, which included many of the issues Ms. Stiglitz had detailed.

Responding to Representative Kim King, Ms. Stiglitz

said that it would be helpful if a reopening committee would have been created that included members of the retail industry. A committee was created by the Governor's Office but only included members of the administration.

Answering a question from Representative Rachel Roberts, Ms. Stiglitz said that a pandemic is not included in business interruption insurance but the issue has been raised at the federal level.

Representative Terri Branham Clark detailed issues she had been made aware of by business owners in her district. Many of those small business owners had businesses in other states in addition to their businesses in Kentucky. Therefore, there were different regulations and varying reopening schedules among states.

Senator Reginald Thomas gave his opinions on Governor Andy Beshear's handling of the COVID-19 pandemic and mentioned he has received national acclaim. He also said that Lieutenant Governor Jacqueline Coleman's background as a teacher will assist in contributing to school reopening plans.

There being no further business, the meeting adjourned at 3:44 p.m.

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

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

July 30, 2020

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

The 2nd meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, July 30, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Phillip Pratt, 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, Denise Harper Angel, Alice Forgy Kerr, and Wil Schroder; Representatives Lynn Bechler, Tina Bojanowski, Terri Branham Clark, George Brown Jr, Jeffery Donohue, Deanna Frazier, Chris Freeland, Chris Fugate, Robert Goforth, Jim Gooch Jr., David Hale, Richard Heath, Cluster Howard, Kim King, Adam Koenig, Bobby McCool, Michael Meredith, Charles Miller, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Rachel Roberts, Bart Rowland, Steve Sheldon, Maria Sorolis, Cherlynn Stevenson, Ashley Tackett Laferty, Nancy Tate, Richard White, Rob Wiederstein, and Les Yates.

**Guests:** Lee Lingo, Executive Director, Kentucky Association of Manufacturers; James Buck, owner, JR Buck Industries; Jason Keller, Vice President, Government Affairs and Regulatory Strategy, Charter Communications; Tyler Campbell, Executive Director, Kentucky Telecom Association; Sandy Harp, Executive Director of Technology Services, Education and Workforce Development Cabinet.

**LRC Staff:** Andrew Manno, Chip Smith, and Sasche Allen.

#### **Approval of Minutes**

A motion to approve the minutes of the June 26, 2020 meeting was made by Co-Chair Danny Carroll, seconded by Representative Chris Freeland, and approved by voice vote.

#### **Impact of COVID-19 on Kentucky Manufacturers and the Local Economy**

Since 1911, the Kentucky Association of

Manufacturers (KAM) has served as an advocate for manufacturing interests in the Commonwealth. KAM's mission is to create, support, and protect a manufacturing-friendly environment for the state through advocacy; workforce development, education, and training; and cost-saving benefits for its members. The organization represents over 400 businesses vital to the economic success of the state. Kentucky manufacturing accounts for over \$38 billion in annual gross domestic product and more than 250,000 employees as of February 2020. It also has three industry focused pillars within the organization that include the Kentucky Chemical Industry Council, KAM Aerospace, and KAM Automotive.

In response to the COVID-19 pandemic, manufacturers responded when CDC guidelines and various executive orders were proposed and issued. KAM worked to engage with policymakers to transition into a fully functioning, yet safe, sector of the economy. There was also daily communication with members to solicit feedback on various recommended changes in how manufacturers operate while also working with counterparts in surrounding states. Many members of KAM are crucial to global supply chains for multiple industries, including the food and beverage industry, the chemical industry, and the textile industry. In April 2020, manufacturing employment decreased to 197,000 statewide but by June 2020 had increased to 233,000. The rapid employment increase can likely be attributed to paycheck protections loans keeping businesses open; an increased demand for local supply chains; and the ingenuity of manufacturers retooling and refocusing to meet the nation's demand for PPE and other needed supplies. Manufacturers such as Toyota, GE, Ford, and Carhartt transitioned some of their workforce to PPE production. Smaller companies also started repurposing to create barrier shields, social distancing signage, desk barriers for students, and hand sanitizer.

James Buck, the owner of JR Buck Industries in Georgetown, testified about his company, its history, and how it has handled the COVID-19 pandemic. JR Buck is a multi-craft company that provides a wide variety of services that include MIG and TIG welding; CNC milling and turning; and engineering and design services. The company also is provider for automotive, transportation, electrical distribution, and natural gas industries. Mr. Buck's company was already using PPE prior to the pandemic, but has had difficulty finding high quality equipment and supplies during the pandemic. JR Buck has struggled with the directives of state and federal agencies and has relied on KAM to assist with clarifying guidelines to ensure compliance. One issue Mr. Buck mentioned was the high cost of electricity for high demand users like his company. Mr. Lingo closed by saying that manufacturers need consistent guidelines, targeted liability relief, and unemployment insurance stability.

Answering a question from Representative Steve Sheldon, Mr. Lingo said that KAM has had a regular line of communication with the Governor's Office and his administration, but KAM has not been a part of any type of working group.

Replying to Representative Jim Gooch, Mr. Lingo said he is unaware of why the demand costs of electricity are increasing but the issue is worth looking into further.

#### **Impacts of COVID-19 on High Speed Internet Roll Out**

Jason Keller, Vice President of Government Affairs and Regulatory Strategy at Charter Communications, and Tyler Campbell, Executive Director of Kentucky Telecom Association (KTA), gave an overview of Charter

Communications, Kentucky Telecom Association, and the impact COVID-19 has had on rural broadband providers. Charter Communications, also known as Spectrum, employs 3,167 Kentuckians and offers broadband to over one million Kentucky homes and businesses. In 2019 Charter Communications added 32,000 additional homes and businesses, with a third being in rural areas. A minimum of 100 mbps is offered for starting speeds and 200 mbps is available for 40 percent of Charter's network of customers. Spectrum Mobile was also launched in 2019, which combines Charter's Wi-Fi network with a reliable LTE cellular network. During the pandemic, Charter Communications has offered free internet for 60 days for new student and educator households, waived late fees and disconnections, and invested \$10 million to support minority owned small businesses. In addition, Charter has also made commitments to employees by permanently increasing the starting wage to \$20 per hour, offered additional paid time off, increased work from home options, and hired 475 new employees in Kentucky during the month of May.

Access to internet has become increasingly important for Kentucky families with schools utilizing nontraditional instruction. Mr. Keller spoke about closing the homework gap, which refers to the difficulty students experience completing homework when they have a lack of internet access at home, compared to those that do have access. Achieving digital inclusion requires different solutions in urban areas than in rural areas. In urban areas, the problem is not a lack of infrastructure but the lack of access to that infrastructure. Conversely, in some rural areas, a lack of infrastructure may be an issue due to the cost of expansion to unserved homes being exponentially higher. Charter has offered Spectrum Internet Assist that makes it easier for qualified households to sign up for low income internet access. House Bill 362 was also passed in the 2020 Regular Session, which established a broadband grant program for underserved areas. Challenges to rural broadband expansion include difficulties with utility pole attachments and lengthy permitting and complaint resolution processes.

Tyler Campbell, Executive Director of the Kentucky Telecom Association (KTA), gave a brief overview of the organization and the impact of COVID-19 on rural broadband providers. KTA consists of 18 independent and cooperatively owned companies, including two regional wireless providers that deliver voice, video, and broadband services to rural Kentucky. The organization's members serve all or part of 45 counties and state rural telecom providers employ more than 1200 people. Rural broadband has a direct economic impact of \$312.3 million in the state and its total overall economic impact is estimated at \$414.4 million.

The telecom industry was deemed essential by the Governor's executive order early on during the pandemic. A majority of KTA's members took the Federal Communications Commission pledge, "Keep America Connected", which spanned March 13, 2020 to June 30, 2020 and allowed for consumer late fees to be waived. The Kentucky Public Service Commission also issued an order to halt disconnections of regulated services starting March 16, 2020 to the present. The KTA's members have prioritized health and safety of employees and customers by closing lobbies and encouraged business via online or drive-thru; established telework and work from homes procedures to limit employees in offices to practice social distancing; worked to secure adequate PPE for employees; and implementing new procedures for service calls. Mr. Campbell recognized the Kentucky Chamber of Commerce



that coordinated with the association to obtain PPE that was becoming difficult to obtain. Additionally, he thanked the Kentucky Distiller's Association for providing sanitizer for members. Member companies worked with local officials to establish free drive up Wi-Fi hot spots; increased download and upload speeds for students and work from home customers; and discounted or offered free internet service during the early months of the pandemic. Challenges moving forward include a backlog of installations, non-payment of services, increased demand of broadband deployment, and funding challenges for the state's rural broadband providers.

Responding to Representative Tina Bojanowski, Mr. Keller said there has been a proliferation of wireless broadband in rural areas but still requires the utilization of fiber lines. Some companies have begun to offer fixed wireless services. Broadband grant programs are available at the state and federal level. Mr. Campbell added that some of the KTA's members offer fixed wireless products in rural parts of the state. A majority of the organization's members offer fiber broadband services and over time more bandwidth will be paramount to offer the speeds that customers require to operate multiple devices.

Addressing a question from Representative Steve Sheldon, Mr. Campbell said the pilot project in Warren County was estimated to reach about 50 percent of the area.

#### **Unemployment Insurance Technology Systems**

The Unemployment Insurance system is called Kentucky's Electronic Workplace for Employment Services (KEWES) and is a forward facing and internal facing system. The system was built in the early 2000's and uses Seibel programs with Oracle databases. It is supported by the Office of Technology Services (OTS) Development Team that has about 10 full time staff. The mainframe of the system has COBOL programs with IMS databases and was built in the 1970's. It is supported by the Commonwealth Office of Technology (COT) Mainframe team of six staff. The mainframe is used internally, used for all batch processing of claims and payments, and is considered the system of record. The functional components of the UI system include employer contributions, benefit claims, appeals, the interactive voice response, and the voice response unit. The UI System had several updates prior to the COVID-19 pandemic. Lexis Nexis was implemented for fraud protection which requires identity proofing in three locations within KEWES. Olark Live Chat Software was also implemented that allows claimants to engage agents for assistance in real-time.

Some of the challenges that COVID-19 has created for the UI system includes the timeline for programming changes; KEWES system availability limitations; self-certification of weeks paid and earnings verification; and the volume of claimants. Most system changes for the new programs were required in days. New programs were created to process the Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Pandemic Unemployment Compensation (PUC). The KEWES system has limited browser compatibility, functions best with Internet Explorer versions, and does not scale well on mobile devices. Self-certification of weeks was required by the U.S. Department of Labor beginning January 2020. Earnings verification documentation had to be uploaded by PUA claimants which required reconsideration of maximum benefit amount and weekly benefit amount. In addition, the average weekly claims before the pandemic were 3,000 compared to the post COVID-19 average of 80,000. There was limited

server and database capacity and the archiving of records had not been recently completed.

There were several steps taken to address these challenges such as retooling the Disaster Unemployment Assistance from previous years for PUA; partnering with COT and Oracle for a five day engagement to address system for any fine tuning; increasing server capacity from 14 servers to 27 servers; archiving the claimant database to allow for additional claim filing; and deploying Microsoft Forms for PUA and emailed forms. Ongoing UI system improvements include upgrading SIEBEL to 2015, implementing new citizen facing web pages, replacing the interactive voice response and the voice response unit, and replacing the FileNet imaging program with OnBase by Xerox. The UI technology system's future needs include stabilizing funding sources for current request for proposal (RFP), expanding use of Salesforce for citizen friendly interface to the system, and expanding ChatBot functionality to include adjudication of issues.

Addressing Representative Deanna Frazier, Ms. Harp said she works directly with the IT related issues and would not be able to comment on the number of staff that were available to process claims. Ms. Harp said her IT staff made sure the system had to the capacity to handle the amount of claimants. Her staff is responsible for granting access to the system for new staff members and dispersing training material. She said that vendor staff was required to complete a background check but existing employees with the Department of Revenue that assisted in processing claims had already completed background checks.

Responding to a question from Representative Ashley Tackett Laferty, Ms. Harp said that options for possible changes to benefits were submitted to the U.S. Department of Labor and the Labor Cabinet.

Answering Representative Brandon Reed, Ms. Harp stated she was not aware funds that had been offered for UI system upgrades in 2011 and did not know why the administration at the time would have declined to receive those funds.

Replying to a question from Representative Robert Goforth, Ms. Harp explained that system name matches are done in conjunction with the Social Security Administration. If a claimant is locked out of the system due to a mismatch of name, then a stop is put on the account. Once verification of the claimant's name if obtained and the claim is approved, then the claimant would be eligible for any back pay of benefits owed due to the stop placed on the account.

Addressing Representative Adam Koenig, Ms. Harp said that Ernst and Young employees that were contracted to process claims have tier two access to the system. The first contract included 325 Ernst and Young employees and the new contract includes 225 employees. These employees are remote and receive the same training that any other new staff member would receive. Tier three staff members are still responsible for making final adjudication decisions.

Responding to questions from Senator Karen Berg, Ms. Harp said that the security training for Cabinet staff members and the Ernst and Young contracted employees was the same. She also said that the security breach that occurred on April 23, 2020 could have been human error but there was no indication that was case.

Answering a question from Co-Chair Danny Carroll, Ms. Harp said that the current contracted employees are gathering information to resolve claims, sending information to tier three employees, and are essentially processing about the same amount of information as the previously contracted tier two staff. She stated she was not

involved with the discussion to contract Ernst and Young but did not have any issues with the access granted to these employees. Responding to a follow up, Ms. Harp said that delays that have occurred since March 6, 2020 with the RFP are not due to funding. After the contract for updating the UI system is obtained, changes will take three to six years to complete through agile implementations.

Replying to Representative Nancy Tate, Ms. Harp explained that claimants are able to add a return to work date and can do so during the biweekly claim process. A claimant will continue to receive benefits until a date is entered or the business unit reports that the claimant has returned to work through an auditing process.

Addressing a question from Representative Kim King, Ms. Harp stated her staff fully cooperated with the data break investigation, the investigation process had not been completed, and a report would be available once the investigation has concluded.

Responding to a follow up question from Representative Tate, Ms. Harp said that the auditing process for the return to work date for claimants can be put in place from a technology perspective and the staff that process audits are independent from those that adjudicate claims.

Answering questions from Co-Chair Phillip Pratt, Ms. Harp said that the first set of PUA benefit payments were made on April 3, 2020, stops on accounts are removed by the UI staff, and implementation of processes were done through guidance from the U.S. Department of Labor. She also said that she was aware of an automated clear of stops being put on accounts for requirements waived for all claimants. There were internal discussions about the potential influx of claims prior to the shutdown in March.

Replying to Representative Steve Sheldon, Ms. Harp said she did not have an estimated time frame for the back log of claims to be processed and adjudicated. Ms. Harp stated she has been with the Cabinet for two years.

Addressing a question from Co-Chair Danny Carroll, Ms. Harp confirmed that an employer can enter a return to work date for an employee through the employer portal.

Responding to Co-Chair Phillip Pratt, Ms. Harp said she was not aware any call throttling. Answering a follow up question, she said that the data breach reported on July 29, 2020 was being investigated but may have been a result of a series of events that occurred on the claimant's computer.

There being no further business, the meeting adjourned at 3:10 p.m.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

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

July 7, 2020

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

The 2nd meeting of the Interim Joint Committee on Transportation was held on Tuesday, July 7, 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. The minutes from the Committee's June 2, 2020 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, C.B. Embry Jr., Stephen Meredith, Brandon Smith, Johnny Ray Turner, and Mike Wilson; 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, Russ A. Meyer, Rick Rand, Sal Santoro, Maria Sorolis, Cherlynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, and Walker Thomas.

Guests: Senator Phillip Wheeler; Erik McPeck, Pike County Trail Commission; Cliff Smallwood Pike County Trail Commission; Donnie Scaggs, Pike County Trail Commission; Jason Tackett, Pike County Commissioner; Ronnie Robertson, Pike County Commissioner; Mark Treesh, Executive Director, Insurance Institute of Kentucky; Matt Cole, Acting Commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet (KYTC); Jim Gray, Secretary, KYTC; Mike Hancock, Deputy Secretary, KYTC; Robin Brewer, Budget Director, KYTC.

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

#### **Permitting of All-Terrain Vehicles for Limited Highway Use**

Senator Wheeler, along with his guests, Pike County Trail Commission members Erik McPeck, Cliff Smallwood, and Donnie Scaggs, and Pike County Commissioners Jason Tackett, and Ronnie Robertson, gave a brief update on the 2021 Session Bill Request 160 (BR 160) which entails the permitting of all-terrain vehicles for limited highway use. Senator Wheeler stated that in the 2020 Session of the General Assembly, Senate Bill 75 was introduced and passed through the Senate. BR 160 is the same as Senate Bill 75 GA version. He also added that he intends to prefile BR 160.

Senator Wheeler stated the possibilities of all-terrain vehicle (ATV) tourism in Eastern Kentucky are very exciting and show a lot of potential. He provided the Committee with an executive summary and a brief run-down of the economic impact that the Hatfield-McCoy Trail System has had in southern West Virginia. Southern West Virginia in many ways has shown similar economic trends as Eastern Kentucky because of the downturn of the coal industry. He added that a trail system would not only help showcase the beautiful countryside of Eastern Kentucky but would help boost the local economy as well.

Bill Request 160 permits limited use of certain off-highway vehicles (OHVs) on state and county roadways for the purposes of further developing the trail system in Eastern Kentucky. Senator Wheeler stated that in the 2018 Session of the General Assembly, Representative Chris Fugate spearheaded the effort to establish the Kentucky Mountain Regional Trail Authority, which has made great strides towards bringing ATV tourism to Eastern Kentucky. In Pike County, there is a separate local trail authority (the Pike Country Trail Commission) that has taken further steps such as leasing, purchasing, and mapping properties for the intent of developing a trail system. Senator Wheeler stated one of the impediments to really utilizing this for economic development, is that while there are vast tracks of property that are leased and purchased by the Trail Authority, they would require some use of county and state roads to be able to travel from trail to trail.

Senator Wheeler stated that current Kentucky law permits the operation of an ATV on roadways for no more than two-tenths of a mile as perpendicular as possible to crossing a roadway. The statute was designed to permit riders to get where they needed to go. Due to the limited scope and that these properties are father apart than two-tenths of a mile, it is going to be necessary to expand the statute in order to fully access the trail system. Senator Wheeler stated in order to attract out-of-state drivers to utilize the trail system that is being envisioned, road access on county

and state roads is a necessity. Although the enforcement of the two-tenths of a mile law has been liberal, out-of-state visitors will need to know they can operate their vehicle in a safe and lawful manner.

Senator Wheeler stated that BR 160 allows counties to identify the necessary roads to develop the trail system and vote whether to designate those roads as trail roads. The KYTC does maintain veto power over all state highways and some county roadways as they analyze the data to decide whether the decision made by the county was in fact safe for riders on the system. It is mandated that KYTC responds to a local government within 30 days when petitioned to allow OHV use on a state roadway, so the system can proceed in a safe and expedited manner. Senator Wheeler added that a permit system has been devised whereby out-of-state riders would purchase a decal, similar to what they use on the Hatfield-McCoy trail, for \$50 per year, which would allow them to travel all of the designated roads in Eastern Kentucky. In-state residents can purchase the permit for \$25 a year. A portion of that fee is remitted to KYTC so that appropriate signage can be erected along the roadways for the designated roads.

Senator Wheeler referenced the meeting materials that were uploaded to the LRC website that provides an idea of the impact that a recreational trail system could have in Eastern Kentucky. The Hatfield-McCoy Trail System shows that the economic impact in 2019 was approximately \$39 million and was estimated to be over \$40 million in 2020. There were approximately 60,000 annual permit sales for riders for the Hatfield-McCoy system and that 90% of those sales are coming from out-of-state riders.

Senator Wheeler stated in Pike County alone, there are more documented miles of trail system than there are in the entire Hatfield-McCoy Trail system. To some degree the Hatfield-McCoy system is experiencing an overload. By passing this bill, it would allow Kentucky to act as a sort of relief valve for the Hatfield-McCoy system and bring some money into Kentucky. In some ways this could increase the business for the Hatfield-McCoy system due to the fact that some people would be passing through on their way to other trails. Senator Wheeler stated Pike County is in a unique position as it sits in the middle of two trail systems, West Virginia's Hatfield-McCoy Trail System and the Spearhead Trail System in Virginia. By establishing a trail system in Pike County, Kentucky would be able to connect the trail systems from three states. Senator Wheeler stated there is not only a Pike County vision, but also a regional vision for the trail system as well.

Senator Wheeler stated that because OHVs are going to be on the roadway, it is essential that not only are the riders protected, but other vehicles on the roadway are as well. There is a requirement in the bill for people that choose to operate OHVs on the roadway purchase minimum insurance. Mark Treesh, Executive Director, Insurance Institute of Kentucky (IIK), encourages the idea for the OHVs to be insured like motorcycles where personal injury protection (PIP) is optional so that the insurance could be more affordable for people. Additionally, all passengers under the age of 18 would be required to wear a helmet.

Jason Tackett, Pike County Commissioner, Chairman of the Pike Country Trail Commission, updated the Committee on the progress that has been made towards the trail system, and where they would like to see the system in the future. Commissioner Tackett stated they worked on a trail that spans from eastern Pike County to the Pike County/Letcher County line. There are approximately 740 miles of trail, in Pike County. In West Virginia there is not

740 miles of trail between six counties. Commissioner Tackett stated it is his hope that at the conclusion of the trail development, there will be approximately 1,400 miles of trail throughout Pike County. Having these trails would help replenish revenue lost due to the decline of the coal industry.

Erik McPeck, Pike County Trail Commission stated that a goal is to tie several counties that would like to participate together using these trails. He reiterated that the revenue stream in Eastern Kentucky does need to be replaced and creating a trail system, would be the easiest and fastest way to help the citizens of Eastern Kentucky.

Chairman Higdon stated he has received feedback on the bill, especially after it was debated in the Senate in the 2020 Session, questioning why there would be an allowance of OHVs on the roadways. He added that legislation was passed in 1998 that allowed KYTC and a city or county to designate a roadway for the use of ATVs (KRS 189.515). He added that what BR 160 does is give guidance to the Cabinet, counties, and cities, to be able to ok the use of ATVs in a trail system. Chairman Higdon stated that BR 160 puts in place safety precautions such as the requirement that ATVs have headlights, taillights, seatbelts, and a roll bar. It also requires anyone under the age of 18 to wear a helmet, and anyone who operates ATVs on the highway be at least 18 years of age and have a valid driver's license.

Representative Chris Fugate stated he appreciated Senator Wheeler's efforts in the development of SB 75 and BR 160. He added that meetings were held with KYTC and the former administration to try to establish guidelines for the trail system and the use of OHVs on roadways as well. Representative Fugate stated that he appreciated all the counties in Southeast Kentucky and that the Trail Authority is moving forward in a positive direction. He added that the Hatfield-McCoy System and the Spearhead Trail system are allowing the use of ATVs on the roadway and that BR 160 is needed as it would have a big economic impact on Eastern Kentucky. Representative Fugate appreciates the support from the legislators across the state for this legislation.

Representative Chris Harris also wanted to express his gratitude to Senator Wheeler for the development of SB 75 and BR 160 and to Representative Fugate for his part in the advancement of SB 75 in the 2020 Session. Representative Harris stated as a former Magistrate and when he was on the Pike County Fiscal Court, he was in full support of the trail system and the use of ATVs on roadways and continues to support it. It is a real opportunity for Eastern Kentucky to fill the gap that the coal industry has left.

Representative Chris Harris stated he wants to promote the type of trail authority that West Virginia has, as there is one authority over all the county trails instead of on a county-by-county approach, which would make it difficult to enforce the regulations.

Representative Kathy Hinkle also thanked Senator Wheeler and Representative Fugate for their contribution to the advancement of BR 160 and the trail systems in Eastern Kentucky. Utilization of the trails is a big economic opportunity for that portion of the state.

Representative Ashley Tackett Laferty shared her excitement and support for the trail system and reiterated that it would be a big economic driver for Eastern Kentucky. She also thanked Senator Wheeler and Representative Fugate for their contribution in establishing the regional trail system that connects Eastern Kentucky.

Chairman Higdon asked Senator Wheeler to elaborate on the differences between what is being proposed in BR 160 and what states such as West Virginia and Tennessee

are doing. Senator Wheeler stated when research was being done for SB 75, a model like what Tennessee uses was studied which requires licensing and other registration requirements that did not necessarily fit with Kentucky's model of registering vehicles. Because of that, the Tennessee model was moved away from and the West Virginia model was explored. The West Virginia model utilizes a permit and a decal system for which a decal must be placed on the vehicle as well as the helmet of the riders instead of actually licensing and registering the vehicles. Going with the West Virginia model would not require the vehicle to be registered in Frankfort and the paperwork that accompanies that process.

Senator Wheeler stated that BR 160 does not take away the idea of a regional trail authority, but it would allow a county to go ahead and designate certain roadways for OHV use so that the county could proceed at the speed they are ready. He reiterated that the requirements that are in BR 160 would apply to any OHV that is operated on Kentucky roadways allowing for the uniformity that is desired. In closing, Senator Wheeler stated Pike County has suffered as the costs of services offered to its residents have increased, and the coal severance dollars are lost, making it difficult to provide the citizens the basic needs that they have. The passage of BR 160 would allow Kentuckians to utilize the natural wonders of the county in a way to support its own people. He added that he appreciates the bipartisan support he has received to revive the economy of Eastern Kentucky.

Mark Treesh, Executive Director, Insurance Institute of Kentucky (IIK) spoke on BR 160. The IIK is the state trade association representing property and casualty insurance companies and life insurance companies. Members of the IIK work toward policies that educate, support, and assist the Kentucky insurance consumer, market, and industry. Among other issues, IIK works to promote highway safety. Director Treesh stated that some members of the IIK have some serious concerns about the highway safety aspect of allowing OHVs (which includes ATVs with seatbelts and roll bars as specified in BR 160) on roadways. The concerns are that OHVs are not designed for highway use; and therefore should be restricted from being on the highways as much as possible.

Director Treesh stated that West Virginia statute 17F-1-1 prohibits the OHVs from operating on a road or highway with a center line or more than two lanes except to cross the road. However, some restricted use is permitted on roads without a center line or with two lanes for a distance of up to 10 miles to travel "between a residence or lodging and off-road trails, fields and areas of operation, including stops for food, fuel, supplies and restrooms..." Director Treesh stated that the IIK realizes that the goal of this legislation is to promote economic development, and that legislation is usually a balancing act between competing interests. He added that IIK sincerely appreciates Senator Wheeler's efforts to improve the legislation to gain their support during the 2020 session. However, the highway safety aspect of increasing the highway use of OHVs is one that is hard for them to overcome.

Chairman Higdon requested that Director Treesh consult with some of the members of IIK to try to estimate a ballpark figure on what insurance would cost for a person who wanted to participate in the trails utilizing ATVs.

In response to a question asked by Representative Tackett Laferty concerning the option of waiving PIP insurance, Senator Wheeler stated that option would be for the owner to waive PIP, but that liability insurance would still cover other passengers.

Matt Cole, Acting Commissioner, Department of Vehicle Regulation, KYTC spoke on BR 160. Commissioner Cole stated KYTC understands the economic impact it would have on Kentucky, and the Cabinet especially likes that the use of the trails would highlight Kentucky's natural resources to out-of-state travelers. Commissioner Cole stated KYTC is in favor of the absence of the titling requirement of ATVs in BR 160. KYTC would like for proof of insurance to be part of the application process in the County Clerk's office whereas the County Clerk would make a copy of that to be kept on file. The Cabinet is in favor of KRS 189.515 that was mentioned of the ability for ATVs to traverse the roadways, but keep that interaction to a minimum. The Cabinet also is in favor of the current language in BR 160 that allows for an additional lane to be explored. We understand the interaction between off-road vehicles and passenger vehicles will occur. He stated some concerns that the Cabinet has with the language in BR 160 is that some of the manufacturers of these vehicles have clearly stated they are not safe for on-road usage. In conjunction with the Federal Regulation 43 CFR 8340, the off-road vehicle usage is prohibited on highways. Those concerns are where legal issues would arise being that the proposed law would not be in compliance with federal regulations. The Department of Vehicle Regulation receives over \$700 million per year in federal funds with continued compliance, and they want to ensure that whatever action is taken that it does not jeopardize those funds. Commissioner Cole stated KYTC would like to see more detailed information on the total number of signs and locations that KYTC would be required to provide and what funds have been earmarked for the Cabinet to cover that expense. The paramount concern is public and highway safety, if Kentucky allows the interaction of the OHVs and passenger vehicles, the reality that comes with those small vehicles if they collide with passenger vehicles must be realized.

#### **Update on Highway Contracting for July**

Before updating the Committee on highway contracting for the month of July, Jim Gray, Secretary, KYTC paid tribute on behalf of the Cabinet to the first KYTC Secretary Calvin Grayson who had recently passed away.

Secretary Gray stated KYTC has announced lettings for July. The Cabinet had suspended lettings in May and June due to the unprecedented decline in revenue in March, April, and May. The estimated value of July's letting is approximately \$25 million. Secretary Gray stated that John Moore, Assistant State Highway Engineer for Project Development is responsible for the lettings process. He added that the letting process depends on the revenues that are incoming and June revenues are still being fully calculated. KYTC is anticipating over the course of the next few months to have lettings of approximately \$30 million per month, which would annualize to approximately \$350 million for the fiscal year.

Secretary Gray spoke about current cash balances. KYTC is approximately \$70 million below the cash balance of this time last year. A big piece of the cash balance issue has been influenced by there being \$1.9 billion worth of uncompleted work currently on the books. He explained that means there are contracts in place with work still to be completed by the contractors and KYTC to be billed for and pay for that work. Secretary Gray stated when there is a combination of uncompleted work, the work that the Cabinet is currently trying to let, combined with severely compromised revenues, it explains why the lettings values are what they are.

Secretary Gray thanked the industry partners for working together and helping as KYTC has faced the brutal facts of their reality. He added that any encouragement that can be given to Kentucky's congressional delegation to help provide federal funding for KYTC would be appreciated.

Chairman Higdon stated the IJC on Transportation's next Committee meeting would be held on August 18, 2020 at 1:00 P.M. in room 171 of the Annex. He reminded the Committee members that the option to videoconference in would be available for that meeting as well as the rest of the meetings throughout the Interim. With no further business to come before the Committee, Chairman Higdon adjourned the meeting at 2:07 P.M.

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

### **Minutes of the 2nd Meeting of the 2020 Interim July 29, 2020**

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

The 2nd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Wednesday, July 29, 2020, at 10:00 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: 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, Mike Wilson, and Max Wise; Representatives John Blanton, Myron Dossett, Chris Fugate, Al Gentry, Mark Hart, Samara Heavrin, Kathy Hinkle, Matthew Koch, Scott Lewis, C. Ed Massey, Patti Minter, Rob Rothenburger, Dean Schamore, Attica Scott, Buddy Wheatley, and Lisa Willner.

Guests: Keith Jackson, Commissioner, Kentucky Department of Veterans Affairs, Mark Bowman, Executive Director, Office of Kentucky Veterans Centers, Dean Stoops, Deputy Commissioner, Kentucky Department of Veterans Affairs

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

#### **Kentucky Department of Veterans Affairs**

Keith Jackson, Commissioner of Kentucky Department of Veterans Affairs (KDVA), was happy to announce that of the four state veterans' homes, none of the residents have tested positive for COVID-19. As of July 9, 2020 all state veterans' homes have finished global testing for staff and residents. Since March of this year, KDVA has had seven employees test positive for COVID-19, but two of those were found to be negative after immediate re-testing. Of the seven staff members that tested positive, five have returned to work, while one remains in quarantine, and the last one resigned before returning to work. KDVA facilities are working with local health departments and Kentucky Department for Public Health's Healthcare-Associated Infections to plan and execute a response to COVID-19. The Kentucky Health Department, the Cabinet for Health and Family Services, the Office of Inspector General, and Veterans Affairs (VA) partners have also been used as resources and support during the pandemic.

Commissioner Jackson also reported that because of protective measures, in-person visitation has been restricted greatly. Residents have been able to use iPads, phones, and



Plexiglas stations to visit with their families. KDVA is also preparing for altered visitation based on each facility and their infection rate and stabilization.

Staffing at facilities has remained relatively stable during the pandemic. Daycare was provided for children whose parent(s) worked at the nursing home facility. With the application of Senate Bill 149, which was passed during the 2020 session, KDVA is able to hire Nurse Aids and Personal Service Contracts, as well as recruit additional staff. Commissioner Jackson stated that each of the Veterans' Centers retained a 5-star rating during the pandemic, even with one facility raising its quality measures the past few weeks.

KDVA has applied for a construction grant for four storage buildings to keep Personal Protective Equipment and supplies to prevent and lessen COVID-19 and other outbreaks and emergencies. The cost is estimated to be \$1,837,620. The grant will have a 65 percent federal match and a state share of 35 percent. There would be no new net cost to the state.

Commissioner Jackson stated that all documents were no longer exchanged in-person, so they relied on photos and text messages, faxing, emails, and the U.S. Postal Service to send and receive forms. The number of VA claims presented each month decreased by two thirds of the normal amount because of the requirement to work from home and reduced staffing. This complication led to a less amount of claims they were able to file per month.

The Kentucky Department of Veterans Affairs sent out a *Direct Interments Only Order* to all state veterans cemeteries on March 20, 2020. This directive stopped committal services and the presentation of military funeral honors. Direct family members were allowed to attend the burial, but no services were carried out. On June 1, 2020 a transition plan was put in place allowing full interments, including memorial services and military funeral honors. Families of any veteran that was buried during the interment period were offered to have a military funeral honors ceremony.

Next, Commissioner Jackson talked about the CARES Act Funds. In April 2020, the federal government presented KDVA with \$2,910,955 from two Medicare distributions from the Cares Act Provider Relief Fund. Based on 2 percent of KDVA's 2018 Medicare cost report, the first disbursement was \$1,008,455. Also in April 2020, the second disbursement of \$1,902,500 was explicitly for Skilled Nursing Facilities based on a flat rate of \$50,000 for each facility and \$2,500 per bed. Strict instructions came with both federal funds that KDVA followed precisely. The funds provided have been helpful for the four veteran's nursing homes across the state by providing payments for hospital, physician, nursing home, home health, and other care. So far, KDVA has used \$1,480,400 of the federal funds for reimbursement of COVID expenses and lost revenue. There is a balance of \$1,430,600 remaining which will be used for COVID costs.

In response to the Governor's FY20 Budget Reduction request, the Department of Veterans Affairs established fiscal policies and returned \$262,641 of General Funds. KDVA only hired personnel that contributed to the response of COVID-19 and stopped employees from working overtime unless responding directly to a COVID-19 related issue. Commissioner Jackson stated that KDVA stopped all spending that was unrelated to the COVID-19 response which included cemeteries, field operations, and the Commissioner's office decreased operating expenses by limiting employee travel. They also cut back training,

administrative costs, and billing obligations to contracts with Brain Injury Alliance of Kentucky, Epilepsy Foundation of Kentuckiana, and Veteran Service Organizations. Altogether, the fiscal impact of the budget reduction did not halt services provided by KDVA.

In response to Representative Blanton, Commissioner Jackson confirmed that of the 455 individuals have been tested in these facilities. He also confirmed that individuals have either passed away or left facilities and they are unable to refill them due to the pandemic.

In response to Senator Higdon, Mark Bowman said that they have about a 24-48 hour turn around with COVID-19 testing. This has improved since the beginning of the pandemic when tests would take 7-10 days to process.

In response to Representative Thomas, Mark Bowman stated that the bed capacity on average at each facility is cut in half.

## **CAPITAL PLANNING ADVISORY BOARD Minutes of the 1st Meeting of the 2020 Calendar July 22, 2020**

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

The 1st meeting of the Capital Planning Advisory Board was held on Wednesday, July 22, 2020, at 11:00 AM, in Room 171 of the Capitol Annex. Senator Stan Humphries, 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, Laurie Dudgeon, Carole Henderson, John Hodgson, Patsy Jackson, Holly Johnson, Ryan Neff, Mark Overstreet, and Katie Shepherd.

LRC Staff: Shawn Bowen and Julia Wang.

Senator Humphries welcomed everyone to the meeting, both in person and those attending via videoconference. He thanked the staff for their efforts in organizing the meeting.

### **Approval of Minutes**

A motion to approve the minutes of the October 22, 2019 meeting was made by Representative Blanton. The motion was seconded, and approved by voice vote.

### **Introduction of New Members**

Senator Humphries said since the board's last meeting in October 2019, six new members have been appointed: Jackie Coleman, Lieutenant Governor and Education and Workforce Development Cabinet Secretary; Rocky Adkins, Senior Advisor to the Governor; J. Michael Brown, Secretary of the Governor's Executive Cabinet; Holly M. Johnson, Secretary of the Finance and Administration Cabinet; and Ryan Neff, Vice President of The Citizens Bank in Morehead.

### **Capitol Campus Upgrade Project**

Ms. Holly Johnson, Secretary of the Finance and Administration Cabinet, and Mr. Sam Ruth, Commissioner, Department for Facilities and Support Services, provided an update on the Capitol Campus Upgrade Project. The project was included in the Finance and Administration Cabinet's 2020-2026 capital plan at a scope of \$43 million general funds, and is authorized in the current budget for \$22 million general fund bonds. The Capitol campus includes the State Capitol, the Capitol Annex, the Capitol parking garage, and the Governor's Mansion.

Mr. Ruth said the project is divided into three sub-

projects: exterior renovations; mechanical, electrical, and plumbing work; and low and medium voltage work. The exterior renovations are estimated to cost \$7 million, and will include Capitol building exterior repairs, including cleaning, painting, repointing mortar, and general maintenance to the Capitol Dome. Additional work will include roof maintenance, restoration of brick masonry, and window restoration.

Mechanical, electrical, and plumbing work will be completed throughout the Capitol building as a two-phase project: Upgrade Capitol Mechanical and Electrical Systems Project Phase I, authorized in the 2018-2020 Executive Budget at \$4.5 million; and Upgrade Capitol Campus Project Phase II, authorized in the 2020-2022 Executive Budget at \$22 million. Phase I projects will encompass the Capitol basement, and will take approximately one year to complete. Phase II projects will encompass four floors, and includes electrical infrastructure, lighting improvements, restroom renovations, and upgraded mechanical systems. The work will require temporary relocation of office space on each floor. Phase II will take approximately three years to complete.

Low voltage and medium voltage upgrades will address outdated systems that were not installed by current code standards, and bring the system up to code with updated infrastructure. The low voltage upgrade is budgeted to cost \$2 million; the medium voltage upgrade is currently under design, and a cost estimate is not yet available.

In response to a question from Senator Humphries, Secretary Johnson said the \$22 million authorization is insufficient to address the \$43 million project, and an additional budget appropriation may be requested in the future. Mr. Ruth added that additional funding will be needed to complete the remaining mechanical, electrical, and plumbing upgrades; the Great Hall plaster repair; outside terrace repair; and tuckpointing and cleaning the Capitol envelope.

In response to a question from Representative Blanton, Ms. Johnson said no provisions are in place that would give additional consideration to Kentucky firms bidding state construction projects. Before this option could be considered, they would have to ensure they are in compliance with the statutes. Representative Blanton said the state is experiencing very high unemployment rates, and such provisions would help ensure Kentucky residents are employed.

Responding to additional questions from Representative Blanton, Ms. Johnson said there are plans to install a security fence around the Governor's Mansion. The Finance and Administration Cabinet issued a Request for Bids July 8, with a deadline of July 28. The initial cost of the installation will be paid out of the Department for Facilities and Support Services budget (maintenance pool funds). The Kentucky Executive Mansions Foundation has indicated it may reimburse the state for some of the expenses related to the project.

### **Adjournment**

Senator Humphries said the next meeting of the Capital Planning Advisory Board is scheduled for September 9 at 11 A.M. There being no further business, the meeting was adjourned at 11:30 A.M.

# CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

## Minutes

July 22, 2020

### Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Wednesday, July 22, 2020, at 12:00 PM, in Room 171 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

**Guests:** Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Brigadier General (Retired) Benjamin Adams, Executive Director, Office of Management and Administration, Department of Military Affairs; Sarah Butler, Division Director, Incentive Assistance, 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

Representative Rudy moved to approve the June 25, 2020 meeting minutes. Senator Mills seconded the motion, and the committee approved without objection.

### Information Items

Pursuant to KRS 26A.168(1), KRS 45.793, and KRS 45.818, the Administrative Office of the Courts; the Finance and Administration Cabinet, with the Commonwealth Office of Technology reporting independently; and postsecondary institutions managing their own capital construction under KRS 164A.580 transmitted quarterly capital project status reports.

Pursuant to KRS 45.760(5), UK reported two medical equipment purchases for Chandler Hospital totaling \$1,055,500; and UofL reported one \$450,000 research equipment purchase. All purchases were paid from the institutions' funds.

Pursuant to KRS 45.812(1), five school districts; Ashland Independent (Boyd County), East Bernstadt Independent (Laurel County), Grant County, Hazard Independent (Perry County), and Robertson County, reported upcoming debt issuances to finance new projects. None of the districts needed an additional tax levy to pay debt service.

### Report from the Finance and Administration Cabinet

Ms. Tomes submitted a new Department of Military Affairs project, the \$1.650 million federally funded Bluegrass Station Building 415 Modification: which includes warehouse space to diagnostic support bays space conversion; extensive data, electrical, and mechanical systems upgrades in the support bays; automated sprinkler system modifications; additional structural support for equipment mounts; and exterior drive area alterations and asphalt replacement with concrete pads.

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

### Report from the Office of Financial Management Cabinet for Economic Development

Ms. Butler submitted two Economic Development

Fund (EDF) grants. Representative Rudy moved to roll the grants into one roll call vote, seconded by Senator Mills, and approved without objection. Both EDF grants were for projects among 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 grant was \$500,000 to Louisville-Jefferson County Metro Government on behalf of Louisville and Jefferson County Riverport Authority, enhancing the availability of the Southwest Jefferson County industrial land with access roads, full-site water detention and treatment facilities, utility extensions, and site clearing. The Authority committed a \$3.3 million cash equity match. The second was \$300,000 to the City of Richmond on behalf of the Richmond Industrial Development Corporation, developing and implementing a land grading plan for the Richmond Industrial Park South III at 3000 Bill Robertson Way. The site has utility and completed environmental and other due diligence reports. The City of Richmond committed a \$300,000 match.

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

### Office of Financial Management New Debt Issue

Mr. Barrow submitted a new Kentucky Housing Corporation conduit debt issue; the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (New Hope Properties Portfolio), Series 2020; for nine residential rental facilities totaling about 454 units in Hopkinsville. 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 projected sale date is November 8 for approximately \$36 million in net proceeds.

Representative Thomas moved to approve the new debt issue, seconded by Senator Mills, and approved by unanimous roll call vote.

### Office of Financial Management Previous Debt Issues

Mr. Barrow reported four previous debt issues. The first two were KHC conduit debt issues, also applied towards the state's private activity volume cap but affecting neither the commonwealth's nor KHC's financials as the developer pays the debt service. The KHC Tax-Exempt Conduit Multifamily Revenue Bonds (Ashland Portfolio Apartments), Series 2020, for rehabbing 462 units in three Ashland locations and the KHC Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Colony Apartments), Series 2020, for a 137 unit property in Covington. The respective sale dates were May 28 and June 30 for \$32.7 million and \$13.5 million in net proceeds.

Mr. Barrow next reported the University of Louisville General Receipts Bonds, 2020 Series A, financing construction of one new residence hall and demolition of another. The sale date was June 16, at a true interest cost of 2.657 percent, reflecting historically low interest rates. Consistent with public postsecondary general receipts debt issues; UofL sold the issue competitively, with Mesirow Financial as the purchaser.

The last was the State Property and Buildings Commission (SPBC) Revenue Bonds, Project No. 123,

Federally Taxable Series A, to finance the \$35 million Kentucky Economic Development Finance Authority loan to UofL Health. The issuance amount, including fees, was \$35.245 million; the sale date was May 19; and the true interest cost was 3.50 percent. This debt issue was the first after the commonwealth partnered with BondLink to launch its investor relations site, accessed through <https://bonds.ky.gov>.

### School District Debt Issue with School Facilities Construction Commission (SFCC) Debt Service Participation

Mr. Barrow submitted an anticipated \$10.135 million Pulaski County School District debt issue with just over 15 percent SFCC and around 85 percent district debt service participation. The district did not need an additional tax levy to pay debt service and will use the proceeds for district wide improvements.

Senator Mills moved to approve the school district debt issue, seconded by Representative Rudy, and approved by unanimous roll call vote.

Senator Girdler announced the remaining calendar year 2020 meeting dates and times: August 19, 2020, 3:00 p.m.; September 16, 3:00 p.m.; October 21, 3:00 p.m.; November 19, 12:00 p.m.; and December 16, 1:00 p.m.

With there being no further business the meeting adjourned at 12:26 p.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the July Meeting

July 13, 2020

### Call to Order and Roll Call

The July meeting of the Administrative Regulation Review Subcommittee was held on Monday, July 13, 2020, at 10:00 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 David Hale, Co-Chair; Senators Julie Raque Adams, Alice Forgy Kerr, and Reginald Thomas; Representatives Deanna Frazier and Mary Lou Marzian.

**Guests:** Clint Quarles, Department of Agriculture; Lori Bradbury-Robinson, William Codell, Bill Heffron, Department of Juvenile Justice; Todd Allen, David Horseman, Lauren Moore, Matt Ross, Karla Tipton; Department of Education; Robin Maples, Chuck Stribling, Department of Workplace Standards; Marc Guilfoil, Bruce Howard, Chad Thompson, Jennifer Wolsing; Kentucky Horse Racing Commission; Stuart Brown, Keeneland; Chauncey Morris, Kentucky Thoroughbred Association; Mike Ziegler, Churchill Downs; Peter Ecabert, Rick Hiles, Marty Maline, Kentucky Horsemen's Benevolent and Protective Association; Clara Fenger, North American Association of Racetrack Veterinarians; Laura Begin, Elizabeth Caywood, Wes Duke, Jason Dunn, Eric Friedlander, Donna Little, Adam Mather, Steven Stack, Sarah Vanover; Cabinet for Health and Family Services; Bradley Stevenson, Jennifer Washburn, Child Care Council of Kentucky.

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

**The Administrative Regulation Review Subcommittee met on Monday, July 13, 2020, and submits this report:**

**The subcommittee determined that the following**



**administrative regulation was deficient pursuant to KRS 13A.030(2)(a):**

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Child Care

922 KAR 2:400E. Enhanced requirements for certified and licensed child care as a result of a declared state of emergency. Laura Begin, regulation coordinator; Wes Duke, general counsel; Eric Friedlander, secretary; Donna Little, deputy executive director; Dr. Steven Stack, commissioner; and Dr. Sarah Vanover, division director, represented the cabinet. Jennifer Washburn, I Kids, and Brad Stevens, Child Care Council of Kentucky, appeared in opposition to this administrative regulation. Co-Chair West swore in Mr. Duke prior his testimony.

In response to a question by Co-Chair West, Dr. Vanover stated that the cabinet had collected data and met with the Child Care Council of Kentucky and limited-duration child care centers to develop these requirements. The cabinet also considered guidance from medical professionals. These requirements were a starting point and not permanent. These requirements would be changed as needed during the coronavirus (Covid 19) pandemic. Ms. Begin stated that this administrative regulation was filed as an emergency administrative regulation without an accompanying ordinary administrative regulation. The public hearing was scheduled for August 24. An emergency administrative regulation could not be amended, but may be withdrawn and refiled with changes if necessary.

In response to a question by Representative Frazier, Dr. Vanover stated that limited-duration child care centers were necessary for the children of medical staff and first responders. Almost nothing else was open when limited-duration child centers first operated. Many of these facilities enhanced protocols for the protection of the children. The goal of this administrative regulation was to maintain health and safety and limit the spread of coronavirus (Covid 19). The State Fire Marshal had indicated to the cabinet that the risk from coronavirus (Covid 19) was more significant than risks from physical environment changes in child care facilities if stability and other safety requirements were met.

In response to a question by Co-Chair West, Mr. Duke stated that there was currently a Boone County restraining order regarding the enforcement of child care ratio requirements.

In response to a question by Co-Chair Hale, Dr. Vanover stated that coronavirus (Covid 19) had a huge impact on child care centers, which served communities. Most centers that had been lost were in-home centers. The federal CARES Act provided some funding, which the cabinet allocated as quickly as possible. There were also some funds for personal protective equipment and cleaning assistance. More funding was needed. The requirements in this administrative regulation could be adjusted as necessary during the coronavirus (Covid 19) pandemic. Younger children within a same cohort might still need separation from older children for safety reasons beyond coronavirus (Covid 19.) Co-Chair Hale stated that funding continued to be insufficient.

In response to a question by Co-Chair West, Mr. Stevens stated that, while facilities were grateful for the federal CARES funding, child care centers were in a financial crisis. The group-size requirements in this administrative regulation were not included in the U.S. Centers for Disease Control recommendations. A recent survey of Kentucky child care centers indicated that enrollment was down significantly, which was leading to

financial hardships. Some centers had not reopened and had no reopen date currently scheduled. Forty-three (43) percent of child care centers that responded to the survey indicated they would have to close if group-size requirements, which were impractical, remained in place.

In response to a question by Co-Chair West, Ms. Washburn stated that child care centers had experienced significant losses. I Kids would have to close by October 12 if changes were not made. After-school centers would be forced to reduce groups that had already been together throughout the school day. Other venues, such as amusement parks, did not include group-size requirements.

In response to a question by Senator Thomas, Mr. Stevens stated that limited-duration child care centers without group-size requirements did not have a single case of coronavirus (Covid 19) through May 25. Ms. Washburn stated that children would not be safely cared for if child care centers closed.

In response to a question by Representative Frazier, Mr. Stevens stated that federal CARES funding was provided to centers during times when child care was not being provided, which was very helpful at the time. Representative Frazier stated that limited-duration child care centers seemed able to care for children without these group-size requirements.

In response to a question by Co-Chair Hale, Co-Chair West stated that it was not possible to amend an emergency administrative regulation.

In response to a question by Co-Chair Hale, Dr. Vanover stated that smaller group sizes were to protect the health and safety of very young children and child care employees. While this emergency administrative regulation could not be amended, the cabinet was able to withdraw and refile this administrative regulation with changes if necessary.

In response to a question by Representative Marzian, Ms. Begin stated that the cabinet was prepared to withdraw and refile this administrative regulation with changes once a determination on the matter was made. Mr. Duke stated that the restraining order was also currently in place to prevent enforcement.

Co-Chair Hale made a motion, seconded by Representative Frazier, to find this administrative regulation deficient. A roll call vote was conducted, and with five (5) votes to find the administrative regulation deficient and two (2) votes against deficiency, this administrative regulation was found deficient.

Co-Chair West explained his yes vote. He stated that he agreed with the motion for deficiency, because Kentucky could face economic collapse if child care centers did not reopen. Kentucky had to find the proper balance between safety and getting people back to work. He stated that he trusted child care centers to protect children's health and safety.

Representative Frazier explained her yes vote. She stated that it was important to protect all children's lives. This administrative regulation should be congruent with requirements for limited-duration child care centers.

Senator Thomas explained his no vote. He stated that citizens were dying from coronavirus (Covid 19), especially vulnerable populations. Kentucky should always take measures to protect young people.

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

902 KAR 2:190E. Covering the face in response to declared national or state public health emergency. Laura Begin, regulation coordinator; Wes Duke, general counsel; Eric Friedlander, secretary; Dr. Steven Stack, commissioner; and Dr. Sarah Vanover, division director, represented the cabinet.

In response to questions by Co-Chair West, Mr. Friedlander stated that the cabinet had three (3) goals relative to this administrative regulation: saving lives, opening schools, and opening the economy. A growing body of studies demonstrated that masks had an impact on the spread of coronavirus (Covid 19). Dr. Stack stated that the data was quickly evolving. U.S. Centers for Disease Control and other health professionals had extensive research data to support mask recommendations. Dr. Stack agreed to provide the subcommittee with the referenced studies. Mr. Duke and Dr. Stack stated that the General Assembly was not consulted during the development of this administrative regulation. Mr. Duke stated that the cabinet considered KRS Chapter 39A, which established executive authority, and KRS Chapter 13A, which established the administrative regulation process. Mr. Duke agreed to provide the subcommittee with any written legal analysis that was conducted in the development of this administrative regulation. Co-Chair West stated that rigorous scrutiny was required regarding this administrative regulation, because this administrative regulation did not have direct statutory authority, but relied on an Executive Order, and because a public hearing had not yet been held.

In response to questions by Senator Raque Adams, Mr. Duke stated that the cabinet would clarify exemptions from this administrative regulation with Local Health Departments. A deaf patron was an obvious exemption. A business with an employee who refused to wear a mask should first educate the employee regarding the reasons for the requirement. The cabinet was working to clarify procedures for enforcement. Mr. Friedlander stated that many businesses viewed this administrative regulation as supporting their policies.

In response to questions by Co-Chair West, Dr. Stack stated that coronavirus (Covid 19) was causing disruption and hardship. The steps established in this administrative regulation and in 922 KAR 2:400E would allow Kentucky to get back to a more normal situation. This administrative regulation was necessary, because some Kentuckians were not wearing masks as recommended and the number of Kentuckians infected was rising. Wearing masks to reduce and control coronavirus (Covid 19) infection was the current, stated recommendation of the World Health Organization and the U.S. Centers for Disease Control. Mr. Duke stated that the cabinet was in ongoing consultation with Local Health Departments and the Labor Cabinet regarding clarifications pertaining to exemptions. Withdrawing and refileing this administrative regulation seemed to be the most efficient way to renew it after the thirty (30) day expiration of requirements. KRS 214.020 authorized a fine for violations of this administrative regulation. Senator West stated that there was a 1978 Attorney General opinion that stated that the Governor could not independently establish a fine.

In response to questions by Senator Thomas, Dr. Stack stated that coronavirus (Covid 19) was spread by respiratory excretions and was highly contagious. One (1) person might infect up to three (3) others. Coronavirus (Covid 19) infection was deadly for some individuals. There was no cure, no vaccination currently available, and no standard

treatment, other than hospitalization. Masks were the best way to prevent infection. There was much still unknown about coronavirus (Covid 19), and it was possible that the virus might linger in the air. Masks primarily prevented infecting others; however, there was also the potential for some level of personal protection.

In response to a question by Co-Chair Hale, Mr. Duke stated that primary enforcement would be toward businesses to comply and then toward individuals. A business should first ask an employee or patron to wear a mask. If the person refused, the business could refuse services. The penalty for a first violation was a warning. A business could call the Local Health Department for dealing with noncompliance. It was possible that law enforcement could also become involved. Additionally, Kentucky had a hotline, which was soon to recommence operations. There was specific guidance for religious activities on the Safe at Work Web site. Masks were mandatory, except for the exceptions established in this administrative regulation.

In response to questions by Co-Chair West, Mr. Friedlander stated that the Kentucky Chamber of Commerce supported this administrative regulation. Some areas of the country were experiencing a shortage of medical resources. While Kentucky was not experiencing medical resource shortages yet, this administrative regulation was intended to reduce that possibility. To determine if renewal of this administrative regulation was necessary after thirty (30) days, the cabinet would consider Kentucky's rate of infection and medical capacity. Mr. Duke and Ms. Little stated that the public hearing was scheduled according to the normal administrative regulation process; however, the cabinet would be able to hold a public hearing sooner if it so chose. Mr. Duke stated that this administrative regulation did not include a due process hearing procedure. Nothing would prevent matters related to this administrative regulation from being considered by a court of law.

Representative Marzian stated that coronavirus (Covid 19) was dangerous. This administrative regulation constituted a simple safety measure. It was extremely selfish to refuse to wear a mask. This administrative regulation did not interfere with personal liberty.

Representative Frazier stated that the subcommittee's role was to determine how this administrative regulation was authorized and if it conformed to the administrative regulation process. In response to a question by Representative Frazier, Mr. Duke stated that a business owner that failed to ensure that employees were conforming to mask requirements might be subject to a charge of negligence. A business owner who required masks and offered a mask to an unmasked patron was doing what was possible to avoid a charge of negligence. Mr. Friedlander stated that masks, along with handwashing and social distancing, were the best way to prevent illness from coronavirus (Covid 19) until a vaccine was available.

In response to questions by Co-Chair West, Mr. Friedlander stated that recommendations regarding the effectiveness of wearing masks had evolved as more information became available. Studies confirmed mask efficacy. Mortality was a lagging factor, which might explain why cases had recently increased, but deaths seemed to have been reduced. Testing had increased, but the rate of positivity outpaced the rise in testing.

In response to a question by Senator Raque Adams, Mr. Friedlander stated that the cabinet agreed that communication was vital.

Senator Thomas stated that the Governor had been very transparent and communicative. Kentucky had been

a leader in dealing with coronavirus (Covid 19.) It would be unfortunate if deaths increased because citizens refused to wear masks. Florida had a twenty (20) percent positivity rate. Kentucky's positivity rate had been doubling, which was alarming. In response to a question by Senator Thomas, Mr. Friedlander stated that Kentucky was doing well compared with many other states.

Co-Chair West stated that the primary recommendation was for the cabinet to hold an immediate public hearing, rather than waiting until the current hearing date of September 28. Additionally, due process was important.

Administrative Regulations Reviewed by the Subcommittee:

DEPARTMENT OF AGRICULTURE: Office of the Consumer and Environmental Protection: Industrial Hemp  
302 KAR 50:012. Repeal of 302 KAR 050:040 and 302 KAR 050:050. Clint Quarles, attorney, represented the department.

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

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 10, 12 through 14, 17 through 19, and 21 through 27 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 11 and 13 through 20 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY 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.

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

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET:  
Department of Juvenile Justice: Child Welfare

505 KAR 1:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services. William Codell, assistant general counsel, represented the department.

In response to a question by Representative Marzian, Mr. Codell stated that the primary change to this administrative regulation was to replace the term, "qualified mental health professional," with the term, "licensed behavioral health professional."

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to comply with the drafting

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

EDUCATION AND WORKFORCE  
DEVELOPMENT CABINET: Board of Education:  
Department of Education: Food Service Programs

702 KAR 6:040. Personnel; policies and procedures. Todd Allen, interim general counsel, represented the department.

A motion was made and seconded to approve the following amendment: to amend the STATUTORY AUTHORITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

702 KAR 6:046. Repeal of 702 KAR 006:045.

Department of Technical Education: General Administration

780 KAR 1:011. Repeal of 780 KAR 001:010.

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

803 KAR 2:301. Adoption and extension of established federal standards. Robin Maples, occupational safety and health standards specialist, and Chuck Stribling, occupational safety and health standards federal – state coordinator, represented the division.

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

803 KAR 2:304. Exit routes and emergency planning.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 2:311. Fire protection.

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

803 KAR 2:312. Compressed gas and compressed air equipment.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to delete Section 3. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 2:315. Hand and portable powered tools and other hand-held equipment.

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.

803 KAR 2:316. Welding, cutting, and brazing.

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.

803 KAR 2:319. Commercial diving operations.



A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to delete Section 3. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: General**

810 KAR 2:090 & E. Temporary unsuitability of licensed premises. Marc Guilfoil, executive director; Dr. Bruce Howard, equine medical director; Chad Thompson, deputy general counsel; and Jennifer Wolsing, general counsel, represented the Kentucky Horse Racing Commission. Dr. Stuart Brown, equine safety director, Keeneland; Chauncey Morris, executive director, Kentucky Thoroughbred Association; and Mike Ziegler, executive director, Churchill Downs, appeared in support of these administrative regulations. Rick Hiles, president, Kentucky Horsemen's Benevolent and Protective Association; Peter Ecabert, general counsel, Kentucky Horsemen's Benevolent and Protective Association; and Dr. Clara Fenger, secretary, North American Association of Racetrack Veterinarians, appeared in opposition to these administrative regulations.

In response to a question by Co-Chair West, Dr. Howard stated that these administrative regulations represented a phase-down approach regarding furosemide to improve safety and for alignment among Kentucky requirements and other horse racing districts worldwide. The U.S. and Canada were out-of-step with the rest of the world regarding race day administration of furosemide. Studies demonstrated possible safety improvements by prohibiting race day administration of furosemide. The commission would continue to monitor, study, and report regarding this issue so that changes could be made as the data indicate. Many stakeholders advocated for these changes, which were necessary for veterinarians to fully assess a horse's soundness for racing.

In response to a question by Senator Raque Adams, Dr. Howard stated that the Equine Drug Research Council voted in support of these changes. Mr. Morris stated that Kentucky Thoroughbred Association supported these changes, which were a step toward modernizing horse racing. Dr. Brown stated that Keeneland supported these administrative regulations, which ensured the highest standards for safety in a phase-down approach. These administrative regulations represented a compromise related to a highly contentious issue.

In response to a question by Co-Chair West, Mr. Hiles stated that he had been a race horse owner and trainer for forty-eight (48) years. Without furosemide, race horses would bleed. After a race, the only horses tested for external bleeding were the winner and one (1) other horse. Approximately eighty (80) percent of race horses bled during a race, but most bleeding was internal. Furosemide was not performance enhancing and did not mask other drugs. A race day prohibition on furosemide would end horse racing in Kentucky. Scientific data showed that furosemide was beneficial. Furosemide administration on race day should not be prohibited. Mr. Hiles submitted two (2) letters from prominent horse owners who were opposed to these administrative regulations.

In response to a question by Co-Chair West, Mr. Ecabert stated that furosemide prevented and mitigated pulmonary bleeding and was not performance enhancing. Furosemide was safe and had been in use for forty (40) years. The public was notified which horses were racing with furosemide administration. The Kentucky Horsemen's Benevolent and Protective Association supported the

continued use of furosemide on race day. All horses bled to some extent during a race, and bleeding was primarily internal. Bleeding was progressive, meaning that once a horse bled during a race, future bleeding was more likely. Race day use of furosemide was the most efficient. Prohibiting race day administration of furosemide would adversely impact the racing industry. Data did not indicate that furosemide was the cause of horse deaths at Santa Anita.

In response to a question by Co-Chair West, Dr. Fenger stated that Kentucky, not Europe or the Far East, set the standard for horse racing. Science should drive the policy, and that was not happening with these administrative regulations. The incidents at Santa Anita have caused a knee-jerk reaction to prohibit furosemide. Medication rules had not improved the situation and might have resulted in more horse breakdowns. Bleeding during a horse race caused fatigue in the animal. Injury was most likely when a horse was fatigued. While the purpose of these administrative regulations was to increase safety, the result might actually be an increase in injuries. These administrative regulations did not provide guidance on the stacking of corticosteroids. There was not enough data available to establish thresholds. Horses could be tested with a result at or above the threshold even if the indicated drug was never administered. Maryland was not having races for two (2) year old horses because of the furosemide ban in that state.

In response to questions by Senator Thomas, Mr. Ecabert stated that the difference between "performance enhancing" and "performance enabling" was not a matter of semantics, because furosemide merely allowed a horse to reach its potential by preventing bleeding problems. Furosemide did not increase a horse's abilities. Mr. Hiles stated that furosemide was a diuretic, without which other actions, such as withholding water might occur. Dr. Fenger stated that data demonstrated that horse performance was not affected by furosemide, other than that bleeding and related problems were avoided. European racing was almost exclusively dominated by royalty. Horse racing in the U.S. was the sport of common people. It was important not to make horse racing accessible only to the elite. Horse racing would disappear without furosemide because too many horses would have to be purchased. Mr. Hiles stated that European drug testing was different than in the U.S. There were medications administered to horses in Europe for which testing was not performed.

In response to questions by Representative Marzian, Dr. Fenger stated that Santa Anita had made many changes in response to incidents at that track, including changes to the racing surface. Furosemide was a legal therapeutic. These requirements would create interference between veterinarians and their clients because owners would be incentivized to hide conditions from veterinarians. Stress fractures, not normal wear and tear on joints, were usually the cause of horse breakdowns. Trainers would not want to train horses at more than approximately eighty (80) percent of maximum performance; therefore, furosemide was more efficiently administered on race day.

In response to a question by Co-Chair West, Mr. Hiles stated that more horses bled without furosemide. The development of these administrative regulations was not based on data. Dr. Fenger stated that the only committee votes against these administrative regulations were from medical professionals.

Co-Chair Hale stated that America should set the standard for horse racing. There had been a black eye on racing in the past few years, and horse racing was important as one of Kentucky's signature industries. Kentucky should

do anything that would protect the safety of the horses and should not take a step backward in standards. Dr. Fenger stated that changes to these administrative regulations had not been demonstrated to fix problems in the racing industry. These administrative regulations would not make racing safer and might make it more dangerous. There was insufficient data to establish thresholds.

In response to a question by Co-Chair West, Mr. Guilfoil stated that the commission was not enforcing requirements that were not yet in effect. The commission was enforcing the International Racing Protocol, included in the 2015 version of these administrative regulations. Dr. Howard stated that published studies had questioned the efficacy of furosemide. The commission was not asking that furosemide be prohibited for training, but for administration within twenty-four (24) hours of racing. There was established science to justify the thresholds. Ms. Wolsing stated that these administrative regulations were approved unanimously by the commission in 2019. The commission received public comments during the public comment period and responded to those comments in the Statement of Consideration.

Co-Chair West stated that these administrative regulations would still be considered by the Interim Joint Committee on Licensing and Occupations and Administrative Regulations.

In response to a question by Representative Marzian, Mr. Morris stated that furosemide was not prohibited from use in training. Dr. Howard stated that furosemide was not for use on two (2) year old horses because there was a low incidence of bleeding. These changes were not anticipated to harm the horse racing industry.

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

**Medication Guidelines**

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

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 3, 6, 7, 14, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to establish a threshold for free prednisolone of ten (10) nanograms per milliliter in urine. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.

810 KAR 8:030. Disciplinary measures and penalties.

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

810 KAR 8:070. Bisphosphonates.

**CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program**

921 KAR 3:025 & E. Technical requirements. Laura Begin, regulation coordinator, and Elizabeth Caywood, deputy commissioner, represented the division.

In response to questions by Co-Chair West, Ms. Begin stated that this administrative regulation was to address food insecurity related to coronavirus (Covid 19.) Ms. Caywood stated that this administrative regulation was under consideration even prior to the coronavirus (Covid 19) pandemic because noncustodial parents might have been adversely affected. Ms. Begin stated that this administrative regulation removed the disincentive pertaining to the payment of child support. The division did not envision removing these changes after the coronavirus (Covid 19) pandemic ended.

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

The following administrative regulations were deferred or removed from the July 13, 2020, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Pharmacy  
201 KAR 2:050. Licenses and permits; fees.  
Board of Nursing  
201 KAR 20:225E. Reinstatement of license.  
201 KAR 20:470E. Dialysis technician credentialing requirements and training program standards.  
Board of Real Estate Appraisers  
201 KAR 30:130. Education provider, instructor, and course.

Board of Licensure of Marriage and Family Therapists  
201 KAR 32:110 & E. Telehealth.  
DEPARTMENT FOR LIBRARIES AND ARCHIVES: Division of Library Services: Libraries  
725 KAR 2:060. Certification of public librarians.  
725 KAR 2:070. Certification renewal of public librarians.

LABOR CABINET: Department of Workers' Claims  
803 KAR 25:010. Procedure for adjustments of claims.

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.

Department for Public Health: Division of Maternal and Child Health: 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.  
Payment and Services

907 KAR 3:300 & E. Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency.

The subcommittee adjourned at 1:35 p.m. The next meeting of the subcommittee is tentatively scheduled for August 11, 2020, at 1 p.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the August Meeting August 11, 2020

### Call to Order and Roll Call

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 11, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative David Hale, Co-Chair; Senators Alice Forgy Kerr and Reginald Thomas; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Travis Mayo, Office of the Governor; Travis Powell, Council on Postsecondary Education; Dennis Shepherd, Department of Veteran Affairs; Kevin Winstead, Board of Licensure for Long-Term Care Administrators; Morgan Ransdell, Board of Nursing; Benjamin Long, Jacob Walbourn, Office of the Secretary; Bob Swisher, Dale Hamblin, Department of Workers Claims'; Lisa Lee, Jonathan Scott, Department for Medicaid Services; Laura Begin, Department for Community Based Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, August 11, 2020, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GOVERNOR'S OFFICE: Legal Actions  
10 KAR 1:011 & E. Defense of employees. Travis Mayo, chief deputy general counsel, represented the Governor's Office.

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

COUNCIL ON POSTSECONDARY EDUCATION: Nonpublic Colleges

13 KAR 1:050. Licensed out-of-state college's eligibility for Kentucky tuition grant. Travis Powell, vice president and general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 6, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GOVERNOR'S OFFICE: Department of Veterans' Affairs: Tuition Waiver Program

17 KAR 1:030. Nurse Loan Repayment Program. Mark Bowman, executive director, and Dennis Shepherd, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 3, and 5 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to include requirements that were established through the material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators

201 KAR 6:100. Per Diem compensation of board members. Kevin Winstead, general counsel, represented the board.

Board of Nursing

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder. Morgan Ransdell, general counsel, represented the board.

In response to questions by Co-Chair Hale, Mr. Ransdell stated that APRN prescribing standards for the use of Buprenorphine-Mono Product and Buprenorphine-Combined-with-Naloxone by patients with opioid abuse disorder were as established by the Substance Abuse and Mental Health Services Administration (SAMHSA). APRNs were also required to be DEA registered (Data 2000 Waiver). DEA registration was not renewed annually; however, individual long-term patients continuing to be treated with Buprenorphine-Mono Product or Buprenorphine-Combined-with-Naloxone were required to be consulted no less than every ninety (90) days and annually.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:110. Licensure by endorsement.

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Team Kentucky Fund

800 KAR 1:010E. Team Kentucky Fund. Benjamin Long, general counsel, and Jacob Walbourn, deputy general counsel, represented the cabinet.

In response to a question by Representative Marzian, Mr. Walbourn stated that this administrative regulation represented the coronavirus (Covid 19) relief emergency fund. As of the morning of August 11, 2020, the fund had raised \$3,526,767.

In response to questions by Co-Chair Hale, Mr. Walbourn stated that this administrative regulation established four (4) criteria for receiving relief from the fund, including: Kentucky residency; employment as of March 6, 2020; coronavirus (Covid 19)-related unemployment or salary reduction of at least fifty (50) percent of gross salary; and household income at or below 400 percent of federal poverty guidelines. The fund included a mechanism to provide relief to qualified nonprofit organizations that assisted with housing or food insecurity. Thus far, individual applicants had received relief from the fund, but there had not been relief for any qualified non-profit organizations yet. The relief was not distributed monetarily. The fund's partner, Community Action Kentucky, distributed vouchers from the fund for housing, food, and related daily living needs. Approximately \$720,000 had been distributed through the program since its inception.

LABOR CABINET: Department of Workers' Claims  
803 KAR 25:010. Procedure for adjustments of claims. Dale Hamblin, Jr., assistant general counsel, and Bob Swisher, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 7, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.



803 KAR 25:070. Charges for attorneys.

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

803 KAR 25:075. Attorney fee discount.

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

803 KAR 25:096. Selection of physicians, treatment plans and statements for medical services.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 6, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Department for Medicaid Services: Division of Policy and Operations: Medicaid Services: Payment and Services

907 KAR 3:300 & E. Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency. Lisa Lee, commissioner, and Jonathan Scott, regulatory and legislative advisor, represented the division.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Department for Community Based Services:** Division of Protection and Permanency: Child Welfare

922 KAR 1:490E. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements. Laura Begin, regulation coordinator, and Mary Carpenter, assistant director, represented the division.

The following administrative regulations were deferred or removed from the August 11, 2020, subcommittee agenda:

**BOARDS AND COMMISSIONS:** Board of Pharmacy

201 KAR 2:050. Licenses and permits; fees.

201 KAR 2:311. Compounding for veterinary use.

Board of Nursing

201 KAR 20:225E. Reinstatement of license.

201 KAR 20:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs.

201 KAR 20:470E. Dialysis technician credentialing requirements and training program standards.

Real Estate Appraisers

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

Board of Licensure of Marriage and Family Therapists

201 KAR 32:110 & E. Telehealth.

Board of Medical Imaging and Radiation Therapy

201 KAR 46:010. Definitions for 201 KAR Chapter 046.

201 KAR 46:035. Practice standards, scopes of

practice, and ethical standards.

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

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.

201 KAR 46:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.

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

501 KAR 6:120. Blackburn Correctional Complex.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Department for Libraries and Archives: Division of Library Services: Libraries

725 KAR 2:060. Certification of public librarians.

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.

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 Maternal and Child Health: 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 a question by Co-Chair Hale, Ms. Lee stated that the division agreed to defer consideration of this administrative regulation to the September subcommittee meeting. A motion was made and seconded to defer. Without objection, and with agreement of the agency, this administrative regulation was deferred.

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.

Department for Community Based Services: Division of Protection and Permanency: Rape Crisis Centers

922 KAR 8:010. Standards for rape crisis centers.

The subcommittee adjourned at 1:35 p.m. The next meeting of the subcommittee is tentatively scheduled for September 8, 2020, at 1 p.m.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

### Committee Minutes

July 14, 2020

#### Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, July 14, 2020, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

**Guests:** Rich Storm, Lisa Cox, Karl Clinard, Robin Kinney (Teleconference), Thelma Hawkins (Teleconference), Mike Berry (Teleconference), Sarah Cronan (Teleconference), Chris Reece (Teleconference), Brian Thomas (Teleconference), Jennifer Linton (Teleconference), Sam Ruth (Teleconference), Lisa Lee (Teleconference), Stephanie Bates (Teleconference), Amy Cabbage (Teleconference), Cookie Crews (Teleconference), Hillarye Dailey (Teleconference), Mike Denney (Teleconference), Jennifer Luhrs (Teleconference), Mary Harville (Teleconference), Missy Weitzel (Teleconference), Jimmy Young (Teleconference), Michael Rogers (Teleconference), PJ Burnette (Teleconference), Sharon Burton (Teleconference), Donna Shelton (Teleconference), Alan Hurst (Teleconference), Tracy Gritton (Teleconference), Astrud Masterson (Teleconference), Tom Stratton (Teleconference), Robert Putt (Teleconference), Maik Schutze (Teleconference), Mike Tuggle (Teleconference), Tricia Okeson (Teleconference), Karen Wirth (Teleconference), David Horseman (Teleconference), Pamela Moore (Teleconference), Rhonda Sims (Teleconference), and Edith Slone (Teleconference).

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

A motion was made by Representative Fugate to approve Minutes of the June 2020, meeting of the committee. Representative Hart seconded the motion, which passed without objection.

### **DEFERRED ITEM:**

#### **DEPARTMENT OF MILITARY AFFAIRS**

Escape Training, LLC, 2000001459. A motion was made by Representative Hart to defer the contract to the August meeting of the committee. Representative Fugate seconded the motion, which passed.

### **JUNE DEFERRED ITEMS:**

#### **DEPARTMENT OF EDUCATION**

Public Consulting Group, Inc., 2000003161. Robin Kinney and Thelma Hawkins discussed the

contract with the committee. A motion was made by selected for further review by members of the to the Additions List due to an email problem: 22-Senator Meredith to approve the contract as reviewed. committee. Senator Hornback seconded the motion, 017 Sherman Carter Barnhart Architects; 22-069 Representative Hart seconded the motion, which which passed without objection. Wyatt, Tarrant & Combs; LLP; 22-082 Stoll Keenon passed.

WESTERN KENTUCKY UNIVERSITY A motion was made by Senator Meredith to consider as reviewed the Film Tax Incentive List, with 22-075 Green River Area Development District; 22-Environment of Care, 202202. A motion was exception of those items selected for further review 076 Seven Counties Services, Inc.; and 22-077 JKM made by Senator Meredith to defer the contract to by members of the committee. Senator Hornback Training, Inc. A motion was made by Senator Meredith the August meeting of the committee. Representative seconded the motion, which passed without objection. to approve the contracts as reviewed. Representative Hart seconded the motion, which passed. Fugate seconded the motion, which passed.

A motion was made by Senator Meredith to consider as reviewed the Correction List. Senator **OTHER BUSINESS** consider as reviewed the Personal Service Contract Hornback seconded the motion, which passed without **DIVISION OF ENGINEERING & CONTRACT** List, with exception of those items selected for objection. **ADMINISTRATION**

further review by members of the committee. Senator **ADDITIONS LIST** American Industrial Contractors, LLC, Hornback seconded the motion, which passed without **KENTUCKY FISH AND WILDLIFE** 2000000626. Jennifer Linton, Sam Ruth, and Brian objection. **RESOURCES** Thomas discussed the purchase order with the

A motion was made by Senator Meredith to Rich Storm, 2000002007. Mike Berry, Sarah committee. A motion was made by Senator Meredith consider as reviewed the Personal Service Contract Cronan, Chris Reece, Brian Thomas Rich Storm, Karl to refer the contract to the Kentucky Attorney Amendment List, with exception of those items Clinard, and Lisa Cox discussed the contract with the General’s Office and the U.S. Attorney’s Office for selected for further review by members of the committee. A motion was made by Representative investigation. Representative Hart seconded this committee. Senator Hornback seconded the motion, Hart to consider the contract as reviewed. Senator motion, which passed with Representative Booker which passed without objection. Hornback seconded the motion which passed, with voting no.

A motion was made by Senator Meredith to Representative Booker abstaining. **THE FOLLOWING PERSONAL SERVICE** consider as reviewed the Memoranda of Agreement **TOURISM – OFFICE OF THE SECRETARY** **CONTRACTS WERE REVIEWED WITHOUT** List, with exception of those items selected for Debeck, LLC, 20000003591. Mike Berry **OBJECTION:**

further review by members of the committee. Senator **ADMINISTRATIVE OFFICE OF THE** Hornback seconded the motion, which passed without was made by Senator Hornback to consider the **COURTS** objection. contract as reviewed. Senator Meredith seconded the

A motion was made by Senator Meredith to motion, which passed. **ATTORNEY GENERAL** consider as reviewed the Memoranda of Agreement **EASTERN KENTUCKY UNIVERSITY** Downs Law, 2000002427; Gess Mattingly and Amendment List, with exception of those items The following seven (7) contracts were added Atchison, 2000002429; Goldberg Simpson, LLC,



2000002430; Kinkead & Stilz, PLLC, 2000002431; Tichenor and Associates, 2000002773; Strauss Troy Company, LPA, 2000003239; Jones Ward, PLC, 2000003241.	<u>BOARD OF ELECTIONS</u>	<u>DEPARTMENT FOR INCOME SUPPORT</u>
	McBrayer, PLLC, 2000003923.	Jose Lorezno, 2000001162; Aletia Gayle Farmer, 2000003491; Kip Randall Beard, 2000003493; Jacqueline Carey Fister, 2000003506; Neil Christopher Armstrong, 2000003513; Anthony Greg Barnes, 2000003528; Sandra F. Geile, 2000003867; Daniel Grant Meece, 2000003868; Olegarios J. Ignacios, Jr., 2000003875; Jean Anne Sutherland, 2000003881; Debra A. Smith, 2000004014; Steven Clair Solvik, 2000004019; John Francis Norton, 2000004024; Jon S. Demos, 2000004025; DNA Diagnostics Center, 2000004040; Tadarro Richardson, 2000004053; Stephen Jerome Spanbauer, 2000004054; Our Family Direct Primary Care, PLLC, 2000004130.
<u>AUDITOR OF PUBLIC ACCOUNTS</u>	<u>BOARD OF EXAMINERS OF PSYCHOLOGISTS</u>	
Tichenor and Associates, 2000003784.	David Dale Lanier, 2000003835.	
<u>BD OF LICENSURE FOR PROFESSIONAL ENGINEERS &amp; LAND SURVEYORS</u>	<u>BOARD OF HAIRDRESSERS AND COSMETOLOGISTS</u>	
Webster Land Surveying, LLC, 2000003374.	Iso-Quality Testing, LLC, 2000003382.	
<u>BEHAVIORALHEALTH,DEVELOPMENTAL &amp; INTELLECTUAL DISABILITIES</u>	<u>BOARD OF MEDICAL LICENSURE</u>	
Res-Care, Inc. aka Bright Springs, 2000001734; Assisted Dining Solutions, LLC, 2000003090; Martha Gregory & Associates, Inc., 2000003114; Timothy S. Allen MD, PLLC, 2000003194; Martine Turns PSYD, PLLC, 2000003262; Martine Turns PSYD, PLLC, 2000003486; The Chyron Group, LLC, 2000003588; Gilbert Barbee Moore McIlvoy, PSC, 2000003730; Beth A. Johnson, 2000003812; Margaret Smedley, 2000003814; Steve Sparks, PhD., 2000003815; John D. Ranseen, 2000003816; Susan Brittain-Seitz, 2000003817; Comprehensive Pharmacy, 2000003853; Labor Relations Alternatives, Inc., 2000003924; Laboratory Corporation of America Holdings, 2000004036.	Multi, 2000001945; Thomas J. Hellmann Attorney-At-Law, PLLC, 2000003799; Keith Hardison, 2000003810.	
	<u>BOARD OF OCCUPATIONAL THERAPY</u>	
	Marisa Neal, 2000003004.	
	<u>BOARD OF PHARMACY</u>	<u>DEPARTMENT FOR LOCAL GOVERNMENT</u>
	Brian Fingerson Rph, Inc., 2000002910.	Roy William Brothers, 2000003537; Cathryn A. Figlestahler, 2000003538; Jeffrey P. Hanna, 2000003540; ICF Group, LLC, 2000003637.
	<u>BOARD OF PHYSICAL THERAPIST</u>	
	Brian Fingerson RPH, Inc., 2000003953.	
	<u>COUNCIL ON POSTSECONDARY EDUCATION</u>	<u>DEPARTMENT FOR MEDICAID SERVICES</u>
	Gray Associates, Inc., 2000003601.	Island Peer Review Organization, Inc., 2000001588; Myers and Stauffer, LLC, 2000002874.
	<u>DEPARTMENT FOR COMMUNITY BASED SERVICES</u>	<u>DEPARTMENT FOR NATURAL RESOURCES</u>
	Public Consulting Group, Inc., 2000001554; Public Consulting Group, Inc., 2000001629; Microstaff IT Holdings, Inc., 2000003487.	Tichenor and Associates, 2000003012; Envivo Health, LLC, 2000003459.
<u>BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS</u>	<u>DEPARTMENT FOR ENVIRONMENTAL PROTECTION</u>	<u>DEPARTMENT FOR PUBLIC ADVOCACY</u>
Brian Fingerson Rph, Inc., 2000003997; Marisa Neal, 2000003999.	RFH, PLLC, 2000002266.	Jeffrey Sherr, 2000003927; Ira Mickenberg, 2000003934.
<u>BOARD OF DENTISTRY</u>		<u>DEPARTMENT FOR PUBLIC HEALTH</u>
McBrayer, PLLC, 2000003315.		Thomas Joseph Hickey, 2000002237; Multi, 2000003181; Multi, 2000003220; Quest Diagnostic,

2000003780; Gail Denise Anderson, 2000004063.	Kay Kennedy, 2000004463.	J.W.G. Financial Examinations, LLC, 2000003203.
<u>DEPARTMENT FOR WORKFORCE INVESTMENT</u>	<u>DEPARTMENT OF HIGHWAYS</u>	<u>DEPARTMENT OF JUVENILE JUSTICE</u>
Chua Corazon, 2000001742.	Palmer Engineering County, 2000002833; Integrated Engineering, 2000002840; Stantec Consulting Services, Inc., 2000003463; GRW America Health, Inc., 2000003541; Brenda Wilburn, 2000003914; Brenda Wilburn, 2000003928; National Counseling, LLC, 2000002923; Mid America Health, Inc., 2000003270; Diamond Drugs, Inc., 2000003271; Wellpath, LLC, 2000003281; The Moss Group, Inc., 2000003322; Henry County Animal Clinic, 2000003972; Williams Veterinary Clinic, 2000003975; Blue Line Innovations, LLC, 2000003992.	Shannon L. Smith-Stephens DNP APRN-BC, PLLC, 2000002857; Ronald Boyd, 2000003362; Mid America Health, Inc., 2000003541; Brenda Wilburn, 2000003914; Brenda Wilburn, 2000003928; National Eye Care, Inc., 2000003936; DX Consultants, LLC, 2000004372.
<u>DEPARTMENT OF CORRECTIONS</u>	Aerial Surveys, Inc., 2000003790; Woolpert, Inc., 2000003818; Quantum Spatial, Inc., 2000003822; Quality Counts, LLC, 2000003963; Bacon Farmer Workman Engineering & Testing, Inc., 2000004266; WSPUSA, Inc., 2000004275; QK4, Inc., 2000004282; Linebach Funkhouser, Inc., 2000004290; Franklin Price, Inc., 2000004301; Linebach Funkhouser, Inc., 2000004304; Lee Engineering, LLC, 2000004349; Stantec Consulting Services, Inc., 2000004356; HMB Engineers, Inc., 2000004360; Stantec Consulting Services, Inc., 2000004362; HDR Engineering, Inc., 2000004373; Geotechnology, Inc., 2000004374; American Engineers, Inc., 2000004375; Horn and Associates, Inc., 2000004376; Geotechnology, Inc., 2000004379; American Engineers, Inc., 2000004380; DLZ Kentucky, Inc., 2000004381; WSP USA, Inc., 2000004382; HMB Engineers, Inc., 2000004383; Stantec Consulting Services, Inc., 2000004384; HMB Engineers, Inc., 2000004386; Bacon Farmer Workman Engineering & Testing, Inc., 2000004387; Palmer Engineering County, 2000004388; Wood Environment & Infrastructure Solutions, Inc., 2000004477; Cardno, Inc., 2000004478.	<u>DEPARTMENT OF MILITARY AFFAIRS</u> Escape Training, LLC, 2000001459; Otis Edward Bailey, 2000003105; Dayspring Counseling Services, LLC, 2000003236; Dr. Abdul Kader Dahhan, MD PSC, 2000003263.
<u>DEPARTMENT OF CRIMINAL JUSTICE TRAINING</u>		<u>DEPARTMENT OF VETERANS AFFAIRS</u> Appalachian Regional Healthcare, Inc., 2000001319; Hazard ARH Imaging Center, 2000001474; Med Care Pharmacy, LLC, 2000001862; Amerathon, LLC, 2000001980; Multi, 2000002328; Symphony Diagnostics Services No1, LLC, 2000003250.
<u>DEPARTMENT OF EDUCATION</u>	Gess Mattingly and Atchison, 2000002261; Donna A. Meyer, 2000003166; Ameresco, Inc., 2000003310; ACT, Inc., 2000003348; Curriculum Associates, LLC, 2000003352; Education Measurement Consulting, LLC, 2000003354; Assessment Solutions Group, 2000003356; Human Resources Research Organization, 2000003357; NCS Pearson, Inc., 2000003481; Caveon, LLC, 2000003613; Greenwood/Asher & Associates, Inc., 2000004002; Sivic Solutions Group, LLC, 2000004160; Paul Hamann, 2000004413; Martha	<u>DEPARTMENT OF WORKERS' CLAIMS</u> Blue & Company, LLC, 2000003631; Underwriters Safety and Claims, Inc., 2000003870.
	<u>DEPARTMENT OF INSURANCE</u> Financial Analysis Services, LLC, 2000003200;	<u>EASTERN KENTUCKY UNIVERSITY</u> Sherman Carter Barnhart Architects, 22-017; Wyatt, Tarrant & Combs, LLP, 22-069; Gess Mattingly & Atchison, 22-070; Central Kentucky Interpreter Referral, Inc., 22-080; Stoll Keen Ogden, PLLC, 22-082; Dinsmore & Shohl, LLP, 22-085.



<u>ECON DEV - OFFICE OF THE SECRETARY</u>	Training Center, Inc., 2000003982; Kentuckiana	<u>KENTUCKY FISH AND WILDLIFE</u>
Central Region Innovation and	Motorsports, LLC, 2000003983; Dubya J. Brands,	<u>RESOURCES</u>
Commercialization Center, Inc., 2000003603; Blue	LLC, 2000003984; Wildcat Motorsports, LLC,	Rich Storm, 2000002007.
North, LLC, 2000003605-1.	2000003985; Balance Dynamics Motorcycle Training	<u>KENTUCKY HIGHER EDUCATION</u>
<u>EDUCATION - OFFICE OF THE SECRETARY</u>	Center, Inc., 2000003986; Total Control Training,	<u>ASSISTANCE AUTHORITY</u>
Campbell Woods, PLLC, 2000003502;	Inc., 2000003988; Axis Forensic Toxicology, Inc.,	Strothman and Company, PSC, 2000003938;
Campbell Woods, PLLC, 2000003966.	2000004126.	Libera, Inc., 2000003942; Morgan Stanley Domestic
<u>EXECUTIVE BRANCH ETHICS</u>	<u>KENTUCKY BOARD OF ARCHITECTS</u>	Holdings, 2000003943; Morgan Stanley Domestic
<u>COMMISSION</u>	McBrayer, PLLC, 2000003504.	Holdings, 2000003945; Strothman and Company
Roland P. Merkel, PSC, 2000002469; Mike	<u>KENTUCKY EDUCATIONAL TELEVISION</u>	PSC, 2000003946; Gabriel Roeder Smith & Company,
Wilson, 2000002470.	Dean Dorton Allen Ford, PLLC, 2000003518;	2000003957.
<u>FACILITIES &amp; SUPPORT SERVICES</u>	Roger Bondurant, 2000003751; Walter D. Crowe,	<u>KENTUCKY HIGHER EDUCATION</u>
Logsdon Auction Group, LLC, 2000002097;	2000003757; Britt Davis, 2000003762; Rebecca	<u>STUDENT LOAN CORPORATION</u>
Multi, 2000003135.	F. Embry, 2000003764; William Clint Goins,	Strothman & Company, PSC, 21-001; BLX
<u>FINANCE - OFFICE OF THE SECRETARY</u>	2000003765; Rex Hart Consulting, 2000003768;	Group, LLC, 21-006.
Smith Cashion & Orr, PLC, 2000002471;	Susan B. Hines-Bricker, 2000003831; Michelle L.	<u>KENTUCKY LOTTERY CORPORATION</u>
Smith Cashion & Orr, PLC, 2000002472; Wallace	Grant, 2000003860.	MCM CPA's and Advisors, 21-16-011; Valenti
Boggs, PLLC, 2000003106; Gatlin Voelker, PLLC,	<u>KENTUCKY EMPLOYERS MUTUAL</u>	Hanley, PLLC, 21-16-024-2; Ellipse Solutions, LLC,
2000003482; Goldberg Simpson, LLC, 2000003484;	<u>INSURANCE</u>	21-17-016; Volta, Inc., 21-18-027; Strothman and
McBrayer, PLLC, 2000003485.	The Cicotte Law Firm, PLLC, 21-CLF-001;	Company, PSC, 21-20-042.
<u>HORSE RACING COMMISSION</u>	Dinsmore & Shohl, LLP, 21-DAS-001; Fowler Bell,	<u>KENTUCKY RETIREMENT SYSTEMS</u>
Advanced Investigative Solutions, Inc.,	PLLC, 21-FWB-001; Groom Law Group, 21-GLG-	Ice Miller, 2000001790; David Eager,
2000002643; The Industrial Laboratories Company,	001; Hassman & Fitzhugh, PLLC, 21-HMF-001;	2000002110; Reinhart Boerner Vandeuren
Inc., 2000003006.	Hanna Resource Group, 21-HRG-001; ISS Facility	SC, 2000002111; Stoll Keenon Ogden, PLLC,
<u>JUSTICE - OFFICE OF THE SECRETARY</u>	Services, 21-ISS-001; KEBCO, Inc., 21-KCO-002;	2000002114; Hirschler Fleischer, A Professional
Mark Bernstein, DDS, 2000003974; Trihealth,	KEBCO, Inc., 21-KCO-003; Stoll Keenon Ogden,	Corporation, 2000002115; Frost Brown Todd, LLC,
Inc., 2000003976; Kentucky Driving School,	PLLC, 21-SKO-001; Windham Professionals, Inc.,	2000002116; Manatt Phelps Phillips, 2000002117;
2000003977; Schipper Enterprises, LLC, 2000003978;	21-WMP-001; Wyatt Tarrant Combs, PLLC, 21-	Michael McClain, PLLC, 2000002119; Morris
Tim Cody, 2000003979; Harley Davidson Bowling	WTC-001.	James, LLP, 2000002120; Kentucky Orthopedic
Green, 2000003980; Balance Dynamics Motorcycle		Rehabilitation, LLC, 2000002152; Sammie Pigg,

2000002454; Roland P. Merkel, 2000002515; Jensen, PLLC, 2021-0007; Mulloy Borland, LLC,		<u>OFFICE OF INSPECTOR GENERAL</u>
Samantha T. Nance, 2000002516; James Garvin 2021-0008; Stoll Kennon Ogden, PLLC, 2021-0009;		MPRO, 2000004037.
Womack PSC, 2000002517; Kristal Wilson, Vertosoft, LLC, 2021-0010.		<u>OFFICE OF THE CONTROLLER</u>
2000003514; Locum, Inc., 2000003534.	<u>MOREHEAD STATE UNIVERSITY</u>	Merlinos & Associates, Inc., 2000001706.
<u>KENTUCKY STATE FAIR BOARD</u>	Multi, 21-005; Multi, 21-006; Robert W. Baird	<u>PERSONNEL - OFFICE OF THE SECRETARY</u>
MCM CPAS & Advisors, LLP, 2000003756; & Company, 21-007; Metis Associates, Inc., 21-010.		Clifton Larson Allen, LLP, 2000001806; Tempo
Scarlett W. Mattson, 2000003889.	<u>MURRAY STATE UNIVERSITY</u>	Holding Company, LLC, 2000002951; Blue &
<u>KENTUCKY STATE POLICE</u>	Multi, 001-21; Multi, 002-21; Multi, 003-21;	Company, LLC, 2000002992; Aon Consulting, Inc.,
Mark L. Combs, 2000002446; Mitchell	Multi, 004-21; Multi, 005-21; Multi, 006-21; Multi,	2000003268; Rethink Autism, Inc., 2000003466;
D. Holliman, 2000002579; Matthew Jordan,	007-21; Multi, 008-21; Multi, 009-21; Multi, 010-21;	Brock Medical, LLC, 2000003542; Premise Health
2000002589; Michael Ray, 2000002615; Stuart	The Segal Company (Eastern States), Inc., 012-21;	Employer Solutions, LLC, 2000003865; Korn
Recke, 2000002616; Mark T. Johnson, 2000002849;	Attain, LLC, 013-21; Village Practice Management	Ferry (US), 2000004022; Blue & Company, LLC,
James Gregory Jones, 2000002852; Kenneth Stewart,	Co., LLC, 014-21; Dinsmore & Shohl, LLP, 015-21;	2000004139; Brock Medical, LLC, 2000004203.
2000002859; Benjamin Wilcott, 2000002865; Mark	Ruffalo Noel Levitz, LLC, 016-21.	<u>PERSONNEL BOARD</u>
Treadway, 2000002970; Jeremy Marcus Devasher,	<u>NORTHERN KENTUCKY UNIVERSITY</u>	Geoffrey B. Greenawalt, 2000003593; Roland
2000003083; Derris Mitchell Hedger, 2000003089;	Isaacson Miller, 2020-119; Geotechnology, Inc.,	P. Merkel, PSC, 2000003639; Allen Law Office,
George Atwood, 2000003093; Tommy Wesley	2021-113; Isaacson Miller, 2021-114; Witt Kieffer,	2000003798; John C. Ryan, Jr., 2000003800; Colleen
Prather, 2000003117; Charles Brian Bowman,	2021-115; Ayers Saint Gross, 2021-117; Moody	B. Beach, 2000003801; The Law Office of Kim
2000003119; Thomas J. Williams, 2000003123;	Nolan, 2021-119; Sigma Systems, Inc., 2021-121;	Hunt Price, PLLC, 2000003807; E. Patrick Moores,
James Daniel Quarles, M.D., 2000003602.	Sturgill Turner Barker & Moloney, PLLC, 2022-	2000003809; Hanson Williams, 2000003811; Stephen
<u>KY COMMUNITY TECHNICAL COLLEGE</u>	101; Dinsmore & Shohl, LLP, 2022-103; Dressman	T. McMurtry, 2000003813.
<u>SYSTEM</u>	Benzinger & Lavelle, 2022-104; Ziegler & Schneider,	<u>STATE TREASURER</u>
Hagyard - Davidson - McGee Associates, PLLC,	PSC, 2022-105; Adams Stepner Wolterman & Dusing,	Bryant Law Center, 2000003221.
795; nTier Training, LLC, 829.	PLLC, 2022-106; Howard Law, PLLC, 2022-107;	<u>TOURISM - OFFICE OF THE SECRETARY</u>
<u>KY TEACHERS RETIREMENT SYSTEM</u>	Multi, 2022-111; Thompson Hine, LLP, 2022-112;	Hunden Strategic Partners, Inc., 2000003385;
AC Advanced Cleaning Services, LLC, 2021-	SMG d/b/a Superior Management Group, 2022-118;	Lofthouse Enterprises, 2000003413; DSBeck, LLC,
0001; SouthEast Printing and Mailing, 2021-0002;	Cammack LaRhethe Advisors, 2022-120; Stites &	2000004457.
Cavanaugh MacDonald, LLC, 2021-0003; Blue and	Harbison, PLLC, 27-2020.	<u>TRANSPORTATION - OFFICE OF THE</u>
Company, LLC, 2021-0004; Ice Miller, LLP, 2021-	<u>OFFICE OF HOMELAND SECURITY</u>	<u>SECRETARY</u>
0005; McBrayer, PLLC, 2021-0006; Williams and	Goldberg Simpson, LLC, 2000003753.	Crowe, LLP, 2000002313; Charles Joseph

Bird, 2000002538; Lisa Keaton, 2000002552; CMTA, Inc., K21-121; Equine Medical Associates, US, LLP, K21-162; Commonwealth Anesthesia, KPMG, LLP, 2000003033; Blue & Company, LLC, PSC, K21-122; Cornett Integrated Marketing PSC, K21-163; Wiser Strategies, K21-164; Marshall 2000003070; Embry Merritt Shaffar Womack, PLLC, Solutions, K21-123; Ologie, LLC, K21-124; BKD, Medical Management, LLC, K21-165.

2000003554; Ferreri Law Group, PLLC, 2000003555; LLP, K21-125; Kaufman, Hall & Associates, LLC, UNIVERSITY OF LOUISVILLE

Fogle Keller Walker, 2000003556; Fox Wood & K21-126; Huron Consulting Services, LLC, K21-127; Snell & Wilmer, LLP, 20-074; Birdsall, Voss Wood, 2000003557; Fulton Devlin & Powers, Whitecap health Advisors, LLC, K21-128; Ankura & Associates, Inc. d/b/a BVK, 21-003; Simpson LLC, 2000003558; Gess Mattingly and Atchison, Consulting Group, LLC, K21-129; Hammes Company Scarborough, LLC, 21-004; Videobred, Inc., 21-005; 2000003560; Goldberg Simpson, LLC, 2000003561; Healthcare, LLC, K21-130; Blue & Company, Crowe Horwath, LLP, 21-006; Multi, 21-007; Multi, Jones & Walters, PLLC, 2000003562; Logan & LLC, K21-131; Davis Moore Capital, LLC, K21- 21-008; Multi, 21-009; Multi, 21-010; Multi, 21-011; Gaines, PLLC, 2000003563; McBrayer, PLLC, 132; BORN, LLC, K21-133; Kari Maloney, K21- Multi, 21-012; Barkley REI, LLC, 21-013; Hyphae 2000003564; McMurry and Livingston, 2000003565; 134; Karen Billings, K21-135; Phoenix Business, Design Laboratory, LLC, 21-014; Multi, 21-015; VB Robert L. Roark, PLLC, 2000003569; Sturgill, Inc., K21-136; Labyrinth Solutions, Inc., K21-137; Consulting, 21-016; Embry, Merritt, Shaffar, Womack, Turner, Barker & Moloney, PLLC, 2000003571; HyperCision Inc. d/b/a HyperCision Consulting, PLLC, 21-019; Willis Towers Watson, 21-020; ACI Tooms Dunaway & Webster, 2000003572; Wallace K21-138; HR Focal Point, LLC, K21-139; Evora IT INFOTECH Inc., 21-021; V-Soft Consulting Group, Boggs, PLLC, 2000003576; Wanda Ballard Repasky Solutions, Inc., K21-140; Cenergistic, LLC, K21-141; Inc., 21-029; Walker Parking Consultants, 21-030; Attorney At Law, 2000003579; Embry Merritt Koch Modular Process Systems, K21-143; Worley Korn Ferry, 21-034; R. William Funk & Associates, Shaffar Womack, PLLC, 2000003654; Fox, Wood Group, Inc., K21-144; Smith Management Group, 21-035; Learfield Communications, LLC, 21-036; & Wood, 2000003655; Legacy Title Company, K21-145; Smith Management Group, K21-146; Learfield Communications, 21-037; TEK Systems, LLC, 2000003663; Tooms Dunaway & Webster, Smith Management Group, K21-147; Dixon Hughes 21-043.

2000003673; Wallace Boggs, PLLC, 2000003675. Goodman, LLP, K21-148; Deloitte Consulting, WESTERN KENTUCKY UNIVERSITY

UNIVERSITY OF KENTUCKY LLP, K21-149; Rockcastle Hospital and Respiratory Encompass Digital Media, Inc., 202107; Ruffalo Multi, A221000; Multi, A221010; Multi, Care Center, Inc., K21-150; Trimeric Corporation, Noel Levitz, 202108; Stokes Production Services, A221020; Multi, A221030; Multi, A221040; Multi, K21-151; Trimeric Corporation, K21-152; Horn Inc., 202109; Gensler Architecture, Design and A221050; Multi, A221060; Dinsmore & Shohl, LLP, and Associates in Rehabilitation, PLLC, K21-153; Planning, 202111; Crow, LLP, 202112; Employers K21-113; Miller, Canfield, Paddock and Stone, LLP, Danny Corales MD, K21-154; DeEtta Jones and Risk Services A Division of Houchens Insurance K21-114; Commonwealth Economic Partners, K21- Associates, LLC, K21-155; Nathan Ball, K21-156; Group, 202207.

115; JMIS Kentucky, K21-116; Huron Consulting Impact Advisors, LLC, K21-157; St. Claire Regional WORKERS' COMPENSATION FUNDING

Services, LLC, K21-117; CorVel Enterprise Comp, Medical Center, K21-158; Ernst & Young, LLP, COMMISSION

Inc., K21-118; Sworn Testimony, PLLC, K21-119; K21-159; Cammack Retirement Group, K21-160; Blue & Company, LLC, 2000003612; Taylor- Central Kentucky Interpreter Referral, Inc., K21-120; Bluegrass Law Group, PLLC, K21-161; Dentons Walker Consulting, LLC, 2000004107.



<b><u>THE FOLLOWING PERSONAL SERVICE</u></b>	1600004012; Burgess and Niple, Inc., 1700000010; Inc., 2000001341.	
<b><u>AMENDMENTS WERE REVIEWED WITHOUT</u></b>	Stantec Consulting Services, Inc., 1700000166;	<b><u>JUSTICE - OFFICE OF THE SECRETARY</u></b>
<b><u>OBJECTION:</u></b>	Stantec Consulting Services, Inc., 1700000295;	Mark Bernstein, DDS, 1900001581.
<b><u>ATTORNEY GENERAL</u></b>	Palmer Engineering Company, 1700002761;	<b><u>KENTUCKY EMPLOYERS MUTUAL</u></b>
Strauss Troy Company, LPA, 2000001229.	Integrated Engineering, 1700002776; Gresham	<b><u>INSURANCE</u></b>
<b><u>BOARD OF ELECTIONS</u></b>	Smith and Partners, 1700002781; H.W. Lochner,	Hanna Resource Group, 20-HRG-001; MCM
McBrayer McGinnis Leslie & Kirkland, PLLC, Inc., 1800000408; QK4, Inc., 1800000418; HDR	CPA's and Advisors, LLP, 20-MCM-001.	
1900002068.	Engineering, Inc., 1800000419; HMB Professional	<b><u>KENTUCKY LOTTERY CORPORATION</u></b>
<b><u>COUNCIL ON POSTSECONDARY</u></b>	Engineers, Inc., 1800000421; Bluegrass Valuation	Gaming Laboratories International, LLC, 20-14-
<b><u>EDUCATION</u></b>	Group, LLC, 1800001272; Strand Associates, 035.	
Texas Instruments, Inc., 1900004073.	Inc., 1800001355; Glaus, Pyle, Schomer, Burns &	<b><u>KY COMMUNITY TECHNICAL COLLEGE</u></b>
<b><u>DEPARTMENT OF HIGHWAYS</u></b>	Dehaven, Inc., 1800001539; HMB Professional	<b><u>SYSTEM</u></b>
EAPartners, PLC, 0600002625; GRW Engineers,	Engineers, Inc., 1800002174; Palmer Engineering	Scoppechio, 767.
Inc., 1100001198; Vaughn & Melton Consulting	Company, 1900001879; Haworth Meyer Boleyn,	<b><u>KY INFRASTRUCTURE AUTHORITY</u></b>
Engineers Kentucky Incorporated, 1200000653; Inc., 1900001890; Stantec Consulting Services, Inc.,	American Municipal Tax-Exempt Compliance	
Stantec Consulting Services, Inc., 1200001443; 1900002035; WSP USA, Inc., 1900002087; Parsons	Corporation, 1900001104.	
Stantec Consulting Services, Inc., 1200001635; J	Transportation Group, Inc., 1900004224; Vaughn	<b><u>MILITARY AFFAIRS COMMISSION</u></b>
M Crawford & Associates, Inc., 1300000071; HMB	& Melton Consulting Engineers, Inc., 1900005010;	Strategy Ninja Group, LLC, 2000002464.
Professional Engineers, Inc., 1300000186; HMB	HMB Engineers, Inc., 2000000521; Corradino Group,	<b><u>MURRAY STATE UNIVERSITY</u></b>
Professional Engineers, Inc., 1300000207; GRW	2000000724; GRW Engineers, Inc., C-01125603.	Carrithers Law Office, PLLC, 003-15; Sturgill,
Engineers, Inc., 1400000072; Burgess and Niple,	<b><u>DEPARTMENT OF VETERANS AFFAIRS</u></b>	Turner, Barker & Moloney, PLLC, 007-17; Goldberg
Inc., 1400001672; Palmer Engineering Company,	Gifted Nurses, LLC, 1800001252; Multi,	Simpson, LLC, 012-16; Rick Walter/Boehl, Stopher
1400003301; URS Corporation, 1500000075; 1900002167.		and Graves, LLP, 013-18; Greg T. Taylor &
HMB Professional Engineers, Inc., 1500000232;	<b><u>EASTERN KENTUCKY UNIVERSITY</u></b>	Associates, 013-20; McClain DeWees, PLLC, 014-19;
QK4, 1500000241; Stantec Consulting Services,	Crowe, LLP, 20-244.	Rick Walter/Boehl, Stopher & Graves, LLP, 015-18;
Inc., 1500000902; Palmer Engineering Company,	<b><u>FACILITIES &amp; SUPPORT SERVICES</u></b>	Trifecta Real Estate Services, 015-20; Sloan Appraisal
1500001283; Stantec Consulting Services, Inc.,	HMB Professional Engineers, Inc., 1200002582;	& Realty Services, 016-20; Boehl, Stopher & Graves,
1500002598; Palmer Engineering, 1600000444; Ross Tarrant Architects, Inc., 1700002127; Redwing	LLP, 017-15; Goldberg Simpson, LLC, 017-18;	
URS Corporation, 1600001427; HDR Engineering,	Ecological Services, Inc., 1800002056; Stantec	Murphy Napier & Company, 017-20; Dean Dorton
Inc., 1600002465; Integrated Engineering,	Consulting Services, Inc., 1900004505; Tetra Tech,	Allen Ford, PLLC, 019-19; Academic Partnerships,

LLC, 019-20; Dean Dorton Allen Ford, PLLC, 020- 2000001599; Pennyroyal Regional Mental Health Research Foundation, 2000002760; University of  
20; Beacon Technologies, Inc., 021-20; Dinsmore & Mental Retardation Board, 2000001664; Pennyroyal Kentucky Research Foundation, 2000002761; Seven  
Shohl, LLP, 022-20; Ross-Tarrant Architects, 024-20; Regional Mental Health Mental Retardation Board, Counties Services, Inc., 2000002764; Division of  
Peck, Flannery, Green, Warren, Inc., 025-20; Sherman 2000001678; Kentucky Coalition Against Domestic Mental Health, 2000002765; University of Kentucky  
Carter Barnhart Architects, 026-20. Violence, Inc., 2000001739; Appalachian Regional Research Foundation, 2000002766; Eastern Kentucky  
TRANSPORTATION - OFFICE OF THE Healthcare, Inc., 2000001846; Ashland Hospital University, 2000002768; University of Kentucky,  
SECRETARY Corporation d/b/a King's Daughters Medical 2000002872; University of Kentucky, 2000002942;  
Wyatt Tarrant and Combs, 1800001356; Embry Center, 2000001887; Cumberland River Behavioral New Vista of the Bluegrass, Inc., 2000003043; New  
Merritt Shaffar Womack, PLLC, 1900004018. Health, Inc., 2000002037; University of Kentucky Vista of the Bluegrass, Inc., 2000003154; NAMI  
UNIVERSITY OF KENTUCKY Research Foundation, 2000002099; Pennyroyal Lexington Kentucky, Inc., 2000003156; University of  
EOP Architects, A201100. Regional Mental Health Mental Retardation Board, Kentucky Research Foundation, 2000003431.  
UNIVERSITY OF LOUISVILLE 2000002126; Green River Regional MHMR Board, BOARD OF REGISTRATION FOR  
VB Consulting, 19-008. Inc., 2000002127; Lifeskills, Inc., 2000002128; PROFESSIONAL GEOLOGISTS  
WESTERN KENTUCKY UNIVERSITY Comprehend, Inc., 2000002132; Kentucky River Department of Professional Licensing,  
Affirma Consulting, LLC, 192031. Community Care, Inc., 2000002135; New Vista 2000001777.  
THE FOLLOWING MEMORANDA OF of the Bluegrass, Inc., 2000002138; University BOARD OF VETERINARY EXAMINERS  
AGREEMENTS WERE REVIEWED WITHOUT of Kentucky Research Foundation, 2000002174; Kentucky Department of Agriculture,  
OBJECTION: University of Kentucky Research Foundation, 2000003498; Kentucky Department of Agriculture,  
ATTORNEY GENERAL 2000002211; University of Kentucky Research 2000004109.  
University of Louisville Research Foundation, Foundation, 2000002213; University of Louisville, CHFS - DEPARTMENT FOR AGING AND  
2000003052; Kentucky State Police, 2000003469; 2000002218; University of Kentucky Research INDEPENDENT LIVING  
Kentucky State Police, 2000003580; Family Foundation, 2000002233; Multi, 2000002238; Multi, 2000002603; Multi, 2000002714; Multi,  
Nurturing Center of Kentucky, 2000003829. Louisville Jefferson County Metro Government, 2000002717; Multi, 2000002839; University of  
BD OF LICENSURE AND CERT FOR 2000002247; Kentucky Medical Services Foundation, Kentucky Research Foundation, 2000002877; Multi,  
DIETITIANS AND NUTRITIONISTS Inc., 2000002293; Green River Regional MHMR 2000002888; Multi, 2000002889; Multi, 2000003442;  
Department of Professional Licensing, Board, Inc., 2000002401; Multi, 2000002409; Multi, 2000003467; Multi, 2000003474; University  
2000001771. University of Kentucky Research Foundation, of Kentucky Research Foundation, 2000003475;  
BEHAVIORAL HEALTH, DEVELOPMENTAL 2000002455; Kentucky Housing Corporation, Green River Area Development District, 2000004398;  
& INTELLECTUAL DISABILITIES 2000002701; University of Kentucky Research Multi, 2000004400.  
Louisville Jefferson County Metro Government, Foundation, 2000002736; University of Kentucky

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS Louisville, Inc., 2000001510; Jobs for Kentucky's Graduates, 2000001513; Goodwill Industries of Eastern Kentucky University, 2000002390; Multi, 2000002656; Multi, 2000002665; University of Kentucky Research Foundation, Kentucky, Inc., 2000001524; University of Louisville Audubon Area Community Services, 2000002713; 2000001557; Green River Regional MHMR Hospital, 2000001532; KVC Behavioral Health Specialized Alternatives for Families & Youth of Board, Inc., 2000002621; University of Kentucky, Care/Croney & Clark, 2000001542; Kentucky River Kentucky I, 2000003288; Specialized Alternatives 2000002623; Patient Services, Inc., 2000002624; Community Care, Inc., 2000001546; New Vista for Families & Youth of Kentucky I, 2000003289; University of Kentucky Research Foundation, of the Bluegrass, Inc., 2000001548; Ramey Estep Uspiritus, Inc., 2000003290; Presbyterian Child 2000002629; University of Kentucky Research Homes, Inc., 2000001553; Boys and Girls Club, Inc., Welfare, 2000003291; Presbyterian Child Welfare, Foundation, 2000002634; La Casita Center, 2000001555; Northern Kentucky Area Development 2000003292; Pennyrile Allied Community Services, 2000002635; Hands & Voices of Kentucky, District, 2000001573; Big Sandy Area Development Inc., 2000003293; Pennyrile Allied Community 2000003393; University of Louisville Research District, 2000001574; Greater Louisville Workforce Services, Inc., 2000003294; KVC Behavioral Foundation, 2000003596. Development Board, Inc., 2000001593; Audubon Health Care/Croney & Clark, 2000003295; COUNCIL ON POSTSECONDARY EDUCATION Area Community Services, 2000001597; University KVC Behavioral Health Care/Croney & Clark, of Louisville Research Foundation, 2000001617; 2000003296; KVC Behavioral Health Care/Croney & Clark, 2000003297; KVC Behavioral Health Care/ QA Commons, Inc., 2000003113; University Brighton Center, Inc., 2000001621; Chapin Hall Croney & Clark, 2000003298; KVC Behavioral of Kentucky Research Foundation, 2000003476; Center for Children, 2000001628; Central Kentucky Health Care/Croney & Clark, 2000003299; University of Louisville Research Foundation, CAC, Inc., 2000001630; University of Kentucky KVC Behavioral Health Care/Croney & Clark, 2000003488; University of Kentucky Research Research Foundation, 2000001647; Community 2000003300; KVC Behavioral Health Care/Croney Foundation, 2000003508; Kentucky Department of Action Kentucky, Inc., 2000001658; New Vista of the & Clark, 2000003301; KVC Behavioral Health Care/ Education, 2000003696; University of Louisville Bluegrass, Inc., 2000001667; Kentucky Administrative Croney & Clark, 2000003302; Childrens Home of Research Foundation, 2000003761. Office, 2000001683; University of Kentucky Research Northern Kentucky, 2000003303; KVC Behavioral DEPARTMENT FOR COMMUNITY BASED SERVICES Foundation, 2000001755; University of Kentucky Health Care/Croney & Clark, 2000003349; National Research Foundation, 2000001765; Kentucky Center for Education and Workforce Statistics, 2000001781; Council On Crime and Delinquency, 2000003365; Madison County, 1800001957-1; Brighton Housing Authority of Bowling Green, 2000001799; Community Medical Associates, Inc. Norton's South Center, Inc., 2000001430; Home of the Innocents, Kentucky Coalition Against Domestic Violence, Children Medical Group, LLC, 2000003468; Prevent 2000001457; Maryhurst, Inc., 2000001473; Inc., 2000001802; University of Kentucky Research Child Abuse Kentucky, 2000003480; Family Scholar Louisville Jefferson County Metro Government, Foundation, 2000001835; Kentucky Association of House, Inc., 2000003496; University of Kentucky 2000001475; Kentucky Housing Corporation, Sexual Assault Programs, 2000001992; Family and Research Foundation, 2000003507; Comm. Action 2000001485; Opportunity Workshop of Lexington and Learning, 2000001489; Catholic Charities of Children First, 2000002219; Home of the Innocents, Lexington Fayette, 2000003731.



DEPARTMENT FOR ENVIRONMENTAL  
PROTECTION

Morehead State University, 2000001847;  
Oldham County Fiscal Court, 2000002514; United  
States Department of the Interior, 2000002856.

DEPARTMENT FOR FAMILY RESOURCE  
CENTERS & VOLUNTEER SERVICES

Multi, 2000002172; Multi, 2000002403; Multi,  
2000003115.

DEPARTMENT FOR INCOME SUPPORT

State of Rhode Island Department of Human  
Services, 2000003325.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Crofton, 2000001481; Lewis County,  
2000001826; City of Dawson Springs, 2000002369;  
City of Caneyville, 2000002400; Mountain  
Comprehensive Care Center, 2000002531; City of  
Monticello, 2000003112; Pulaski County Fiscal  
Court, 2000003225; Edmonson County Fiscal Court,  
2000003495; Barren River Area Development District,  
2000003732; Big Sandy Area Development District,  
2000003733; Bluegrass Area Development District,  
2000003734; Buffalo Trace Area Development  
District, 2000003735; Cumberland Valley Area  
Development District, 2000003736; Fivco Area  
Development District, 2000003737; Gateway Area  
Development District, 2000003738; Green River  
Area Development District, 2000003739; Kentucky  
River Area Development District, 2000003740;  
Kentuckiana Regional Planning & Development

Agency, 2000003741; Lake Cumberland Area  
Development District, 2000003742; Lincoln Trail  
Area Development District, 2000003743; Northern  
Kentucky Area Development District, 2000003744;  
Pennyrile Area Development, 2000003745; Purchase  
Area Development District, Inc., 2000003746; City  
of Owingsville, 2000003857; City of Mt. Sterling,  
2000003872; City of Prospect, 2000003880;  
City of Wilder, 2000003937; City of Bardstown,  
2000003998; Adair County, 2000004016; Scott  
County Fiscal Court, 2000004031; Lyon County  
Fiscal Court, 2000004047; Nicholas County Fiscal  
Court, 2000004049; Ballard County, 2000004051;  
City of Coal Run Village, 2000004056; City of Fort  
Mitchell, 2000004085; City of Hazard, 2000004099;  
Butler County Fiscal Court, 2000004105; City  
of Stanford, 2000004110; City of Williamstown,  
2000004150; City of Cynthiana, 2000004164;  
Montgomery County Treasurer, 2000004168; Harrison  
County Treasurer, 2000004207; Mason County,  
2000004218; Hart County Treasurer, 2000004219;  
City of Alexandria, 2000004222; City of Audubon  
Park, 2000004265; Whitley County Fiscal Court,  
2000004291; City of Middlesboro, 2000004327;  
Anderson County Treasurer, 2000004363; City of  
Pikeville, 2000004365; Graves County, 2000004367;  
Hancock County, 2000004369; Lexington Fayette  
Urban County Government, 2000004393; Rowan  
County Fiscal Court, 2000004396; City of Dixon,  
2000004399; City of Erlanger, 2000004439; City of  
Madisonville, 2000004448.

DEPARTMENT FOR MEDICAID SERVICES

Multi, 2000001376; University of Kentucky  
Research Foundation, 2000001480; University  
of Kentucky Research Foundation, 2000001660;  
University of Kentucky Research Foundation,  
2000002169; University of Kentucky Research  
Foundation, 2000002181; University of Kentucky  
Research Foundation, 2000002194; University  
of Kentucky Research Foundation, 2000002586;  
University of Louisville Research Foundation,  
2000003079; University of Louisville Research  
Foundation, 2000003956; University of Kentucky  
Research Foundation, 2000003959; University  
of Louisville Research Foundation, 2000004003;  
University of Louisville Research Foundation,  
2000004004; University of Louisville Research  
Foundation, 2000004005; University of Kentucky  
Research Foundation, 2000004006; University  
of Louisville Research Foundation, 2000004008;  
University of Louisville Research Foundation,  
2000004011; University of Kentucky Research  
Foundation, 2000004018; University of Kentucky  
Research Foundation, 2000004029; University  
of Louisville Research Foundation, 2000004035;  
University of Kentucky Research Foundation,  
2000004046; Western Kentucky University Research  
Foundation, 2000004096; University of Kentucky  
Research Foundation, 2000004151; University  
of Kentucky Research Foundation, 2000004152;  
University of Kentucky Research Foundation,

2000004187; United Way of the Bluegrass, 2000001977; University of Kentucky Research 2000002905; University of Louisville Research  
2000004244; University of Louisville Research Foundation, 2000001983; University of Kentucky Foundation, 2000002908; Community Medical  
Foundation, 2000004246. Research Foundation, 2000002154; Saint Joseph Associates, Inc., Norton's South Children Medical

DEPARTMENT FOR NATURAL RESOURCES

Department for Environmental Protection, of Kentucky Research Foundation, 2000002263; St. Foundation, 2000002919; University of Kentucky  
2000002268; Southeast Kentucky Community and Claire Medical Center, Inc., 2000002300; Kentucky Research Foundation, 2000002954; Lincoln Trail  
Technical College, 2000003017; Hazard Community Hospital Research & Education Foundation, Area Development District, 2000002986; University  
and Technical College, 2000003042; Kentucky 2000002308; National Jewish Health, 2000002322; of Kentucky Research Foundation, 2000002989;  
Department of Fish and Wildlife Resources, University of Kentucky Research Foundation, Community Medical Associates, Inc., Norton's  
2000003053. 2000002380; University of Kentucky Research South Children Medical Group, LLC, 2000003024;

DEPARTMENT FOR PUBLIC ADVOCACY

University of Kentucky Research Foundation, Research Foundation, 2000002460; University 2000003041; University of Kentucky Research  
2000003392. of Kentucky Research Foundation, 2000002475; Foundation, 2000003085; University of Kentucky

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, Research Foundation, 2000003140; University  
Park Duvalle Neighborhood Health Center, 2000002513; University of Louisville Research of Louisville Research Foundation, 2000003185;  
2000001509; Community Medical Associates, Inc. Foundation, 2000002565; Multi, 2000002610; University of Louisville Research Foundation,  
Norton's South Children Medical Group, LLC, University of Louisville Research Foundation, 2000003186; University of Louisville Research  
2000001556; University of Kentucky Research 2000002641; University of Kentucky Research Foundation, 2000003187; University of Louisville  
Foundation, 2000001584; DMA Kentucky Foundation, 2000002682; University of Kentucky research Foundation, 2000003189; University of  
Community Crisis Board, 2000001595; University Research Foundation, 2000002718; University Louisville Research Foundation, 2000003190;  
of Kentucky Research Foundation, 2000001602; of Kentucky Research Foundation, 2000002734; University of Kentucky Research Foundation,  
University of Louisville Research Foundation, University of Kentucky, 2000002755; Kentuckiana 2000003191; Emory University, 2000003213; Aids  
2000001645; Kentucky Pharmacy Education Health Collaborative, 2000002763; University Volunteers, Inc., 2000003228; University of Kentucky  
and Research Foundation, Inc., 2000001673; of Kentucky Research Foundation, 2000002767; Research Foundation, 2000003549; University of  
University of Kentucky Research Foundation, University of Kentucky Research Foundation, Kentucky Research Foundation, 2000003610; Norton  
2000001688; University of Louisville Research 2000002769; University of Louisville Research Healthcare, 2000003861; Big Sandy Health Care, Inc.,  
Foundation, 2000001873; St. Elizabeth Medical Foundation, 2000002779; University of Louisville 2000003951; University of Kentucky, 2000004104;  
Center, 2000001958; Ashland Hospital Corporation, Research Foundation, 2000002843; University Brighton Center, Inc., 2000004153.  
2000001959; Community Action Kentucky, Inc., of Kentucky Research Foundation, 2000002887;  
2000001962; Community Health Clinic, Inc., University of Kentucky Research Foundation,

<u>DEPARTMENT FOR WORKFORCE INVESTMENT</u>	<u>DEPARTMENT OF CORRECTIONS</u>	2000002473; Boyle County Board of Education,
Morehead State University, 2000001732; University of Kentucky Research Foundation, 2000001756; Mattingly Center, Inc., 2000001866; Build Inclusion, Inc., 2000001868; University of Kentucky Research Foundation, 2000001922; University of Kentucky Research Foundation, 2000002010; Jobs for Kentucky's Graduates, 2000002711; Department for Aging and Independent Living, 2000002712; University of Kentucky Research Foundation, 2000002795; University of Kentucky Research Foundation, 2000003401; University of Kentucky Research Foundation, 2000003587; The Council of State Governments, 2000003598; Kentucky Valley Education, 2000003782; Kentucky Educational Development Corporation, 2000003837; Green River Regional Educational, 2000003850; Carl D. Perkins Vocational Training Center, 2000003859; Central Kentucky Educational Cooperative, 2000004027; Ohio Valley Educational Cooperative, 2000004185.	Hope Center, 2000001318; Breckinridge County, 2000001535; Bullitt County Fiscal Court, 2000001537; Christian County Jail, 2000001540; Fulton County, 2000001544; Henderson County, 2000001563; Hopkins County, 2000001565; Laurel County, 2000001642; Marion County, 2000001653; Three Fork Regional Jail, 2000001661; Mason County, 2000001662; Powell County Fiscal Court, 2000001666; Grant County Fiscal Court, 2000001669; Lake Cumberland Mental Health Mental Retardation Board, 2000002286; Green River Regional MHMR Board, Inc., 2000002287; Pennyroyal Regional Mental Health Mental Retardation Board, 2000002288; Lifeskills, Inc., 2000002292; Seven Counties Services, Inc., 2000002298; Center for Employment Opportunities, Inc., 2000003155; Chrysalis House, Inc., 2000003321; Kentucky Community and Technical College System, 2000003510; Hope Center, 2000003728; University of Kentucky Research Foundation, 2000003729; University of Kentucky Research Foundation, 2000003772; Kentucky Transportation Cabinet, 2000004253.	2000002650; Fayette County Board of Education, 2000002654; Berea Independent Board of Education, 2000002662; Knox County Board of Education, 2000002673; Shelby County Board of Education, 2000002674; Fayette County Board of Education, 2000002694; Science Hill Independent School District, 2000002697; Franklin County Board of Education, 2000002719; Kentucky Educational Development Corporation, 2000002722; Berea Independent Board of Education, 2000002723; Lincoln County Board of Education, 2000002724; Bell County Board of Education, 2000002725; Green County Board of Education, 2000002726; Pulaski County Board of Education, 2000002727; Jefferson County Board of Education, 2000002729; Knox County Board of Education, 2000002737; Jefferson County Board of Education, 2000002739; Madison County Board of Education, 2000002744; Lincoln County Board of Education, 2000002752; Bullitt County Board of Education, 2000002777; Jefferson County Board of Education, 2000002781; Jefferson County Board of Education, 2000002783; Jefferson County Board of Education, 2000002785; Kentucky Educational Development Corporation, 2000002787; Montgomery County Board of Education, 2000002788; Glasgow Independent School District, 2000002789; Kentucky Valley Education, 2000002791; Lincoln County Board of Education, 2000002799; Jefferson County Board of Education,
<u>DEPARTMENT OF AGRICULTURE</u>	<u>DEPARTMENT OF CRIMINAL JUSTICE TRAINING</u>	
University of Kentucky Research Foundation, 2000002452; Northern Kentucky Area Development District, 2000003770; Feeding America, Kentucky's Heartland, 2000003774; Dare To Care, Inc., 2000003776; Gods Pantry Food Bank, Inc., 2000003777; Purchase Area Development District, Inc., 2000003778; Tri State Food Bank, Inc., 2000003779.	Bluegrass Community and Technical College, 2000002398.	
	<u>DEPARTMENT OF EDUCATION</u>	
	Northern Kentucky University, 2000002428; University of Kentucky Research Foundation,	



2000002807; Kentucky Educational Development Corporation, 2000002809; Shelby County Board of Education, 2000002810; Casey County Board of Education, 2000002812; Shelby County Board of Education, 2000002817; Jefferson County Board of Education, 2000002820; Montgomery County Board of Education, 2000002821; Owensboro Independent School District, 2000002825; Clark County Board of Education, 2000002830; Covington Independent School District, 2000002832; Bullitt County Board of Education, 2000002835; Campbell County Board of Education, 2000002844; Jefferson County Board of Education, 2000002845; Fulton County Board of Education, 2000002850; Kentucky Educational Development Corporation, 2000002854; Green County Board of Education, 2000002860; Montgomery County Board of Education, 2000002862; Fayette County Board of Education, 2000002863; Jefferson County Board of Education, 2000002866; Trigg County Board of Education, 2000002867; Marion County Board of Education, 2000002868; Jefferson County Board of Education, 2000002869; Estill County Board of Education, 2000002870; Kentucky Educational Development Corporation, 2000002873; Hardin County Board of Education, 2000002875; Jefferson County Board of Education, 2000002878; Jefferson County Board of Education, 2000002879; Jefferson County Board of Education, 2000002880; Fayette County Board of Education, 2000002881; Kentucky Valley Education, 2000002884; Northern Kentucky Cooperative for Educational Services, Inc., 2000002885; Mason County Board of Education, 2000002895; Meade County Board of Education, 2000002897; Elliott County Board of Education, 2000002899; Fayette County Board of Education, 2000002903; Meade County Board of Education, 2000002906; Grayson County Board of Education, 2000002914; Ohio County Board of Education, 2000002926; Paducah Independent School District, 2000002927; Russell County Board of Education, 2000002931; Harlan County Board of Education, 2000002944; Ohio Valley Educational Cooperative, 2000002948; Jefferson County Board of Education, 2000002963; Larue County Board of Education, 2000002967; Anderson County Board of Education, 2000002974; Logan County Board of Education, 2000003035; Madison County Board of Education, 2000003037; Marshall County Board of Education, 2000003038; Martin County Board of Education, 2000003039; Department of Corrections, 2000003047; Adair County Board of Education, 2000003065; Newport Independent School District, 2000003067; Owensboro Independent School District, 2000003069; Anderson County Board of Education, 2000003073; University of Louisville Research Foundation, 2000003107; University of Kentucky Research Foundation, 2000003108; Pulaski County Board of Education, 2000003121; Ashland Board of Education, 2000003158; Calloway County Board of Education, 2000003159; Simpson County Board of Education, 2000003160; Kentucky Community and Technical College System, 2000003183; Simpson County Board of Education, 2000003207; Ashland Board of Education, 2000003224; Scott County Board of Education, 2000003235; Bourbon County Board of Education, 2000003273; Barren County Board of Education, 2000003320; Whitley County Board of Education, 2000003340; Christian County Board of Education, 2000003350; Jefferson County Board of Education, 2000003358; Jefferson County Board of Education, 2000003363; Clay County Board of Education, 2000003370; Eastern Kentucky University, 2000003372; Kentucky Community and Technical College System, 2000003373; Caldwell County Board of Education, 2000003428; Fairview Independent School District, 2000003432; Fayette County Board of Education, 2000003433; Mayfield Independent School District, 2000003435; Pike County Board of Education, 2000003436; Eastern Kentucky University, 2000003446; Indiana University, 2000003452; Jefferson County Board of Education, 2000003551; Jefferson County Board of Education, 2000003577; Barren County Board of Education, 2000003582; Marion County Board of Education, 2000003583; Allen County Board of Education, 2000003616; Ashland Board of Education, 2000003617; Ballard County Board of Education, 2000003618; Barren County Board of Education, 2000003619; Berea Independent Board of Education,

2000003620; Bethune Institute Education County Board of Education, 2000003697; Livingston 2000003911; Teach for America, 2000004020; Corporation, 2000003621; Bourbon County Board of County Board of Education, 2000003698; Ludlow Harrison County Board of Education, 2000004069; Education, 2000003622; Boyd County Board of Independent School District, 2000003699; Martin Letcher County Board of Education, 2000004075; Education, 2000003625; Boys & Girls Club of County Board of Education, 2000003700; Mayfield Lincoln County Board of Education, 2000004076; Greater Cincinnati, 2000003626; Bracken County Independent School District, 2000003701; Logan County Board of Education, 2000004097; Board of Education, 2000003627; Bullitt County McCracken County Board of Education, 2000003702; Boyd County Board of Education, 2000004114; Board of Education, 2000003628; Campbell County Menifee County Board of Education, 2000003703; Carter County Board of Education, 2000004115; Board of Education, 2000003629; Casey County Metcalfe County Board of Education, 2000003704; Covington Independent School District, 2000004119; Board of Education, 2000003630; Christian County Middlesboro Independent School District, Fleming County Board of Education, 2000004122; Board of Education, 2000003638; Clinton County 2000003705; Monroe County Board of Education, Henderson County Board of Education, 2000004127; Board of Education, 2000003640; Cloverport 2000003706; Nelson County Board of Education, Lewis County Board of Education, 2000004133; Independent School District, 2000003642; Corbin 2000003707; Newport Independent School District, Livingston County Board of Education, 2000004134; Independent School District, 2000003643; Covington 2000003708; Owensboro Independent School Marshall County Board of Education, 2000004136; Independent School District, 2000003645; Crittenden District, 2000003709; Paris Independent School Nelson County Board of Education, 2000004410; County Board of Education, 2000003646; Cumberland District, 2000003711; Pendleton County Board of Pike County Board of Education, 2000004419.

County Board of Education, 2000003647; Family and Education, 2000003712; Save the Children DEPARTMENT OF JUVENILE JUSTICE Children S Place, Inc., 2000003656; Fayette County Federation, Inc., 2000003714; Spencer County Board University of Kentucky, 2000001818; Kentucky Board of Education, 2000003678; Fulton Independent of Education, 2000003715; Taylor County Board of Department of Education, 2000001859; Bullitt Board of Education, 2000003679; Glasgow Education, 2000003716; Washington County Board County Board of Education, 2000002987; Calloway Independent School District, 2000003681; Grayson of Education, 2000003717; Wayne County Board of County Board of Education, 2000002991; Campbell County Board of Education, 2000003682; Greenup Education, 2000003718; Webster County Board of County Board of Education, 2000002995; Clark County Board of Education, 2000003684; Hardin Education, 2000003719; Williamstown Board of County Board of Education, 2000002999; Corbin County Board of Education, 2000003685; Harlan Education, 2000003720; Whitley County Board of Independent School District, 2000003001; Hopkins County Board of Education, 2000003687; Harlan Education, 2000003721; Wolfe County Board of County Board of Education, 2000003002; Knox Independent School District, 2000003689; Harrison Education, 2000003722; Global Game Changers County Board of Education, 2000003005; Franklin County Board of Education, 2000003690; Henderson Children’s Education Initiative, Inc., 2000003775; County Board of Education, 2000003009; Laurel County Board of Education, 2000003691; Jefferson Murray State University, 2000003890; Magoffin County Board of Education, 2000003020; Madison County Board of Education, 2000003692; Johnson County Board of Education, 2000003904; Kentucky County Board of Education, 2000003022; Mercer County Board of Education, 2000003693; Leslie School Board Association Educational Foundation, County Board of Education, 2000003025; Ohio County Board of Education, 2000003694; Lincoln Inc., 2000003905; Eastern Kentucky University, County Board of Education, 2000003028; Pike

County Board of Education, 2000003029; Pulaski	Kentucky, 2000003443; Unlawful Narcotics	Pennyrile Area Development, 2000004088; Purchase
County Board of Education, 2000003030; Shelby	Investigations Treatment and Education, 2000003445;	Area Development District, Inc., 2000004092.
County Board of Education, 2000003031; Warren	Unlawful Narcotics Investigations Treatment and	<u>NORTHERN KENTUCKY UNIVERSITY</u>
County Board of Education, 2000003032; University	Education, 2000003447; Kentucky Association of	Central Campbell County Fire District, 2022-
of Kentucky, 2000003797.	Sexual Assault Programs, 2000003448; Kentucky	116.
<u>DEPARTMENT OF MILITARY AFFAIRS</u>	Coalition Against Domestic Violence, Inc.,	<u>OFFICE OF ADMINISTRATIVE SERVICES</u>
University of Kentucky Research Foundation,	2000003449; Kentucky Casa Network, 2000003450;	Kentucky Labor Cabinet, 2000003361.
1900004336; Multi, 2000001514; Louisville &	University of Louisville, 2000003451; Kentucky	<u>PERSONNEL - OFFICE OF THE SECRETARY</u>
Jefferson MSD, 2000002433; Oldham County Fiscal	Medical Services Foundation, Inc., 2000003453.	University of Kentucky, 2000002498; Kentucky
Court, 2000002803; Fort Knox Community Schools	<u>KENTUCKY HIGHER EDUCATION</u>	Medical Services Foundation, Inc., 2000002786.
Food Service, 2000003367; Eminence Independent	<u>ASSISTANCE AUTHORITY</u>	<u>PUB PROTECTION - OFFICE OF THE</u>
Board of Education, 2000003844.	Kentucky Higher Education Student Loan	<u>SECRETARY</u>
<u>DEPARTMENT OF REVENUE</u>	Corporation, 2000003931; Asset Resolution	Community Action Kentucky, Inc., 2000003394.
Multistate Tax Commission, 2000003229.	Corporation, 2000003933.	<u>TRANSPORTATION - OFFICE OF THE</u>
<u>DEPARTMENT OF VETERANS AFFAIRS</u>	<u>KENTUCKY HIGHER EDUCATION</u>	<u>SECRETARY</u>
North Fork Valley Community Health,	<u>STUDENT LOAN CORPORATION</u>	University of Kentucky Research Foundation,
2000001836; North Fork Valley Community Health,	Kentucky Higher Education Assistance	2000002173; Kentucky Transportation Center,
2000001994.	Authority, 21-005; Asset Resolution Corporation, 21-	2000002592; University of Kentucky Research
<u>DEPARTMENT OF WORKPLACE</u>	007.	Foundation, 2000002653; University of Louisville
<u>STANDARDS</u>	<u>KY INFRASTRUCTURE AUTHORITY</u>	Research Foundation, 2000002667; Commonwealth
Department for Public Health, 2000002432.	Bluegrass Area Development District,	Office of Technology, 2000002756.
<u>ECON DEV - OFFICE OF THE SECRETARY</u>	2000004052; Barren River Area Development	<u>UNIVERSITY OF KENTUCKY</u>
Kentucky Science and Technology Corporation,	District, 2000004061; Cumberland Valley Area	Gateway Community & Technical College, 001-
2000003147; University of Kentucky Research	Development District, 2000004067; Green River Area	21; Southeast Kentucky Community & Technical
Foundation, 2000003148.	Development District, 2000004079; Kentuckiana	College, 002-21.
<u>HORSE RACING COMMISSION</u>	Regional Planning & Development Agency,	<u>THE FOLLOWING MEMORANDA</u>
University of Kentucky Research Foundation,	2000004081; Kentucky River Area Development	<u>OF AGREEMENT AMENDMENTS WERE</u>
2000001858.	District, 2000004082; Lake Cumberland Area	<u>REVIEWED WITHOUT OBJECTION:</u>
<u>JUSTICE - OFFICE OF THE SECRETARY</u>	Development District, 2000004083; Lincoln Trail	<u>ADMINISTRATIVE OFFICE OF THE</u>
Kentucky Access To Justice Commission,	Area Development District, 2000004084; Northern	<u>COURTS</u>
2000001819; Childrens Advocacy Centers of Kentucky	Area Development District, 2000004087;	National Center for State Courts, 1900004405;



Lifeskills, Inc., 1900004721; Brian D. Bohannon, 2000001217.	<u>DEPARTMENT OF EDUCATION</u>	2000003955; Milliman, Inc., 2000003994; Myers and Stauffer, LLC, 2000004039. Lisa Lee and Stephanie
<u>CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING</u>	Indiana University, 1900004488; Kentucky Community and Technical College System, 1900004796; Morehead State University, 1900004797; Western Kentucky University, 1900004984.	Bates discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed.
Multi, 1900000816.		
<u>CHFS - OFFICE OF THE SECRETARY</u>	<u>DEPARTMENT OF MILITARY AFFAIRS</u>	<u>DEPARTMENT FOR WORKFORCE INVESTMENT</u>
University of Kentucky, 2000000403.	Multi, 1100001569; Multi, 1200003933; Multi, 1200003957; Multi, 1300000008; Multi, 1300000009; Multi, 1600001190; Multi, 1700000001; Multi, 1700000329; Multi, 1700000330; Multi, 1700001334; Multi, 1800000505.	Ernst and Young, LLP, 2000004458. Amy Cubbage discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.
<u>DEPARTMENT FOR COMMUNITY BASED SERVICES</u>	<u>EDUCATION - OFFICE OF THE SECRETARY</u>	<u>DEPARTMENT OF CORRECTIONS</u>
Community Action Kentucky, Inc., 1900003964; Multi, 1900004189.	Kentucky Entrepreneurship Education Network, Inc., 1900000853.	Wellpath, LLC, 2000003760. Cookie Crews and Hillarye Dailey discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Hart seconded the motion, which passed.
<u>DEPARTMENT FOR LOCAL GOVERNMENT</u>	<u>KY INFRASTRUCTURE AUTHORITY</u>	<u>KENTUCKY LOTTERY CORPORATION</u>
Pike County Fiscal Court, 1900002990.	Mountain Water District, 0900012076; Mountain Water District, 1400001558; City of Providence, 1600001250; City of Campton, 1700001554; Mountain Water District, 1700001956.	Ellen Williams, 21-19-018-1. Mike Denney, Jennifer Luhrs, and Mary Harville discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Representative Hart seconded the motion, which passed with Senator Hornback and Representative Fugate voting no.
<u>DEPARTMENT FOR PUBLIC HEALTH</u>	<u>THE FOLLOWING FILM TAX INCENTIVES WERE REVIEWED WITHOUT OBJECTION:</u>	
Heartland Cares, Inc., 1800001772; Matthew 25 Aids Services, Inc., 1800002098; University of Louisville Research Foundation, 1800002133; Multi, 1900004358; Go-Hire Employment and Development, Inc., 2000001850.	<u>TOURISM - OFFICE OF THE SECRETARY</u>	
<u>DEPARTMENT FOR WORKFORCE INVESTMENT</u>	<u>THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:</u>	
Department for Aging and Independent Living, 1900002848.	<u>DEPARTMENT FOR MEDICAID SERVICES</u>	
<u>DEPARTMENT OF AGRICULTURE</u>	Myers and Stauffer, LLC, 2000003615; Wakely Consulting Group, 2000003854; Fairbanks, LLC,	Right Brother Aviation, LLC, 2000003611. Missy Weitzel, Jimmy Young, Michael Rogers, and PJ Burnett discussed the contract with the committee.
Multi, 1900003210; Dare To Care, Inc., 2000001368; Gods Pantry Food Bank, Inc., 2000001369; Feeding America, Kentucky's Heartland, 2000001370; Tri State Food Bank, Inc., 2000001371; Northern Kentucky Area Development District, 2000001372; Purchase Area Development District, Inc., 2000001375.		

<p>A motion was made by Representative Fugate to consider the contract as reviewed. Representative Hart seconded the motion, which passed with Senator Hornback and Representative Booker voting no.</p>	<p>by Representative Hart to disapprove the contracts. Senator Meredith seconded the motion, which passed with Representative Booker voting no.</p>	<p>Education, 2000002686; Jefferson County Board of Education, 2000002695; Fayette County Board of Education, 2000002703; Jefferson County Board of Education, 2000002720. Robin Kinney, Karen</p>
<p><u>PERSONNEL - OFFICE OF THE SECRETARY</u></p> <p>Cannon Cochran Management Services, Inc., 2000002973. Sharon Burton, Donna Shelton, Alan Hurst, and Tracy Gritton discussed the contract with the committee. A motion was made by Senator Hornback to defer the contract to the August meeting of the committee. Representative Lee seconded the motion, which passed.</p>	<p><u>CHFS - OFFICE OF THE SECRETARY</u></p> <p>University of Kentucky Research Foundation, 2000003082. Robert Putt, Maik Schutze, and Astrud Masterson discussed the contract with the committee. A motion was made by Representative Hart to defer the contract to the August meeting of the committee. Senator Meredith seconded the motion, which passed.</p>	<p>Wirth, David Horseman, Pamela Moore, and Rhonda Sims discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Representative Fugate seconded the motion, which passed.</p>
<p><u>THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:</u></p> <p><u>KENTUCKY FISH AND WILDLIFE RESOURCES</u></p>	<p><u>DEPARTMENT FOR MEDICAID SERVICES</u></p> <p>University of Louisville Research Foundation, 2000002892; University of Kentucky Research Foundation, 2000003157. Lisa Lee and Stephanie Bates discussed the contracts with the committee. A motion was made by Representative Hart to consider the contracts as reviewed. Senator Meredith seconded the motion, which passed.</p>	<p><u>OFFICE OF HEALTH DATA AND ANALYTICS</u></p> <p>Multi, 2000002226. Edith Slone and Robert Putt discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Lee seconded the motion, which passed with Senator Wheeler and Representative Hart voting no.</p>
<p>Richard M. Storm, 1900003376. Lisa Cox, Mike Berry, Chris Reece, and Sarah Cronan discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.</p>	<p><u>DEPARTMENT FOR PUBLIC HEALTH</u></p> <p>Multi, 2000002243; Multi, 2000002244; Multi, 2000002245; Multi, 2000002936; Multi, 2000002953; Multi, 2000003015. Mike Tuggle, Tricia Okeson, and Astrud Masterson discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Fugate seconded the motion, which passed.</p>	<p><u>EXEMPTION REQUEST</u></p> <p><u>OFFICE OF HOMELAND SECURITY</u></p> <p>The Office of Homeland Security requested an exemption from the committee’s routine process for all agreements issued as instruments of obligation for funds under State and Federal Homeland Security Grant Programs. A motion was made by Senator Meredith to grant the request to June 30, 2022. Representative Fugate seconded the motion, which passed without objection.</p>
<p><u>THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:</u></p>		
<p><u>CHFS - OFFICE OF THE SECRETARY</u></p> <p>Department of Facilities, 2000002093; Office of Procurement Services, 2000002542. Astrud Masterson and Tom Stratton discussed the contracts with the committee. A motion was made</p>	<p><u>DEPARTMENT OF EDUCATION</u></p> <p>Jefferson County Board of Education, 2000002661; Jefferson County Board of Education, 2000002676; Frankfort Independent School District, 2000002685; Madison County Board of</p>	<p>There being no further business, the meeting adjourned at 1:00PM.</p> <p><b>MEDICAID OVERSIGHT AND ADVISORY COMMITTEE</b>  <b>Minutes of the Meeting of the 2020 Interim</b>  July 29, 2020  <b>Call to Order and Roll Call</b>  The meeting of the Medicaid Oversight and Advisory Committee was held on Wednesday, July 29, 2020, at 3:15 PM, in Room 171 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.  Present were:  <b>Members:</b> Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph</p>

Alvarado, Danny Carroll; Representatives Jim Gooch Jr., Steve Sheldon, and Lisa Willner.

**Guests:** Jessin Joseph, Pharmacy Director, Lisa Lee, Commissioner, Department for Medicaid Services, Eric Friedlander, Secretary, Carrie Banahan, Senior Policy Advisor, Cabinet for Health and Family Services.

**LRC Staff:** Chris Joffrion, Lead Staff, Hillary McGoodwin, and Shyan Stivers.

#### **Update on the Legend Drug Repository Program**

Jessin Joseph, Pharmacy Director, Department for Medicaid Services (DMS), Cabinet for Health and Family Services, provided a follow up to the June meeting presentation on the Legend Drug Repository Program. DMS had reached out to the Centers for Medicare and Medicaid Services (CMS), and CMS stated that while the drug repository is a good idea and is active in several states, the program would have to exclude Medicaid recipients. Drugs in the Medicaid program are paid for with federal funds and cannot be repurposed for use outside the Medicaid program. Additionally, per the rule published in the federal register, if there is a drug dispensing fee, there needs to be a rebate agreement with the drug manufacturer. Since DMS cannot claim a rebate on legend drugs, CMS told DMS that Medicaid members would have to be excluded.

In response to questions from Chairman Elliott, Mr. Joseph stated that CMS recognized the success of this program in other states for non-Medicaid members when pressed by DMS on the possibility of a Medicaid drug repository program.

#### **Legislative Update: 2018 RS HB69, 2020 RS SB50, and 2020 RS HB8**

Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that regarding HB 69, DMS developed and released a Request for Proposals for a single organization as a credentialing verification organization. A contract was awarded on June 30, 2020, and the award is currently under protest.

Commissioner Lee stated that regarding SB 50, the anticipated contract date is January 1, 2021, and that DMS will ensure proper communication is given to providers, members, and managed care organizations (MCOs) as we transfer to a single MCO pharmacy benefit manager (PBM). The PBM is subject to CMS approval. Medicaid MCO have received the clinical criteria for the Medicaid prescriptions single preferred drug list. All MCOs and Medicaid fee-for-service will be utilizing the same single preferred drug list on January 1, 2021.

Commissioner Lee stated that DMS has biweekly team meetings working to implement HB 8. DMS has finalized a provider revenue survey, and the department has a target implementation date of January 1, 2021. Commissioner Lee added that the program's final design requires the approval of a state plan amendment by CMS and amendments to associated regulations.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that all contractors would have fiduciary responsibility and are expected to adhere to the law as outlined in SB 50.

In response to questions and comments from Senator Alvarado, Commissioner Lee stated that DMS is taking precautions to ensure no data breach will occur.

In response to questions and comments from Representative Sheldon, Commissioner Lee stated that every contractor is expected to work ethically and is held accountable.

#### **Update on Plans to Transition to a State-Based Health Insurance Exchange**

Eric Friedlander, Secretary, Cabinet for Health and Family Services, stated that on June 16, 2020, Governor Beshear announced a plan to move Kentucky back to a state-based health insurance exchange. Savings will be achieved by eliminating the federal exchange user fee, which was \$15.2 million in 2019. Carrie Banahan, Senior Policy Advisor, Cabinet for Health and Family Services, stated that the federal exchange user fee has been included in Kentuckians' premium amounts to pay for the federal system and call center.

Ms. Banahan stated that in addition to eliminating the federal user fee, benefits of transitioning to a state-based exchange are found in retention of the fee in-state to reduce premiums for residents, improvements in administrative efficiencies, and the use of savings towards a state reinsurance pool. Nevada, New Jersey, New Mexico, and Pennsylvania are all states that will also be transitioning from a federal-based exchange to a state-based exchange. Secretary Friedlander stated that an additional benefit of a state-based exchange would be integrating with the Medicaid program, which will offer a single door to access coverage. Secretary Friedlander added that by providing local control, the state would better serve the client's and provider's needs.

Ms. Banahan stated that there would be a one-time system cost for updates and new coding of \$5 million, with the ongoing operational cost being \$1 million to \$2 million. The state-based health insurance exchange costs will be allocated with all public assistance programs for system and IT costs and with Medicaid for call center operations, education, and outreach, resulting in an overall reduction in costs.

Secretary Friedlander stated that a declaration letter of intent was sent to CMS on June 16, 2020, to transition to a state-based exchange beginning January 2022. The upcoming scheduled planning activities include: hosting joint design sessions, meeting with insurers, agents, and other stakeholders, establishing a governing structure, scheduling bi-weekly meetings with CMS, and updating the state-based exchange blueprint application.

In response to questions and comments from Representative Elliott, Secretary Friedlander stated that there are no available federal funds to transition to a state-based program.

In response to questions and comments from Senator Meredith, Ms. Banahan stated that there both user fee savings and 1332 waiver savings in the transition from a federal exchange. Ms. Banahan stated that there are no new outside contractors or consultants needed and that Deloitte will be rebuilding the system on a contract that was extended, for a one-time fee of \$5 million.

In response to questions and comments from Senator Alvarado, Ms. Banahan stated that no Medicaid funds would be used to fund the transition. The cost savings from the transition will be allocated across all programs.

In response to questions and comments from Senator Carroll, Ms. Banahan stated that the concerns with Deloitte's track record are understandable. There are mechanisms in place in the contract extension to hold them accountable.

In response to questions and comments from Representative Elliott, Secretary Friedlander stated that the COVID-19 pandemic presumptive eligibility participants would not be precluded from qualifying from full Medicaid eligibility. The presumptive eligibility status will be treated like a major qualifying event for Medicaid which authorizes a person to apply for full benefits.

#### **Adjournment**

With there being no further business, the meeting was adjourned at 4:25 pm.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE Minutes of the Meeting of the 2019 Interim December 9, 2019**

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

The meeting of the Medicaid Oversight and Advisory Committee was held on Monday, December 9, 2019, 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 Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Jimmy Higdon, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

**Guests:** Representative Danny Bentley Representative Adam Bowling; Representative Joni Jenkins; Representative Stan Lee; Representative Kim Moser; Bill Marshall, Jiseki Health; Alison Moore, Jiseki Health; Tushar Vasisht, CEO Jiseki Health; Sonny Patel, Chief Business Development Officer, Jiseski Health; Chandra Nagaraja, Chief Technology Officer, Jiseki Health; Secretary Adam Meier, Cabinet for Health and Family Services; Jonathan Scott, Department for Medicaid Services, Cabinet for Health and Family Services; Angela Parker, Director Division of Program Quality and Outcomes, Department for Medicaid Services, Cabinet for Health and Family Services.

**LRC Staff:** Chris Joffrion, Becky Lancaster, Hillary McGoodwin, Dana Simmons, and DeeAnn Wenk.

#### **Approval of Minutes**

A motion to approve the November 18, 2019 meeting minutes was made by Senator Alvarado and seconded by Representative Sheldon, and approved by a voice vote.

#### **Telehealth Platform for the Medicaid Expansion Population**

Bill Marshall, Account Manager, Jiseki Health, presented on a possible whole healthcare delivery system for Medicaid recipients. Joined over teleconference, Tushar Vasisht, CEO, Jiseki Health stated that Jiseki's product of Wi-Fi and phone based healthcare would have a projected 30 percent savings to the state's Medicaid budget. If the recipient has a phone, they will get care and unlike discipline specific telehealth, Jiseki's product will be a one stop shop for all care needs. The Jiseki product will have connections to general practitioners, specialists for issues like psychiatry, endocrinology, and help for chronic illnesses that are often prevalent in the Medicaid population. The whole health approach saves the state money by reducing the need for multiple healthcare telehealth platforms.

In response to questions from Representative Gibbons-Prunty, Mr. Vasisht stated that the mention of gambling companies in the PowerPoint was a reference to corporate partners who help make the platform accessible. They were not mentioned to imply that there is a gaming component to their product.

In response to questions from Senator Higdon, Mr. Vasisht stated that the 80 million dollars savings mentioned in the presentation is the estimated dollar amount of the 30 percent cost savings. Mr. Vasisht stated that he would be happy to provide Senator Higdon and other members of the committee with more detailed cost-savings analysis.



In response to questions and comments from Senator Alvarado, Mr. Marshall stated that a patient's provider preference will be included and that Jiseki's delivery system is a collaborative approach to care versus an insurance direct care system.

#### **Discussion on Pharmacy Benefits**

Adam Meier, Secretary, Cabinet for Health and Family Services stated that the previously released pharmacy benefit report has been rescinded due to errors in the fiscal analysis. The error miscalculated the projected savings of a of the pharmacy benefit carve-out to the state.

In response to questions and comments from Senator Meredith, Secretary Meier stated that everyone makes mistakes and the company who oversaw the fiscal report made a mistake.

In response to questions and comments from Representative Sheldon, Jonathan Scott, Department for Medicaid Services, stated that some of the errors were in the spread projections and that the report over-estimated the cost savings. Secretary Meier stated that the carve-out portion of the pharmacy benefit program, which was the section of the report modeled after West Virginia's program, was expedited by request of the Cabinet.

#### **Managed Care Organization (MCO) Contracts**

Secretary Meier stated the five managed care contracts Governor Bevin awarded on November 27, 2019 were not done in haste and that the legislature can only advise the Cabinet on what contracts should be awarded. Secretary Meier stated that the contracts will begin July 1, 2020.

In response to questions and comments from Senator Meredith, Secretary Meier stated that the reason for awarding some contracts and not others is not something that is mandated to be discussed with the state legislature and such discussion, prior to the awarding of the contracts, would have been in violation of the request for proposal (RFP) portion of the process.

In response to questions and comments from Senator McGarvey, Secretary Meier stated that the decision to award the contracts was not secret, intentionally confidential, or rushed. Secretary Meier reiterated that discussion of proposed contracts would be in violation of the RFP process.

In response to questions and comments from Senator Carroll, Secretary Meier stated that the limit for the number of MCO contracts is five and federal law states no less than three no more than five MCO contracts should awarded.

#### **Adjournment**

There being no further business, the meeting was adjourned at 12:00 pm.

## **PUBLIC WATER AND WASTEWATER SYSTEM INFRASTRUCTURE TASK FORCE**

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

July 13, 2020

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

The 1st meeting of the Public Water and Wastewater System Infrastructure Task Force was held on Monday, July 13, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Jim Gooch Jr., 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; Jory Becker, and Edith Frick-Halbleib.

Guests: Kent Chandler, Commissioner, Public Service Commission, Anthony R. Hatton, Commissioner, Kentucky Department for Environmental Protection, and Jory Becker, Water Infrastructure Branch Manager, Division of Water.

LRC Staff: Janine Coy, Tanya Monsanto, and Susan Spoonamore, Committee Assistant.

Kent Chandler, Commissioner, Public Service Commission (PSC), explained that the PSC regulates over 1,000 non-municipal water and sewer utilities, natural gas distribution systems and intrastate pipelines, electric utilities (investor-owned and jurisdictional cooperatives), and a small number of telecommunication entities. The PSC has three commissioners, 70 employees, and four internal divisions which include inspections, legal, financial analysis, and general administration. The PSC has electronic filing capabilities, but only about 50 percent of regulated entities file electronically.

Mr. Chandler stated that in response to COVID, twenty-nine states and the District of Columbia issued moratoriums on utility disconnects for non-payment. He said a few states had recently lifted those moratoriums. He stated that the PSC initially responded to COVID by suspending disconnections for non-payment and late fees, requested utilities implement tariffs liberally, ceased in-person inspections, and close buildings to the public. The commission also granted sweeping deviations for regulated entities on non-safety related inspections, office hours and lobby availability, paper filing, and filing of non-safety related reports. Mr. Chandler said that the PSC handled all new cases electronically and have conducted six hearings virtually with live streaming over YouTube.

Mr. Chandler said that the PSC sent a data request to utilities asking what impact COVID was having on arrearages, customer usage, on-time payments, and a number of other different issues. He hopes to have all responses soon, but receipt of responses has been slow. Upon reviewing a few of the returned data requests, on-time payments had been consistent, but the dollar amount for customers that are delinquent are relatively higher. Moving forward, PSC has to determine when is it safe to open lobbies for utility companies, require in-person office hours, and have in-person meetings to review tariffs. The PSC is waiting to see if there will be additional federal assistance, if Congress will create a LIHEAP-type funding program for water utilities, and if there will be an increased number of utility rate increases cases for 2021.

Mr. Chandler said that the PSC conducted reviews of small utilities and there was a recommendation to require, by regulation or statute, that utilities have periodic rate reviews. He said the PSC recently ordered some small water districts and water associations to file rate cases within the next few months. He stated that at least two districts/associations had not had a rate review since 1985.

Mr. Chandler noted that the Gas Inspection Division had not been able to conduct in-person inspections, but the division has been able to conduct outdoor construction inspections. He expects in-person inspections to begin within the next 30 days.

In response to Senator Wheeler, Mr. Chandler said the average rate increase requested by a water district has varied. The PSC is conducting more frequent rate reviews in order to help districts with gradually increasing rates instead of waiting until failing districts have to drastically raise rates.

In response to Representative Gooch, Mr. Chandler said that some of the smaller utilities do not have the skills

or all of the people it takes to compile and collect data. The PSC has realized that if the rates are not fair or the service is inadequate, then action must be taken.

Representative Gooch noted that LIHEAP now includes some funding for cooling assistance. It would be good to see LIHEAP include funding for water and sewer.

Jory Becker, Water Infrastructure Branch Manager, Division of Water, Kentucky Department for Environmental Protection (KDEP), stated that the cabinet's response to COVID has been focused on delivering essential services remotely. It is the mission of KDEP to protect human health and the environment and working to achieve sustainability for all the agency's stakeholders. He explained that there are water and wastewater infrastructure challenges, such as maintaining and repairing existing systems along with water quality and water loss. The regionalization of public waters systems has been successful because managers of utilities are better trained and more resources are available. It is important to spread out the costs for ratepayers. Mr. Becker said regionalization is also a big factor for wastewater infrastructure. There are approximately 800 wastewater plants with thousands of miles of aging collection systems. Funding is becoming more of an issue with less options. The Division of Water's next priority is building infrastructure to new customers. Asset management and funding are important for improving and maintaining older systems. The key to maintaining essential services has been technology and regulatory flexibility. He stated that the electronic process for utilities to submit their data in a timely fashion has been very important.

Meeting adjourned.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

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

July 23, 2020

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

The 2nd meeting of the Program Review and Investigations Committee was held on Thursday, July 23, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll. Representative Bechler welcomed Senator Berg to the committee.

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 Chris Fugate, Al Gentry, Steve Riley, Rob Rothenburger, and Walker Thomas.

Guests: Larry Roberts, Secretary, Labor Cabinet; Amy Cubbage, General Counsel, Labor Cabinet; and Josh Benton, Deputy Secretary, Education and Workforce Development Cabinet.

LRC Staff: Greg Hager, Committee Staff Administrator; William Spears; Joel Thomas; and Elizabeth Hardy, Committee Assistant.

#### **Minutes for June 11, 2020**

Upon motion by Representative Rothenberger and second by Senator Nemes, minutes for the June 11, 2020 meeting were approved without objection.

#### **Update on Unemployment Insurance**

Representative Bechler said that he will start swearing in witnesses at Program Review meetings unless there is an objection. Without objection, he administered the oath to

Mr. Benton, Ms. Cubbage, and Mr. Roberts. All affirmed that they would tell the truth.

Mr. Benton, Ms. Cubbage, and Mr. Roberts presented an update on unemployment insurance. Mr. Benton gave an overview of the unemployment insurance program in Kentucky. Because of the formula used for federal funds, Kentucky's very low unemployment rate prior to the pandemic resulted in reduced federal funding. This led to reductions in staffing and a lack of resources to update technology. Kentucky unemployment insurance technology is outdated. The RFP process for a new system had begun when the pandemic began. Mr. Benton described the process for an unemployment insurance claim. There are 27 variables that can potentially stop, delay, or disqualify a claim. Prior to COVID-19, there was one traditional unemployment insurance program. After COVID-19, eligibility for and duration of unemployment insurance programs was expanded by Kentucky executive orders and the federal CARES Act. Programs created in the Act are funded entirely by the federal government. The number of claims increased exponentially starting in the week ending in March 14. There were more than 100,000 claims per week in 4 weeks. The US Department of Labor waived the waiting week and provided guidance after the Families First Coronavirus Response Act passed. From March 8 to July 11, more than 1 million new claims were filed. A claim does not equal a person; several duplicative claims have been filed. An estimated 600,000 to 650,000 people have filed claims. During this time, approximately 77 percent of eligible new claims have been paid. More than 11 million phone calls were received and more than \$3.2 billion of unemployment insurance funds were distributed.

Mr. Benton summarized the history and status of the Kentucky unemployment insurance trust fund and federal additions to the fund. Kentucky's trust fund was on its way to becoming solvent, but the influx of claims due to the pandemic depleted it.

In response to questions from Senator Carroll, Mr. Benton indicated that he could provide a breakdown of funding from the Kentucky trust fund and the CARES Act. CARES Act funding was specifically for unemployment insurance benefits, but some funding could cover administrative costs.

Continuing the presentation, Mr. Roberts stated that it was recognized in May that the Kentucky trust fund would be depleted by June. Kentucky applied for a federal unemployment insurance loan on June 10 and began receiving advances on the loan: \$215 million in June and \$325 million in July. The state will receive an advance of \$325 million in August. The Kentucky trust fund's balance is \$0 and the balance of the federal unemployment insurance trust fund drawdown is \$102 billion as of July 20. Projected drawdowns are \$425 million by September and \$650 million by December. Mr. Roberts described challenges that unemployment insurance inherited and obstacles that arose during the pandemic. The lack of staff in career centers is why there were no in-person services. The Frankfort office provided in-person services for 5 days starting June 15. In-person services were also provided at pop-up centers in six cities. The Frankfort office now provides in-person services Monday through Friday. Approximately 10,000 people have been helped. There are not enough staff to address all of the claims, which is why the state is now using an outside vendor.

Concluding the presentation, Ms. Cubbage described the Ernst & Young contract, which began July 01. Prior to the contract, approximately 50,000 to 60,000 claims were unprocessed. The 300 contracted Ernst & Young processors

have processed approximately 39,000 claims. Adjudicators in state government need to give final approval. Ernst & Young was chosen because it had experience processing unemployment insurance in two states. It reduced the backlog so unemployment insurance staff could provide in-person services.

Representative Bechler asked Mr. Benton to discuss the data breach, what it was, and why there was a delay in reporting it. Benton responded that the Office of Inspector General of the Transportation Cabinet is investigating the incident. On April 23, a phone vendor reported that a claimant had called to say that the claimant could see someone else's documents in their file, including information identifying the other person. The claimant was called and told that this was being investigated. The IT department created a temporary fix by noon and a permanent fix by the end of the day. In the days after April 23, the office received calls from more claimants who said that they were able to see other claimants' personal identification documents prior to April 23. The Office of Inspector General is investigating what occurred after that. Errors were made in the first 72 hours of the incident and the process to notify the attorney general and state auditor was not followed. The legal team and the IT department followed up with claimants affected by the issue. In May, claimants with a security risk were notified. There is no evidence of malicious intent or external penetration of the system; it seems to be system glitch. Mr. Benton expects the Office of Inspector General's report to cover the reasons for the breakdown of reporting in the first 72 hours.

In response to a question from Representative Bechler about when the attorney general and auditor were informed, Mr. Benton said that he could not recall an exact date. The attorney general and auditor contacted the lieutenant governor in May because they had heard of a potential breach. He and others in the office had assumed the defined process and policy were being followed by the IT security and legal teams. Ms. Cubbage said the attorney general and auditor were informed on May 23, which was within 24 hours of the discovery of the misinterpretation of reporting obligation. Education and Workforce Development and the Office of Unemployment insurance have been cooperating with the attorney general and auditor. To date, there is no evidence of financial harm to claimants. New procedures are in place to prevent a reoccurrence.

Representative Bechler asked if the attorney general initiated contact and Mr. Benton said that this was his understanding.

Representative Bechler asked why the responsibility for unemployment insurance was changed from Education and Workforce Development to Labor. Mr. Benton stated there was discussion before the pandemic about organizational change. The governor had made statements that the Office of Unemployment Insurance needed a change in leadership and be in the Labor Cabinet. Mr. Roberts confirmed there was discussion during the transition period of moving unemployment insurance to the Labor Cabinet, which has experience in handling worker issues. Ms. Cubbage said at the federal level the Department of Labor oversees unemployment insurance.

In response to questions from Representative Bechler regarding the RFP for the technology update, Mr. Benton responded that the deadline to respond to the RFP was extended because of COVID-19 at vendors' requests. They are in the question and answer phase. Mr. Benton estimated that 10 vendors have responded. Mr. Roberts said the original date for a response was August 06. Mr. Benton said the date for a response has been extended to September.

Representative Bechler asked about the percentage of ineligible claims pre- and post-COVID-19. Mr. Benton indicated the best measure is the number of appeals since every claimant has appeal rights. He would get the number. Representative Bechler asked whether Mr. Benton could also get numbers of accepted claims and appealed claims pre- and post-COVID. Mr. Benton said yes.

Representative Bechler asked if claimants are informed why a claim is being delayed. Mr. Benton said the online system indicates whether someone's claim is under investigation but does not provide a reason. Representative Bechler said that he has heard many complaints about the lack of information and questioned why claimants could not be told why their claims were delayed. Mr. Roberts said those providing in-person services and Ernst & Young processors are working with people to address these issues. This is mostly a matter of not having enough staff. Ms. Cubbage said this is one of the problems with the computer system. It only tells claimants their claims are under investigation but does not provide a reason. They want to have a new interface like other states have so claimants can check their claim status online.

In response to Representative's Bechler's questions, Ms. Cubbage said the Ernst & Young contract expires July 26. The contract did not specify a numerical goal for claims to be resolved because it is hard to predict how long each claim will take. They focused on the number of processors with a goal of resolving as many claims as possible. The contract may be extended for a few weeks to resolve continuing claims issues. Representative Bechler asked that the legislature be informed of the cost before the contract is signed.

Representative Bechler asked what needs to be done to get the unemployment insurance trust fund back to normal. Ms. Cubbage said KRS 341 provides for a surcharge for employers based on the balance of the trust fund. KRS 341.295 allows for a surcharge on employers to pay back loans taken out to pay unemployment insurance obligations. During the last recession, the federal government forgave some loans in order to avoid putting the total burden on employers. Mr. Benton stated that SB 150, enacted in 2020, allows the state to look at alternative revenue sources. None of the presenters offered other suggestions for restoring the unemployment insurance fund.

In response to a question from Senator Westerfield about the number of outstanding claims by month, Mr. Benton estimated there just under 5,000 outstanding claims filed in March, 22,500 for April claims, 19,700 for May claims, and 18,600 for June. Ms. Cubbage stated that it is believed that most of these outstanding claims were processed by Ernst & Young and are waiting for adjudication. She estimated that most of the 30,000 claims processed by Ernst & Young are in this group, an unknown number of which may be duplicates.

In response to a question from Senator Westerfield about the prioritization of claims in the Ernst & Young contract, Ms. Cubbage said the contract prioritized the oldest claims within types of issues.

In response to questions from Senator Westerfield, Ms. Cubbage confirmed that they become aware of the misinterpretation of the reporting requirement on May 23. Mr. Benton said that the investigation by the Office of Inspector General was triggered on May 28. Ms. Cubbage said she hopes the Office of Inspector General report, which is expected any day, will provide clarity for why it took a month to report the data breach. Senator Westerfield asked if anyone can identify who is responsible. Ms. Cubbage responded that they believe it was a failure in the legal

department.

Senator Westerfield asked about the higher cost for the Ernst & Young contract compared to a similar contract with Colorado. Ms. Cabbage responded that Ernst & Young had experience negotiating contracts. Kentucky's old technology also takes more time to resolve claims. Total contract cost is \$7.6 million: \$7.4 million for processing claims, \$200,000 for consulting. It works out to about \$100 per claimant, which is a bargain. Resolving these claims is a priority for the administration.

Senator Westerfield agreed that it has been known across multiple administrations that the interface for claimants is unfriendly. All computer systems should be upgraded. Moving the Office of Unemployment Insurance to the Labor Cabinet during a pandemic has led to confusion for legislators and constituents about whom they should contract with issues. He gave an example of a constituent who emails him every day about his unemployment insurance claim. He reiterated that he was unsure why the contract cost is high compared to other states. He requested that the Labor Cabinet communicate better with the legislative branch. He suggested that the legislature get weekly updates regarding outstanding claims. This information would be communicated to their constituents. Mr. Roberts responded that this was a fair assessment and request. They will provide more information to the legislators. There is discussion of reopening career centers on a limited basis.

Senator Nemes stated that he agreed that the Office of Unemployment Insurance belonged in the Labor Cabinet. The state is paying a lot to Ernst & Young and the state still needs to provide final approval for claims. It would have been better to train people to work in the Office of Unemployment Insurance. He said that once this crisis has passed, career centers should go back to being a career center to help people develop skills. He wished Mr. Benton well with his move from the Education and Workforce Development Cabinet. Mr. Benton said that federal law requires that training programs must be in career centers. Mr. Roberts stated the short-term goal is address unemployment insurance and the long-term goals are to do apprenticeships and to address the needs of the workforce.

In response to Senator Carroll's question about whether or not there was a directive to not notify the attorney general, auditor, or state police commissioner about the data breach, Mr. Benton stated that he was not aware of any. Ms. Cabbage confirmed that she did not know of any such directive and that the issue was a misunderstanding of what kind of data breach should be reported. The state police commissioner was informed at the same time as the attorney general and auditor. Mr. Roberts said the Labor Cabinet put out a clear directive afterwards in order to prevent this from happening again.

Senator Carroll asked about the terminated director of the Office of Unemployment Insurance. He asked if his inexperience in this field affected the office's ability to function. Mr. Benton responded that there is a pending personnel investigation and hearing, which limits how much he can say. The former director met the qualifications of the job at the time he was hired. Mr. Benton is unaware of any state that has not had issues with unemployment insurance. This is not any one person's fault. The state had to change the way it operated in the first 6 months of the pandemic. The Office of Unemployment Insurance almost doubled in size. It took the agency time to stabilize operations to meet the demand for services.

In response to Senator Carroll's question of whether anyone was aware of any untrue information put out by

anyone in the administration regarding the data breach, Mr. Benton responded that the Inspector General's investigation will identify any untrue information. He said that it has been asserted that he was informed of the data breach a day before, but he did not recall it.

In response to a request from Representative Bechler, Mr. Benton said that he would provide the list of 27 variables that can stop a claim.

Senator Thomas asked for confirmation that the previous administration had cut unemployment insurance staff by 95 and eliminated 31 offices. Mr. Benton said that there was such a reduction with the decrease in federal funding. Mr. Benton also confirmed Senator Thomas' statements that the previous administration had reduced the unemployment insurance budget by 40 percent and eliminated in-person services at career centers. He confirmed Senator Thomas' statement that that this spring the number of claims increased by 40 times over a 2-week period in March. He agreed with Senator Thomas that the office was overwhelmed with the number of claims in such a short time period. Responding to a question from Senator Thomas, Mr. Benton said that the percentage of eligible claims paid fluctuates but has been as high as 91 percent. Senator Thomas reiterated that the Office of Unemployment Insurance is short staffed and has a small budget, which is why Governor Beshear asked for help. Mr. Roberts said Ernst & Young has skills and assistance that the state could not replicate. Ernst & Young is doing a great job. In response to questions from Senator Thomas, Mr. Roberts said that the unemployment insurance technology system is likely among the worst in state government. Upgrading technology should be a priority. The legislature established a source of funding for this, but no money will go into the fund until the trust fund is replenished. Senator Thomas expressed his support for the KentuckyWired project. Mr. Benton confirmed Senator Thomas' statement that Governor Beshear announced the security breach and has tried to be transparent about it. He also confirmed that there was no financial harm or harm to people's reputations as a result of the data breach. Senator Thomas asked for confirmation that seven in-person career services are operating across the state. Mr. Roberts confirmed the list of cities, but they are temporary pop-up centers. Mr. Roberts said that the Governor will make an announcement soon for an upcoming event in Louisville. Senator Thomas stated that 52 million people were on unemployment insurance in 4 months in the US. The unanticipated number of unemployment insurance claims overran the capabilities of staff. The hard work of the Office of Unemployment Insurance and the Governor is commendable given the lack of resources.

Representative Bechler read a question submitted by Senator Wheeler, who asked whether the federal government will reimburse the state for people who would otherwise have been eligible for unemployment insurance. Mr. Benton responded that individuals who qualified for pandemic-related unemployment benefits were paid directly by the federal government, so there was no need for a reimbursement. Kentucky was reimbursed for the waiting week payment.

In response to Senator Carroll's question concerning untrue information about the data breach, both Mr. Roberts and Ms. Cabbage responded that they were not aware of any false information about the breach. Senator Carroll referenced a story in the *Courier Journal* about the number of unemployment claims. He asked about Governor Beshear's goal to resolve 50,000 claims by the end of July. Ms. Cabbage estimated that about 40,000 claims were resolved and they expect to reach 50,000 claims resolved by

Saturday. Senator Carroll asked if phone calls were tracked. Ms. Cabbage said that the calls are logged into a database. Senator Carroll asked about claims that were closed due to a lack of response. Ms. Cabbage did not have the exact number, but she stated that they tried to advertise the phone number so that claimants knew to answer the phone. Mr. Benton also stated that he did not know the number of claims closed because of lack of response from claimants. Senator Carroll said that he had been advised by a member of the governor's staff that about half of the phone calls to claimants were not answered. Mr. Benton stated he did not have that information. Ms. Cabbage said the Office of Unemployment Insurance and Ernst & Young processors leave a message when they call and a high percentage of claimants return their calls.

Senator Carroll stated that the unemployment offices closed due to the past low unemployment rate. He asked if there was serious consideration to reassess to how the offices provide services. Upgraded technology will allow face-to-face meetings without in-person services. Mr. Roberts said everything is on the table regarding the career centers to create a workable system within budgetary constraints.

Senator Carroll said few vendors are doing unemployment insurance claims and asked why this contract was not bid and why there was not a contract sooner. Ms. Cabbage said the lack of vendor expertise and time sensitivity were the reasons why Ernst & Young was chosen. Mr. Benton said that many of these services have been developed during the pandemic. The initial use of vendors was at the call center. Mr. Roberts said the Office of Unemployment Insurance did not have the ability to respond to everyone. He said that they would have contracted for vendor services sooner if they were available.

Senator Carroll and Representative Bechler wished Mr. Benton well.

Representative Bechler thanked the presenters. He announced that this was the last meeting for Committee Staff Administrator Greg Hager, who is retiring. He and Senator Carroll thanked him for his service. Senator Carroll read the text from the LRC Distinguished Service Award given to Mr. Hager.

The meeting adjourned at 2:59 p.m.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 2nd Meeting of the 2020 Interim June 1, 2020**

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

The 2nd meeting of the Public Pension Oversight Board was held on Monday, June 1, 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 Christian McDaniel, Gerald A. Neal, 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: David Eager, Executive Director, and Erin Surratt, Director of Benefits, Kentucky Retirement Systems; Rebecca Stephens, Interim Executive Director, and Stephen LeLaurin, Board Member, Judicial Form Retirement System; and Beau Barnes, Deputy Executive Secretary and



General Counsel, Teachers' Retirement System.

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

Senator Higdon asked Senator Wilson to open the meeting in prayer given all that was occurring in the world. Senator Higdon also led a moment of silence in memory of Donna Early and asked that the board keep Breanna Taylor's family in their thoughts and prayers.

#### **Approval of Minutes**

Representative DuPlessis moved that the minutes of the February 24, 2020 meeting be approved. Representative Pratt seconded the motion, and the minutes were approved without objection.

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

David Eager, Kentucky Retirement Systems (KRS), began by providing some actuarial projections provided by the systems actuary, GRS Consulting (GRS), based on current asset levels which included market value of assets, projected increase in employer contributions by percent and dollars, and funding levels projected out to June 30, 2025, for each of the plans.

Next, Mr. Eager provided a summary of the investment performance net of fees rates of return for pension and insurance ending April 30, 2020. For each plan, he provided a current market value of assets along with FYTD, 1-, 3-, 5-, 10-, and 20-year trailing returns compared to plan index performances.

In response to a question from Senator Higdon regarding March 2020 investment numbers, Mr. Eager stated he felt like the most current numbers would be more informative. Upon the request of Senator Higdon, staff provided a copy of a similar chart as of March 31, 2020, to members of the board later in the meeting.

In response to a question from Representative Graviss regarding if KRS could provide 30-year trailing returns, Mr. Eager stated the system would follow up with that information. Mr. Eager referenced the KRS summary annual financial report, which included a since-inception return, which is slightly greater than 30 years, of 9.15 percent for the pension fund. Senator Higdon agreed with Representative Graviss that KRS should include a 30-year return in their presentations going forward. In response to a follow-up question from Representative Graviss, Mr. Eager stated that less than 20 percent of the portfolio is private equity and specialty credit.

In response to a question from Representative Wheatley, Mr. Eager stated that KRS's actuarial committee is a subcommittee of the investment committee, which was created to handle the review of assumptions, make recommendations, or handle experience studies that are required by statute every five years. He noted the committee was created recently and only meets when needed or when assumptions require review.

Representative Miller commented on how pleased he was with the outcome of the decisions that the KRS board made leading up to the COVID-19 crisis, whereas KRS's losses were minimum and performed better than the benchmarks. He noted his own reluctance to allocate the assets so conservatively, but the recent market volatility has confirmed the KRS board's decisions were right.

In response, Mr. Eager referenced a handout provided by GRS, which provided a comparison of the funded ratio of 97 plans. He highlighted that the Kentucky Employees Retirement System (KERS) nonhazardous was the worse funded plan, but also highlighted that the County Employees Retirement System (CERS) nonhazardous was in the bottom

quartile. He noted that when looking at some of the poorer funded plans, excluding KERS, it was interesting to find that many plans had higher assumptions than those plans with the highest funded levels.

In response to a question from Representative DuPlessis regarding whether the board's plan was to stay conservative or if the present time was a buying opportunity, Mr. Eager stated that detail would follow, but from a high level, the plan had added risk in February and March, and reduced that added risk in April. In a response to a follow-up question, Mr. Eager opined that KRS could likely have closely matched their assumption projections had it not been for the COVID-19 crisis and commented that he believes national pension plan assumptions would continue to decline as KRS learns more after this pandemic.

Mr. Eager discussed a second handout that KRS provided, which was a recent update from the National Association of State Retirement Administrators (NASRA) on the latest return assumptions used across 128 pension plans. The data showed only two that were 8 percent or better. There were 20 that were between 6 and 6.9 percent, and Kentucky was the only one below 6 percent.

Mr. Eager discussed the investment updates as of March 31, 2020, and stated that the KERS nonhazardous was down 5.8 percent and as of April 30, 2020, KERS nonhazardous was down 1.1 percent. Mr. Eager added that the insurance plans were better funded in the 70 percent range.

Mr. Eager discussed a peer group analysis provided by Wilshire Consulting for the period ending March 31, 2020. The report included quartile analysis for 1-, 3-, 5-, and 10-year trailing periods for a universe calculated by Wilshire Consulting.

In response to a question from Senator Higdon, Mr. Eager stated that during the last 10-year period, KRS's ranking was in the 55<sup>th</sup> percentile of a peer group of 422 plans.

Mr. Eager discussed additional peer group analysis charts provided by Wilshire Consulting for the period ending March 31, 2020, that included investment return, standard deviation, and the sharpe ratio across 1-, 3-, and 5-year trailing periods. For the standard deviation, which is a measure of risk, KRS ranked in the 16<sup>th</sup> percentile over the past year, and in the 10<sup>th</sup> and 11<sup>th</sup> percentile over the past 3- and 5-year periods, respectively. Lastly, Mr. Eager also provided a Wilshire Consulting risk scattergram for the period of April 1, 2017, through March 31, 2020, which showed KRS below media risk, but above median returns.

Mr. Eager discussed the cash flow for the period of March 31, 2020, compared to March 31, 2019. He began by reviewing the KERS and State Police Retirement System's (SPRS) plans and noted that total contributions were slightly down as compared to FY 2019. Mr. Eager noted that the last two years KRS has had positive net contributions with FY 2020 being at \$64.2 million. Mr. Eager then discussed the CERS cash flow. He pointed out that the CERS phase-in to higher employer contributions was costing the plan about \$75 million in more contributions. Both plans experienced negative net cash flow, with CERS nonhazardous totaling \$153.3 thus far in FY 2020.

In response to a question from Senator Higdon regarding why administrative costs were twice as high for CERS as compared to KERS, Mr. Eager stated that administrative expenses were allocated based on membership. CERS has a larger membership base, so the portion of administrative expenses allocated is higher.

In response to a question from Representative Graviss regarding if KRS had asked GRS to opine on market

expectations, Mr. Eager stated that KRS did not confer with GRS on whether there was a V curve and he was not sure if they would have an opinion. However, Mr. Eager stated that GRS did affirm the board decision to leave assumptions unchanged.

Senator McDaniel emphasized that while the COVID-19 crisis should not be discounted, he cautioned anyone from becoming completely despaired over the current events given the long term nature of the pension problem. He encouraged everyone to focus on holding to the 5.25 percent benchmark and to understand that continued effort will be required.

Mr. Eager continued with a discussion of recent investment activities. He referenced Representative DuPlessis' earlier question and discussed rebalance transactions within the U.S. equity market conducted from January 31, 2020 to May 22, 2020. Mr. Eager noted that outcome added a significant amount of money to the fund.

Erin Surratt, discussed the services KRS is offering members during the COVID-19 pandemic. Personal member services had continued without much issue, with members utilizing online account access, the use of electronic signatures to avoid in-person meetings, and forms submitted via U.S. mail, fax, or document upload. In-person visits had not been allowed, but phone services continued to be very effective and without interruption. In addition, webinars were being conducted twice a week and staff was working to add video conference capabilities. The recent enhancements in self-service have been invaluable with the online retirement and document upload functionality. Lastly, she stated that KRS sees a new model with work-from-home options for employees, more self-service usage, electronic communications for members, and continued remote board and committee meetings.

Mr. Eager stated that Senator Higdon had asked him a few meetings ago if KRS would have fewer employees in the future because of Tier 3. He stated the system would, given the plan will be less complicated, but it will take years to get there. Mr. Eager added that KRS is limited on space, which hinders the safety of their employees. So, with fewer people working on-site, there will be more space available to social distance.

Senator Higdon commented that it sounded like KRS has managed the issue well. He emphasized that he always added that he is for lowering administrative costs and, with Tier 1 and Tier 2 employees decreasing over the years, the need for counselors will diminish, which will lower administrative costs.

In response to a question from Representative Graviss, Ms. Surratt stated that she feels that KRS has adequate software systems and developers and is constantly enhancing those systems.

Mr. Eager commented that KRS has formed a taskforce of five people for HB 484 with 20 people involved in reviewing issues and questions. He stated that the most significant issue will be with the new KERS/SPRS and CERS operating without a board, chief executive officers, bylaws, or policy. Mr. Eager stated that KRS recommends that within the first week of the 2021 session, if possible, these issues be taken into account for the April 1 restructure.

In response to a question from Representative Graviss, Mr. Eager stated that KRS can only make recommendations, but cannot set policy, such as appointing a CEO, and board members. In a follow-up question, Mr. Eager stated that KRS is operating under the Executive Order to have remote board meetings, but will need legislation to be able to continue once the order has lifted.

In response to a question from Senator Higdon, Mr.

Eager stated that KRS is saving a lot of money on travel costs with the remote meetings.

In response to a question from Representative DuPlessis, Mr. Eager stated that the remote meetings are live streamed with public comment.

#### **Investment and Cash Flow Quarterly Update – Judicial Form Retirement System**

Stephen LeLaurin, Board Member, Judicial Form Retirement System (JFRS), began with an appreciation for Senator Higdon's moment of silence for Donna Early. He then introduced Rebecca Stephens as the Interim Executive Director and stated how delighted JFRS was to have her.

Mr. LeLaurin began with a brief review of the four plans in JFRS, which include two plans for judicial and two plans for legislators, each having a large legacy defined benefit plan and a small hybrid cash balance plan. JFRS has a little under \$500 million in total assets across all plans as of March 31, 2020. Mr. LeLaurin stated that JFRS is well funded and that their risk taking is a little different from a plan that has bigger challenges. He stated that JFRS does not use private equity or high yield bonds unlike most other plans, but instead, JFRS approaches risk by their equity allocation, which is currently about 78 percent. He stated that JFRS gives Hilliard Lyons Trust Company (Hilliard Lyons) the freedom to keep 60 to 80 percent in equities and 20 to 40 percent in fixed at their discretion. He stated that their current equities are about 77 percent for each plan with all four plans having separate portfolios.

Mr. LeLaurin discussed recent performance and stated the two defined benefit plans totaled \$382 million and \$112 million for the judicial and legislator plans, respectively. For the hybrid cash balance plans, JFRS does not buy individual securities due to the smaller plan size, but instead have Hilliard Lyons buy units of an exchange credit fund or a mutual fund that have identical benchmarks that are used in the defined benefit plans. Mr. LeLaurin stated that their portfolios have held up well during the pandemic and stock market challenges and discussed the fiscal-year-to-date, 1-, 3-, 5, 10- and 20-year totals. He also stated that the portfolios have rebounded some since the March 31, 2020 reporting.

Senator Higdon, with agreement of Representative Graviss, commented that the two of them would like to see the 30-year numbers at the next update.

Rebecca Stephens commented that she has enjoyed her time at JFRS for the past six weeks and that she had worked with Donna Early through her years working at KRS. She praised Ms. Early as the best record keeper. She then discussed the cash flow for the judicial and legislator plans for the quarter ending March 31, 2020. She discussed the inflows, outflows, net cash flow before asset gain/(losses), investment gains/(losses), and net plan assets for FY 2020 compared to FY 2019.

Ms. Stephens discussed JFRS's COVID-19 response and stated that as of March 16, 2020, there have been no in-person meetings and, while staff are periodically working simultaneously in the office, are maintaining a 6-foot distance and following healthy-at-work guidelines. She stated that members continue to make inquiries to update their records and request calculations with no interruption in service and that video conferencing has been routinely utilized by board members, JFRS staff, and investment managers/advisors to facilitate continued JFRS operations as normally and efficiently as possible.

In response to a question from Representative Miller regarding a significant increase in administrative expenses, Ms. Stephens stated that the administrative expense reflected

for FY 2020 cash flow statements was not correct. She told members she would follow up with a corrected statement.

#### **Investment and Cash Flow Quarterly Update – Teachers' Retirement Systems**

Beau Barnes, Teachers' Retirement System (TRS), began his presentation by discussing investment performance for the pension fund as of March 31, 2020. He discussed gross and net performance for the quarter, fiscal-year-to-date, 1-, 3-, 5-, 10-, and 20-year trailing time periods. Mr. Barnes noted that it was a tough quarter for TRS, ranking in the 74<sup>th</sup> percentile, which was largely due to TRS having more public equities and stocks than other plans. Mr. Barnes added that all the numbers look better when looking at the April totals.

In response to a question from Senator Higdon regarding the net return over 30-years, Mr. Barnes stated that the 30-year net of fee value would not be much less than the gross return of 7.64 percent. He stated current fees account for approximately 33 basis points, but that would not be the case for the full thirty years. He estimated that over the 30-year period, a net of fee return was probably closer to 7.5 percent.

Mr. Barnes reviewed cash flow for the pension fund through March 31, 2020, compared to March 31, 2019. He pointed out cash inflows, outflows, and the total net plan assets across both time periods.

In response to a question from Senator Higdon regarding if TRS had to sell assets to meet benefit payments, Mr. Barnes stated that TRS did sell assets to meet benefit payments, but those sales were intentional and include large bonds and fixed income assets. He stated that the plan did not have to sell stocks during the decline and staff has short-term fixed income on hand to handle cash flow.

In response to a question from Representative DuPlessis regarding how the plan will handle a continual net negative cash flow and member contributions that are not keeping up with benefit payments, Mr. Barnes assured the Public Pension Oversight Board (PPOB) that the negative cash flow does not include the investment gains and historically, long term, it is a positive for TRS. Representative DuPlessis expressed caution with the plans continued negative cash flow and expressed his belief that stakeholders needed to begin thinking and planning for a way to reform or adjust for future plan changes.

In response to a question from Mr. Jefferson regarding the unusual large decline in investment income in the current fiscal year, Mr. Barnes stated that it could be due to declining interest, but stated he would check with investment staff and report back to the board.

In response to a question from Representative James Tipton to recent retirement rates as a result of the pandemic, Mr. Barnes stated that TRS has not seen an increase in retirement rates, but rather a decline from previous years.

In response to questions from Representative Miller, Mr. Barnes confirmed that the TRS Board will be having an experience study this year. In response to a follow-up question regarding whether or not the board is going to change their investment assumption, Mr. Barnes stated that the investment assumption is what TRS anticipates will be the long term returns in the markets that TRS is able to achieve. Mr. Barnes added that TRS will evaluate its assumptions after the June 30, 2020 actuarial valuation. Representative Miller responded that he is talking about TRS' investment targets not the Experience Study, and Mr. Barnes replied that investment returns would be a part of the evaluation.

In response to a question from Senator Higdon

regarding a recent meeting on the payroll growth assumption set by TRS, Mr. Barnes stated that TRS has not hit the 3.5 percent target for payroll growth since the 2008-2009 great recession, but has seen some increase recently.

Mr. Barnes continued with a review on cash flow for the health insurance fund through March 31, 2020, compared to March 31, 2019. He pointed out cash inflows, outflows, and the total net plan assets across both time periods.

In response to a question from Senator Higdon, Mr. Barnes stated that the net return for the health insurance fund is negative, but will have to report back for the actual return.

In response to questions from Senator McDaniel regarding the experience study, Mr. Barnes stated that the experience study will begin after the close of the current fiscal year on June 30, 2020, and results will not impact the current valuation. In response to follow-up questions regarding how TRS anticipates their upcoming budget request to potentially change, Mr. Barnes stated that it is hard to project until the fiscal year has closed, the valuation to be conducted, and actual experience is compared to each assumption. Mr. Barnes stated that TRS assets were very close in December 31, 2019, but without knowing the future, it is hard to project a budget request.

In response to questions from Senator Higdon, Mr. Barnes stated that the health insurance fund is funded at 46 percent.

Mr. Barnes discussed TRS's response to COVID-19. He stated that TRS is continuing their duties to members with 90 percent of their staff working from home. He stated that TRS is offering website videos, webinars in place of their seminars that were done across the state. Members can file retirement applications through Pathway, and TRS is doing remote counseling. Finally, TRS is conducting board and committee meetings virtually with open access to the public.

Senator Higdon requested Mr. Barnes to add the PPOB members to their 72-hour meeting notices for possible attendance.

In response to a question from Senator Higdon regarding recent asset allocation changes by the board, Mr. Barnes stated that TRS did provide some flexibility to their asset allocation to provide more liquidity if needed, but continues to adhere to their traditional investment approach. He stated that TRS is about 85 percent publicly traded liquid assets and 15 percent in private equities. However, TRS continues to rebalance that portfolio.

In response to questions from Representative Graviss, Mr. Barnes stated that TRS meets the open meeting requirements for video conferencing by offering access to the meetings to the public through the TRS website and meeting notices. In response to a follow-up question, Mr. Barnes stated that TRS does allow public participation or questions.

Senator Higdon commented that he believes there needs to be serious discussion regarding the negative cash flow of TRS.

Representative Miller requested the LRC staff to combine the GRS funding ratio comparison and NASRA schedule on investment returns assumptions by quartile for funding ratios for those above 7.5 percent and those below 6.5 percent.

With no further business, the meeting was adjourned.



# PUBLIC PENSION OVERSIGHT BOARD

## Minutes of the 3rd Meeting of the 2020 Interim

July 28, 2020

### Call to Order and Roll Call

The 3rd meeting of the Public Pension Oversight Board was held on Tuesday, July 28, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Gerald A. Neal, 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, John Hicks, James M. “Mac” Jefferson, and Sharon Mattingly.

**Guests:** David Eager, Executive Director, Rebecca Adkins, Executive Director Office of Operations, and Kathy Rupinen, Interim Executive Director of Legal Services, Kentucky Retirement Systems; Bryanna Carroll, Director of Governmental Affairs, Kentucky League of Cities; and Bo Cracraft, Legislative Research Commission.

**LRC Staff:** Brad Gross, Bo Cracraft, and Katie Carney

### Approval of Minutes

Representative Graviss moved that the minutes of the June 1, 2020 meeting be approved. Representative Rudy seconded the motion, and the minutes were approved without objection.

### County Employees Retirement System Separation Update (HB 484)

David Eager, Kentucky Retirement Systems (KRS), began his presentation by stating that KRS had formed a task force of six staff members, who had worked collectively to analyze HB 484 and how it would be implemented. He noted the size and complexity of the bill and stated that staff currently had a spreadsheet with over 96 different items, which included several to-do tasks, clarifications, policy developments, or a variety of other issues associated with the bill. Mr. Eager stated the process has highlighted several key policy issues that he would be outlining during the presentation.

Mr. Eager first summarized the three retirement boards that were established with passage of HB 484. He stated that HB 484 was taking KRS from one board to three boards, which included a 9-member board to administer the Kentucky Employees Retirement System (KERS) and the State Police Retirement System (SPRS), a 9-member board to administer the County Employees Retirement System (CERS), and an 8-member board, known as the Kentucky Public Pension Authority (KPPA), that will administer day to day operations of all underlying plans. He noted that all current KRS staff members would become KPPA staff members, and employees would remain subject to KRS Chapter 18A and the state Personnel Cabinet.

Mr. Eager began to discuss several policy issues. First, he noted the effective date of the new structure is set for April 1, 2021, but that it would begin without a board, CEO, bylaws, and policies. He asked if appropriate legislation could be passed to establish the boards prior to April 1, 2021, but have any action made effective April 1, 2021. He noted the amount of tasks that will need to be completed and explained that early appointments to the boards would allow for a more effective transition.

In response to a question from Representative

Graviss regarding KRS’ recommendation, Mr. Eager stated staff would like legislation that would establish the authority of the boards. Kathy Rupinen, KRS, also stated the current legislation does have language that allows the KRS Board to make administrative decisions that will stay in effect until KPPA or CERS acts on them. However, due to the significance of the decisions being made, KRS feels it would be more efficient if KPPA and CERS could begin functioning prior to April 1, 2021. In response to a follow-up question, Mr. Eager stated that KRS has met with Representative Webber to discuss the need for a housekeeping bill. Representative Webber confirmed that he is working with KRS on legislation and will report to Public Pension Oversight Board (PPOB) with a proposal.

Representative DuPlessis noted that Co-Chair Higdon and Mr. Hicks were present remotely.

Representative DuPlessis commented that under the current legislation, the Governor will make the appointments to the KPPA and CERS boards, but they would not have any power until April 1, 2021. Ms. Rupinen agreed and stated the action KRS is requesting for the KPPA and CERS boards would allow them to convene as boards and make decisions before April 1, 2021, but that any decisions would not be effective until April 1, 2021.

In response to a question from Representative Miller with regards to policies and practices, Ms. Rupinen stated that it is possible that each board could pass their own different or divergent policies, but believes staff’s initial recommendation will be similar. But given each board will have their own fiduciary duties, it is possible that policies could change and diverge over time. Representative Miller stated that he understands that things such as investments could differ, but clarified that the intent of HB 484 was to not duplicate overhead. Ms. Rupinen stated that a lot of the day-to-day operations will be under the KPPA.

Secondly, Ms. Rupinen discussed policy issues relating to leadership positions and stated that it is KRS’ belief that excluding all three boards from personnel contracting provisions of KRS Chapter 45A, the Model Procurement Act, would be in the best interest of all. At a minimum, she suggested that providing an exemption for retaining the executive director of KRS for the KPPA, on at least a temporary basis, would be prudent, given the short timeframe, cost to produce requests for proposals (RFPs), and concern that qualified applicants might not participate. She stated that HB 484 currently provides an exception for the hiring of the CEO for CERS, so staff would suggest the same exception to be applied to KPPA and KRS.

In response to a question from Representative DuPlessis regarding the RFP process, Mr. Eager stated that he would suggest each of the boards be exempted, so they could recruit, hire, and appoint the executive director and CEOs without having to go through the RFP process.

Third, Ms. Rupinen discussed the current 8-member KPPA board and the lack of any mechanism to break ties that might occur given the current board composition. She stated that KRS has suggested the KPPA executive director could act as the tie breaker, but staff were up for other suggestions.

Representative Rudy stated that he did not believe there was a need to give one person the power on the deciding vote. He referenced the even number of House and Senate seats and believes that equal balance will force the members to work together and come to decisions. He stated he would not support this request.

Representative DuPlessis, Representative Graviss, and Senator Higdon commented that they also agree with

Representative Rudy’s comment.

Next, Mr. Eager began to discuss a couple of questions that staff have with regards to intent or just clarification. He began by highlighting a situation that will result with regards to the newly formed KRS board, where 10 current members will be left to fill only 9 positions on the new board. He stated that KRS needs some direction on how to determine what individuals fill the 9 positions. Ms. Rupinen stated the legislation specifically states that the Governor appointee will cease serving on the KERS board and the other 6 Governor appointees are ones who were deemed to have the appropriate investment experience. The concern is none of the Governor appointees’ orders specify who is deemed knowledgeable about the impact of pension requirements on local governments. She stated that KRS has requested an Attorney General’s opinion.

Mr. Eager continued with the question of whether or not the CEOs for the KRS and CERS boards are required to be attorneys. Ms. Rupinen added the legislation currently states that the CEOs must provide legal counsel to their boards, so that is where the confusion arises. She stated that KRS is in the process of drafting a request for an opinion from the Kentucky Bar Association.

Representative DuPlessis announced that Senator Parrett is also in agreement that the KPPA board remain with 8 members.

Mr. Eager finished with a suggestion from KRS that the current executive director for KRS serve as the KPPA executive director until that appointment is filled. Ms. Rupinen added that the current contract, as it exists, is for an executive director of KRS, but as of April 1, there will no longer be executive director of KRS.

Representative Rudy commented that he believes these actions can take place at an 8:00 a.m. April 1, 2021 meeting. Mr. Eager responded that if a board is not appointed before April 1, 2021 there will be no one to meet on that date. Ms. Rupinen added that KRS is an administrative agency and can only act purely within what the statute allows, plus there is a fiduciary duty in regards to expenses of the systems.

In response to a question from Representative Graviss regarding whether or not Mr. Eager’s executive director status with KRS would continue if he moved into the executive director status of KPPA, Ms. Rupinen stated that if the statute has been correctly interpreted and the CEO of KRS has to be an attorney, Mr. Eager’s contract could not fulfill the role for KRS. He could serve as KPPA executive director. In response to a follow-up question, Ms. Rupinen stated that KRS has been in contact with staff of the Finance Cabinet and they have indicated that modifications can be made. Ms. Rupinen stated that KRS needs clarification from the PPOB.

Representative Miller commented that he agrees that there needs to be a housekeeping bill and probably an emergency clause effective March 2021. He added that his intentions was not for the CEOs to be attorneys.

Representative DuPlessis commented that he also did not intend for the CEOs to be attorneys.

Senator Higdon commented that he is passionate on keeping the KRS Chapter 45A contracting status in place.

Representative DuPlessis commented that he believes there is a way to accomplish these tasks and keep the transparency.

In response to a question from Representative Rudy, Ms. Rupinen stated that Mr. Eager’s current contract expires June 30, 2021, which is subject to approval by the boards and his current position as executive director of KRS no longer exists as of April 1, 2021.



Representative Webber commented that HB 484 was a comprehensive and large legislative change. He also noted that on page 1 of HB 484, language stated that during the 2021 regular session legislation separate statutory structures would be created. New issues that were discussed today could be incorporated and addressed. He stated that he is going to work with KRS to come up with legislation that addresses the housekeeping issues.

Representative Miller commented that any new contracts need to reflect the 2017 provisions in SB 2. He also stated that he would like to know what KRS' progress is on posting unredacted contracts on the website. Mr. Eager stated he would address the unredacted contract issue at the next investment related meeting of PPOB.

Rebecca Adkins, KRS, finished by discussing a summary of several administrative tasks KRS is working through with regards to the separation. She noted that the issues included financial changes, legal issues, establishing a new state agency, creation of boards, publications/print media, communications, and benefit processing changes.

In response to a questions from Senator McDaniel regarding a benefit process task noted on the slide, Ms. Adkins stated that task was related to a circuit clerk transfer, of which KRS has not done many and which was a reasonable removal from the legislation. She stated that it is her understanding that it is a CERS transfer where circuit clerks can choose under certain circumstances to be in KERS. Representative DuPlessis commented that, per LRC staff, circuit clerks transferred in 1996 from KERS to CERS.

Bryanna Carroll, Kentucky League of Cities (KLC), stated that KLC anticipated that the effective date could cause some problems and questions and does not have any issues with legislators making changes to expedite the boards coming into place. She believes that KLC can work with the Governor to make sure their appointments are made prior to April 1, 2021. In regards to KRS Chapter 45A, KLC is going to request that CERS be added back under the chapter for the procurement process of the CEO position. She stated that KLC agrees that the KPPA should remain an 8-member board. Ms. Carroll stated that KLC has no position regarding who is selected for the KRS 9 member board seats. She stated that KLC, Kentucky Association of Counties, and the Kentucky School Board Association are all in agreement that the CERS staff position needs to be an attorney.

In response to a question from Representative DuPlessis regarding why KLC felt the CEO position needed to be an attorney rather than using contracted counsel representation, Ms. Carroll stated that the language provided in the bill states that the board can hire one staff member, but believes it could possibly contract counsel.

Lastly, Ms. Carroll commented that KLC has no issues with the KRS executive director serving as the KPPA executive director until the KPPA decides on a contract to fill that position.

#### **2020 Study Topic Overview of Pension UAL Financing Methods**

Bo Cracraft, LRC Staff, noted his presentation was the result of an administrative recommendation adopted in the 2019 PPOB annual report. The goal was to review and discuss how plans within and outside Kentucky finance pension unfunded accrued liability (UAL). He began with a quick summary of the actuarial valuation process and the various inputs and outputs that are incorporated. He stated that the key inputs are refined over time with periodic studies and audits, while the key outputs include information on

plan health and employer contribution rates.

Next, Mr. Cracraft discussed a plan's actuarial required contribution rate (ARC), and how it was the result of two underlying building blocks. First, a plan has a normal cost, which represents the cost for that year's benefit accrual. Secondly, you have an annual amortized UAL payment, which is the plan's portion of a larger UAL debt. He discussed how a plan's UAL is impacted by several factors, including actual experience, assumption changes, or other input changes. He noted that in many cases, plans have had to deal with unfavorable outcomes, which has led to growth in UAL.

Plans must develop a structure to finance or pay down their UAL. Mr. Cracraft identified four key components, which included: amortization period, closed or open (is period fixed, variable, or rolling), single or separate (by year, source, or both) amortization bases, and method (level percent of payroll or level dollar). Other factors considered included a plan's interest rate, a possibility of negative amortization, and statutory requirements.

Mr. Cracraft began by discussing the amortization period component. He stated that, historically, most plans have used 30 years, but added that a lot of times with pensions, a rolling period was used. He stated that both of the state's larger plans had utilized 30-year windows in the past and referenced a recent study by the Society of Actuaries that reported that roughly 3 out of 4 plans amortized UALs over a window of 20 to 30 years. Lastly, he commented that recent evidence is pointing to more plans moving to shorter, 20-year periods, at least for some of their UAL and that actuaries and the Government Finance Officers Association were now recommending shorter periods.

Next, once the length is determined, choosing an open or closed period was the next decision to be made. Mr. Cracraft stated that historically most plans used open periods and both of Kentucky's two largest plans were on open windows until 2007 for KRS and 2013 for Teachers' Retirement System (TRS). He noted that using an open window prolongs the payback period, sometimes indefinitely, and is more likely to lead to negative amortization, so, many plans have more recently moved to closed windows. According to a 2019 National Conference on Public Employee Retirement Systems' study, 2 out of 3 plans were using a closed period, while a LRC staff review of 50 larger state plans studied resulted in 3 out of 4 using a closed period.

Third, Mr. Cracraft discussed the use of single and separate amortization base. Under a single base approach, a plan has a single amortization base or layer, which ends on a specific date. Any increase or decrease in UAL during the closed period is then re-amortized over the remaining period in each valuation. KRS historically used a single closed base, until recent legislation was passed. One drawback to a closed period is that it can introduce some volatility in the final years, especially if a plan experiences a significant change in their UAL, which would need to be amortized over a shorter period. As a result, many plans have moved to using separate bases or layers, with an increase or decrease in UAL from a given year or source being amortized individually. Annual payments for each base or layer are added together for total UAL payment. He noted TRS had been using a layered approach since 2014 and that KRS was moving too for their 2020 valuation. Mr. Cracraft shared two examples, using the historical KRS single layer model and current TRS layered approach.

In response to a question from Representative DuPlessis regarding an additional cost of a layered approach, Mr. Cracraft responded that he did not believe

a layered approach should increase costs to administer. He did state the calculation process is a bit more complicated, thus actuaries might charge slightly more, but that it should be minimal.

Lastly, the final decision point is the method of financing the UAL, which for most plans is either level percent of payroll or level dollar. Level percent assumes a payment that is based on a fixed percent of a growing payroll, while level dollar is much more like a traditional home mortgage with flat payments across the entire time period. He stated that most plans in the pension industry use level percent of payroll, referencing the LRC staff review that found 37 out of 50 plans using level percent of payroll. He noted that in Kentucky, statute requires a level percent for KERS and CERS, while the TRS board had chosen to use level percent of pay. The KRS board had adopted a 0 percent payroll growth for KERS, which made it a level dollar payment, while CERS assumed 2.0 percent payroll growth. The TRS board has adopted a 3.5 percent payroll growth assumption.

Mr. Cracraft provided and quickly reviewed a slide comparing the policies for each of the three systems that the state administers. He noted that some plans, such as KRS and the Judicial Form Retirement System (JFRS), had the majority of their funding policy outlined by statute, while TRS was largely developed by board policy.

Lastly, Mr. Cracraft provided information on several local or state plans that had made recent changes to their policies, such as, Tennessee, Indiana, Missouri, Alaska, Kansas, and Colorado. He noted many of the trends discussed, such as closed windows, layering, and shorter amortization periods were evident.

In closing, Mr. Cracraft summarized the key takeaways from staff's review. He commented that new amortization periods are definitely shortening, but with legacy liabilities generally amortized over 30-year windows, closed periods are becoming the norm, and more plans are moving to separate amortization bases, primarily by year. He stated that level percent of pay is still the norm, but there has been a recent trickle of plans moving to level dollar. TRS and KRS have largely followed trends. Lastly, KRS and JFRS plans largely operate by statutory language, while TRS is operated largely by board policy/decisions.

In response to a question from Representative Wheatley regarding how the Kentucky plans might avoid a future cliff or significant drop off in contributions, Mr. Cracraft stated moving to a layered approach as it stands now for KERS and TRS will not remove the cliff given the overwhelming majority of the existing UAL for both plans are being amortized over a single base. He commented that in order to reduce or remove the cliff, the legacy UAL for both plans would have to be adjusted to separate layers or tranches, where in 10-15 years you would start to see a portion of each year retired.

Representative DuPlessis commented regarding funding the UAL, he would like to have more discussions about breaking it up amongst the entities that actually pay what they owe instead of having a broad number that covers everyone.

With no further business, the meeting was adjourned.

## **JAIL AND CORRECTIONS REFORM TASK FORCE**

**Minutes of the 1st Meeting  
of the 2020 Interim  
July 31, 2020**

**Call to Order and Roll Call**

The 1st meeting of the Jail and Corrections Reform Task Force was held on Friday, July 31, 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 Michael Meredith, Co-Chair; Senators Michael J. Nemes, John Schickel, and Robin L. Webb; Representatives Jason Petrie, Rob Rothenburger, and Ashley Tackett Laferty; Brad Boyd, Cookie Crews, and Mary C. Noble.

Guests: Steve Shannon, Jason Woosley, Amanda Essex, and Lisa Lamb.

LRC Staff: Katie Comstock and Yvonne Beghtol.

### **Mental Health and Incarceration**

Steve Shannon, Executive Director of Kentucky Association of Regional Programs (KARP), stated that Community Mental Health Centers (CMHCs) serve approximately 180,000 Kentuckians per year, employ approximately 8,000 people, and are led by 300 volunteer board members. In regards to mental health and incarceration, Mr. Shannon stated that the sooner services are accessed the better the outcome for the individual and the system. CMHCs provide a Crisis Intervention Training (CIT) to train police officers on how to interact with someone who has a mental illness. CMHCs also offer Drug Courts, which are intended to use the influence and supervision of a judge to keep individuals engaged in substance use treatment services, as opposed to incarceration. Jail Triage is a CMHC program established for local jails to access telephonic services and supports focusing upon incarcerated individuals who may be at risk of attempted suicide. The Kentucky Department of Corrections Substance Use Disorders Intensive Outpatient Program (SU - IOP) is a mandatory program for individuals who have been referred while paroled or on probation from the Department of Corrections. Mr. Shannon stated that Medicaid expansion has had a profound effect by assisting in the payment of substance abuse treatment.

Mr. Shannon called attention to the Heroin Expedited Addiction Recovery Treatment (HEART) program in Boone and Kenton Counties serviced by NorthKey (the CMHC in Northern Kentucky). If a judge orders a substance use assessment it is sent directly to NorthKey which completes the assessment where the individual is incarcerated. The assessment includes treatment and service levels of care including intensive outpatient, residential, or individual therapy. If intensive outpatient services are recommended, the individual is transported directly to NorthKey upon their release from jail. The HEART program received 776 court ordered assessments in FY 2020.

Mr. Shannon also made mention of the pre-release Pennyroyal, Western Kentucky Correctional Facility, and Green River Correctional Facility program requiring a re-entry case manager to be kept onsite to work with individuals who have an Opioid Use Disorder (OUD), Substance Use Disorder (SUD), or co-occurring disorder. The case manager will assist the individual six months prior to their release and ninety days post-release. The focus is to get the individual connected to community based services in an effort to keep them from returning to prison. The Green River data indicated that of the 49 appointments scheduled upon release, 42 were kept.

Mr. Shannon suggests a Severe Mental Illness (SMI) Waiver, which could provide stable housing, supported employment, and medication management. If an individual supported by the Supports for Community Living (SCL)

waiver takes their medication one hour past the scheduled time, the agency has to report to the Department of Behavioral Health, Developmental and Intellectual Disabilities.

Mr. Shannon concluded by saying the Green River model shows how to leave the criminal justice system and the HEART model shows how to stay out of the criminal justice system.

In response to Chairman Meredith, Mr. Shannon stated that the National Alliance on Mental Illness (NAMI) data shows that 15% of men and 30% of women in jail have a serious mental health condition. In addition, the Substance Abuse and Mental Health Services Administration (SAMHSA) has found that those with:

A serious mental illness account for 5% of the general population but 16% of the prison population and 17% of the jail population.

A substance use disorder account for 8.5% of the general population but 53% of the prison population and 68% of the jail population.

A co-occurrence of mental and substance use disorders account for 14% to 25% of the general population but 33% to 60% of jail and prison populations.

Further, the Bureau of Justice Statistics has found that 14% of the prison population report experiences that met the threshold of serious psychological distress, 26% of the jail population report experiences that met the threshold of serious psychological distress, 37% of the prison population report being told by a mental health professional that they had a mental disorder, and 44% of jail population report being told by a mental health professional that they had a mental disorder. Per Mr. Shannon, the bottom line is that people with mental illness and/or addiction are a significant percent of the individuals who are incarcerated. Mr. Shannon stated that a good percentage could benefit from the SMI Waiver.

In further response to Chairman Meredith, Mr. Shannon stated that medical care may not pay for services that appear to be judicially mandated instead of medically required. Waivers are overseen by Centers for Medicare and Medicaid Services (CMS). Kentucky would have to decide how many residential allotments would be available and what the eligible population would be. The SCL Waiver now serves 3,000 individuals and still has 2,700 waiting. The Michelle P. Waiver currently serves 10,500 individuals with mental illnesses. In regards to transporting individuals who need to be involuntarily committed for assessment, Mr. Shannon agrees that using officers is not always the best option and that it is a topic that needs to be resolved. In response to whether or not individuals are on a shorter track because of Medicaid, Mr. Shannon stated that Medicaid pays a large amount, but some services require prior authorization by MCOs, and some residential programs get denied. While it happens all over, the majority of the denials come from one MCO in Kentucky. In regards to interfacing with prisoners and mental health facilities, Mr. Shannon confirmed that intentional linkage of the prisoner to a local community mental health facility is necessary.

In response to a question sent to Chairman Westerfield, Mr. Shannon agrees that programs, such as HEART, can be expanded beyond opioid to help more people. In response to a program in Tennessee that focuses on getting an individual into a behavioral health care facility in a very limited time,

Mr. Shannon noted that Louisville started the Livingroom Program which offered 24/7 drop-off, but has had to scale back due to limited funding. The Four Rivers Mental Health Center in Paducah offers 24/7 drop-off with a half hour turnaround guarantee for the police officer.

Senator Schickel agrees that mental health services is a primary concern for prisoners and the handoff of prisoners to mental health facilities is an immense issue.

In response to Chairman Westerfield, Mr. Shannon agreed that the handoff of a prisoner to a mental health facility needs to be as encouraging as possible.

In response to Senator Nemes, Mr. Shannon agrees that concepts such as having an addiction recovery center come to the jail to assess the prisoner before being booked, offering a wraparound program to help prisoners find jobs, finding a program available to remote areas of Kentucky, and recovery are issues of importance that need to be addressed.

In response to Representative Tackett-Laferty, Mr. Shannon stated that Corrections offers mental health and substance abuse services with licensed clinical professionals for those who are incarcerated. The CMHCs become more involved when the prisoner is released into the community. Therefore, the handoff and continued services upon release from prison is where the CMHCs become involved.

### **Jail Phone Services**

Jason Woosley, Grayson County Jailer, gave an update on jail phone services by stating that phone services are now all digital with cloud storage of six to eight years of storage. A prisoner is assigned an account number that requires voice identification and a PIN number. The recordings are used as an investigative tool by the jails as well as by prosecutors. The system offers constant contact with families. Phone privileges can be used as a disciplinary tool, restricting to one phone call per week. Video visitations has become an increased topic due to the COVID pandemic. In-person visitations are encouraged due to the positive effects it has on rehabilitation. However, video visitations are useful when family members are not able to travel to the facilities. While Grayson County has not launched video visitations, many jails have. A deputy has to be assigned to video visitations to monitor the background, which is an added expense. Video visitations will create some revenue from prisoners, but not a significant impact. Requests for phone recordings are received from prosecutors and sheriff's departments almost daily. The beginning of each phone call tells the caller that the call is being recorded.

In response to Chairman Westerfield, Mr. Woosley stated that the two main jail phone vendors is Kentucky are Securus and Combined Public Communications. The equipment is provided by the vendor at no cost. The jails receive a commission of the usage, which runs around 50% to 60%. Since Grayson County houses a majority of federal prisoners who receive income, their percentage runs higher than most jails; \$30,000 to \$45,000 per month. The Federal Communications Commission (FCC) sets a cap rate of \$0.21 per minute charged to prisoners. Family members can load money onto a prisoner's card to make calls, but the prisoner often uses that money for commissary purchases. Phone vendors have recently put into place a restriction that only allows the money to be used for phone time. Jails charge a \$10 per day housing fee, which can be taken from the prisoner's commissary account. If the account is restricted to phone time only, then jails cannot take from that account. The current amount loaded just for phone time is \$89,687.02. One inmate has just over \$15,000 in his account. For the jail to block certain phone numbers,



the numbers would have to be known. The Department of Public Advocacy (DPA) has given a list of numbers to the vendors to put into the system that are not to be recorded, and an attorney can ask that their number be placed on the Do Not Record list.

Chairman Westerfield read a text from Senator Webb stating that the jails should contact the Kentucky Bar Association (KBA) to make sure private counsel is notified that they can have their number added to the Do Not Record list.

In response to Senator Schickel, Mr. Woosley stated that most jailers who use video visitation are using it for security issues.

In response to Representative Tackett-Laferty, Mr. Woosley stated that video visitation is the option of the jailers.

Chairman Westerfield stated that he would like to get information as to the average phone cost per prisoner, what that cost is paying for, and possibly having vendors at a future meeting.

#### **Jail Ratings System**

Amanda Essex, Criminal Justice Senior Policy Specialist with the National Conference of State Legislatures (NCSL), stated that the NCSL is a non-profit, bipartisan organization with a goal to provide legislatures with information and research about policy issues on the state and federal sides. Ms. Essex gave a list of distinctions between jails and prisons, advised that the Safety + Justice Challenge is focused on rethinking the use of jails and reducing the misuse and overuse of jails. Conditions of confinement in jails has become a primary focus in recent years. Kentucky is one of the first states to improve conditions for women in jails. Many jails hold prisoners who would be incarcerated by the state, and those jails receive state reimbursement that ranges from \$22 to \$35 per day. Utah increased the reimbursement rate for jails that provide treatment services. Ms. Essex presented state rating system examples for Ohio, Minnesota, Illinois, Arkansas, and Texas. The annual evaluation of state prisons conducted by the Ohio Correctional Institution Inspection Committee is based on five categories: Safety and Security, Health and Wellbeing, Fair Treatment, Rehabilitation and Reentry, and Fiscal Accountability, with a rating scale of Exceptional, Good, Acceptable, or In Need of Improvement.

In response to Chairman Westerfield, Ms. Essex stated that she is not aware of a penalty/reward system for jails that score low or high with the Ohio Correctional Institution Inspection Committee, but she will research that and get the information to the committee.

In response to Chairman Meredith, Ms. Essex clarified that the distinction between the state jails and county jails in Texas is that the state jails are run by the state, and are typically smaller facilities that fall under the Corrections Department along with prisons. They house a narrow category of offenses. Ms. Essex will research those offenses and get the information to the committee.

In response to Chairman Westerfield, Ms. Essex stated that the Ohio Correctional Institution Inspection Committee is made up of lawmakers, correctional institute employees, law enforcement individuals, attorneys, and other. Ms. Essex will get that information to the committee. Ms. Essex stated that she will verify whether the Ohio Correctional Institution Inspection Committee is geared to make recommendations or to enforce changes and will get the information to the committee.

#### **Update on Halfway Houses and Private Prisons**

Lisa Lamb, Deputy Commissioner of Community

Services and Local Facilities, Department of Corrections stated that Kentucky has one private prison located in Beattyville, with a population of 778. The newest state prison is the Southeast State Correctional Complex in Wheelwright, with a maximum capacity of 665. The contract for the 22 Reentry Service Centers in Kentucky was revised in 2019, giving a \$2.00 increase per diem and requiring evidence-based reentry programming to be offered. Reentry Service Centers were paid \$19.5M in FY20. The Reentry Service Centers are multi-use contract facilities used as a housing option for community custody inmates, transitional housing for parolees, and for treatment. Ms. Lamb stated that COVID-19 has affected the population of all facilities due to the suspension of transfers and controlled intake. The Department of Corrections (DOC) has worked diligently to protect the incarcerated population and staff by: 1) Suspending visitation as of March 1, 2020, 2) Implementing a screening process to include checking for symptoms, taking temperature, using hand sanitizing, and the use of foot sanitation trays for anyone entering a prison, and 3) Stopping all inmate transfers department-wide. Ms. Lamb gave the number of positive COVID-19 testing of inmates and staff from several of the facilities, along with the number of deaths. All positive test results are reported to the DOC website: <https://corrections.ky.gov>. There are currently 379 active inmate cases and 53 active staff cases. Four hundred thirty two inmates and 69 staff have recovered from the virus.

In response to questions received from Chairman Westerfield, Ms. Lamb stated that going to a Reentry Service Center is the first step to reenter the individual into the community. Having the department transport the individual is not economically feasible. Due to the pandemic, home placement investigation procedures have been modified. Reentry Service Centers are allowed to collect 25% of parolee earnings. The DOC cannot stop parolees from going out to work, but the employers can. The DOC has an individual whose primary job is to work with the directors of these facilities to get their pandemic action plan to ensure they are implementing procedures to keep everyone safe. Ms. Lamb advised that inmates are not being held from Reentry Service Centers in order to transfer to the new Southeast Correctional Complex. The Southeast Correctional Complex is going to be a prison for medium security male inmates.

In response to Chairman Meredith, Ms. Lamb verified that there are 22 Reentry Service Centers, with 12 offering substance abuse programs. Ms. Lamb will find out why the other ten do not currently offer substance abuse programs. Ms. Lamb agrees that the south central area of Kentucky does not offer a Reentry Service Center and the DOC has not received any contact from that area requesting a facility. Ms. Lamb will check into the possibility of an RFP for that area.

In response to Senator Carroll, Ms. Lamb stated that difficult choices have had to be made to protect inmates and staff. Due to the governor's requirements just over 1,100 prisoners were released, and 600 to 700 are under review for release.

There being no further business, the meeting adjourned at 12:07 PM.

## **PROPERTY VALUATION ADMINISTRATOR'S OFFICE TASK FORCE Minutes of the 1st Meeting of the 2020 Interim**

July 27, 2020

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

The 1st meeting of the Property Valuation Administrator's Office Task Force was held on Monday, July 27, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Randy Bridges, Co-Chair; Senators Denise Harper Angel and Michael J. Nemes; Representatives Samara Heavrin and Nima Kulkarni; and Tom Crawford.

Guests: Mack Bushart, Executive Director, Kentucky PVA Association

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

### **Overview of the PVA's Job Duties and Office Funding**

Mack Bushart, Executive Director, Kentucky PVA Association, presented an overview of the PVA's Job Duties and Office Funding.

Mack Bushart testified that PVAs are responsible for assessing all real and tangible property at 100 percent of its fair cash value as of a January 1 assessment date. Real property consists of residential, farm, and commercial property. Tangible property consists of cars, boats, airplanes, trailers, business inventory, business furniture, and business fixtures.

The ad valorem tax structure is based on 100 percent of fair market value, as stated in the Kentucky constitution. Property tax revenues are stable in comparison to income and sales taxes. Property taxes are the primary source of income for fiscal courts, schools, libraries, and other special tax districts. Property taxes also produce over \$3.2 billion in state and local tax revenues annually.

By statute, PVAs are state officers with county jurisdiction. Deputies are non-merit, at will, state employees. The Department of Revenue (DOR) authorizes each PVA's office budget. Audits of every PVA office are the responsibility of the State Auditor's Office. PVAs must have their assessments certified by the DOR annually. Certifications rely on a sales ratio study. All arm's length real estate transactions are measured by a ratio of the assessment to the sales price.

The assessment on a property multiplied by the tax rate will equal the amount of taxes that must be paid. Tax rates are set by each taxing district individually. House Bill 44 allows for increases of up to four percent of tax dollars collected from the previous year without a voter referendum.

PVAs assess over two million properties statewide. PVAs also maintain property ownership and transfer records. Homestead and disability exemptions for 440,000 individuals statewide are administered by PVAs. PVA offices also process 131,000 tangible property returns annually. In addition, they assess five million vehicles, boats, and campers. PVAs do not raise taxes; they assess property, which reflects the market of real estate sales. PVAs must review all properties once every four years.

State-wide real property assessment values grew by roughly ten billion dollars from 2018 to 2019. This roughly equated to an additional \$12 million in tax revenues for the state.

In 2017, real and tangible property tax revenues for the state and local districts totaled \$3.2 billion. The state and local districts spent \$66.5 million on PVAs in the same year. Thus, PVAs had a return on investment (ROI) of \$48 earned for every \$1 spent.

PVA local funds come from counties and cities using



the PVA tax rolls. Statutory formulas are used to calculate PVA local funds each year.

In 2020, PVAs received a general fund appropriation of a little over \$56 million. This appropriation is only to be used for personnel costs. There are 592.5 deputy positions statewide. PVAs received \$11.6 million in local funds for 2020. These funds are used for operating expenses.

In 2020, PVAs will send 73 percent of their total operating expense funds back to the DOR for the purpose of paying the last two months of payroll. This will be done in order to avoid laying off deputies. Other common operating expenses for a PVA office include vehicle costs or mileage reimbursement, computers, GIS systems, database software and technology, postage, printing, and office supplies.

PVAs have implemented a mandatory 90 day delay in the rehiring of vacated staff positions. This leads to an average annual savings of \$500,000 to \$900,000. PVA offices have lost 38 permanent positions through attrition since 2010. PVAs will see real personnel expenses totaling \$67 million, versus the \$56 million appropriation.

Mr. Bushart testified that less PVA personnel going out into the counties and finding new properties will mean less money for taxing districts. Less personnel also puts the tax calendar at risk.

The state real property tax rate is 12.2 cents per \$100 assessment. Mr. Bushart testified that a portion of the state tax rate could fund the property tax structure completely. A dedicated rate of 2.7 cents per \$100 assessment would completely fund PVA personnel costs. This would help ensure that the Commonwealth receives all of the property tax funds it is entitled to. It would also prevent issues related to lack of personnel.

The Kentucky PVA association believes it would be reasonable to enact a fee on special districts for the use of property tax rolls. The association also recommends setting a fee attached to property tax bills.

Mr. Bushart reviewed several potential cost savings measures including master agreements for commonly used software purchases and training, allowing online classes to qualify for annual education requirements, and more.

Mr. Bushart also reviewed issues that could potentially affect property tax and its funding. There could be a potential funding cut of 13 to 17 percent from the state due to the pandemic. Dark store appraisals are being tested in Kentucky courts. Another issue is that large corporations want data for free.

Tom Crawford complimented Mr. Bushart's presentation.

Representative Bridges expressed his appreciation for Mr. Bushart's presentation.

In response to a question from Senator Nemes, Mr. Bushart testified that dark store appraisals have negatively affected jurisdictions. He continued to further explain dark store appraisals.

In response to a question from Senator Mills, Mr. Bushart stated that special taxing districts have never been required to pay for the use of tax rolls. In response to a follow-up question, Mr. Bushart testified that he was not aware of special taxing districts paying for the use of tax rolls in other states.

Senator Harper Angel expressed her hope that the task force would thoroughly investigate the need for a permanent funding mechanism for PVA offices.

Senator Mills suggested that members of the task force get feedback from their local PVAs.

With no further business, the meeting was adjourned.

## EXCEPTIONAL SUPPORT WAIVER SERVICES TASK FORCE

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

July 27, 2020

#### Call to Order and Roll Call

The 1st meeting of the Exceptional Support Waiver Services Task Force was held on Monday, July 27, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Julie Raque Adams, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Steve Riley, Co-Chair; Senator Dennis Parrett, Representative Tina Bojanowski; David Allgood, LeeAnn Creech, Thomas Laurino, Lisa Lee, Brad Schneider, Steve Shannon, Amy Staed, Dee Werline, Brenda Wylie, and Bonnie Thorson Young.

Guests: Chris Ryder, President, Shawna Cornett, Vice President, Kentucky's Self-Empowerment Network; Nicole Griffith, Executive Director, Employment Solutions; Brandon Griffith, Executive Director, No Boundaries Case Management.

LRC Staff: Chris Joffrion, Hillary McGoodwin, and Shyan Stivers.

#### An Analysis of Exceptional Support Waiver Services from the Perspective of Consumer Advocates

Chris Ryder, President of the Kentucky Self-Empowerment Network stated that the limitations of the exceptional support waiver affect consumers in ways most people do not consider. Giving the example of catheters, Mr. Ryder stated that the limitations of the waiver do not fit the frequency of services like new catheters needed. Shawna Cornett, Vice President of the Kentucky Self-Empowerment Network, spoke to the needs to update the waiver to help consumers especially in rural areas. Ms. Cornett spoke to the limited options rural consumers have for transportation, and their needs are not being met.

Brandon Griffith, Executive Director of No Boundaries Case Management supported the statements made by Mr. Ryder and Ms. Cornett. Currently, consumers must re-apply every six months for the waiver. During that limited window, consumers may not have their basic needs covered, which what the waiver is supposed to do. The waiver is written in a narrow way that makes it very hard to get their needs covered and to find providers willing to take waiver clients as patients. The barriers in the waiver can be fixed with time extensions, patient-centered-language, and incentives for providers and community partners to serve the exceptional support population.

In response to questions and comments from Senator Raque Adams, Brad Schiender, Vice President, LifeSkills stated that there are limitations in the waiver on how services can be provided.

In response to questions and comments from Senator Parrett, Chris Ryder and Brandon Griffith stated that the convoluted application process for providers of Medicaid assisted transportation is a barrier for rural transportation firms.

In response to questions and comments from Representative Riley, Brandon Griffith stated that there are incentives to keep transportation bids down and red tape that limit access for consumers.

#### An Analysis of Exceptional Support Waiver Services from the Perspective of Regional Providers

Steve Shannon, Executive Director, Kentucky Association of Regional Programs gave a brief history of community based services and the exceptional support waiver services program. Mr. Shannon learned from providers four action steps the task force may want to consider. The Kentucky Association of Regional Providers (KARP) recommends that the task force find a way to make the application and approval process less onerous, while maintaining accountability, and access to quality services. Second, KARP recommends a team approach to the approval process prior to making a decision. Third, KARP recommends to extending the prior authorization period from six months to twelve months while incorporating an expedited renewal process. The fourth action item KARP recommends is to review the assessment tools used to determine patient need and select one universal assessment tool.

Mr. Shannon suggested several guiding principles for the task force: a budget neutral process that keeps focus on the needs of the individuals, in-depth discussions about the specific populations served and underserved by the waiver, and an understanding that residential providers should be expected to fully support individuals who are capable of living alone but cannot because of insufficient funds and community supports.

In response to questions and comments from Senator Raque Adams, Mr. Shannon stated that nursing needs are a gap and the dilemma of where do people go when they age out of home care and child care. The planning process would benefit from a tiered model.

In response to questions and comments from Representative Bojanowski, Mr. Shannon stated that existing Supported Community Living (SCL) parameters are set in regulation and that Exceptional Supports are an addition to the SCL regulation.

#### An Analysis of Exceptional Support Waiver Services from the Perspective of Private Providers

Amy Staed, Executive Director, Kentucky Association of Private Providers explained what exceptional support services are and who they serve. Ms. Staed identified eight problems with the current process for providing exceptional supports: 1) current regulations deter providers from agreeing to support individuals with intense support needs; 2) potential recoupments deter providers from agreeing to support individuals with intense support needs; 3) the exceptional supports application process is overly complicated; 4) there are not enough long term supports after stabilization; 5) SCL workforce crisis exists; 6) there is limited access to consultative clinical and therapeutic services; 7) exceptional support rates are calculated using an arbitrary formula; 8) the exceptional supports rate fails to reimburse providers for the actual cost of care and are difficult to bill.

Ms. Staed provided two recommendations for the task force to consider to combat the problems identified previously. First, establish a higher level of care while also retaining exceptional supports system by establishing criteria for individuals whose support needs are greater than what can be provided in residential levels one and two. In this scenario, exceptional supports can be used exclusively for short-term crisis mitigation and/or crisis stabilization.

Second, Ms. Staed recommended overhauling the current system by streamlining the application process by reducing administrative burden, adjusting timelines, allowing for back dating of claims, adjusting exceptional supports rate methodology to ensure that it is truly cost

based, simplifying the billing procedures, overhauling the SCL referral system to ensure providers are not deterred from accepting a high intensity referrals, increasing consultative, clinical, and therapeutic service until limits so that participants have access to the services available under SCL 1, and establish an exceptional supports rate for case managers.

In response to questions and comments from Senator Raque Adams, Ms. Staed stated that exceptional supports fall under the same federal match as SCL and come with a 5.5% provider tax.

#### **Adjournment**

There being no further business, the meeting adjourned at 4:23pm.

## **SUBSTANCE USE RECOVERY TASK FORCE**

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

July 14, 2020

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

The 1st meeting of the Substance Use Recovery Task Force was held on Tuesday, July 14, 2020, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Russell Webber, Co-Chair; Senators Julie Raque Adams, Johnny Ray Turner, and Max Wise; Representatives Danny Bentley, Joni L. Jenkins, and Lisa Willner.

Guests: Sarah Johnson, Director, Division of Addiction Services, Kentucky Department of Corrections; Amy Brady, Jailer, Henderson County Detention Center; Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; and Leslie Hoffmann, Chief Behavioral Health Officer, Department for Medicaid Services, Cabinet for Health and Family Services.

LRC Staff: Ben Payne and Christina Williams.

#### **Chairman's Remarks**

Chairman Ralph Alvarado welcomed members and presenters to the first Substance Use Recovery Task Force meeting. He then stated that the responsibility of the Substance Use Recovery Task Force is to examine the University of Kentucky Healing Grant, the Kentucky Opioid Response Effort, and to review all substance use recovery grants and efforts underway in the Commonwealth. The task force shall also examine the capacity for Medicaid funds to be used for addiction treatment while users are incarcerated. Additionally, the task force is charged with making recommendations to the Legislative Research Commission, the Cabinet for Health and Family Services, the Justice and Public Safety Cabinet, and the Education and Workforce Development Cabinet, to establish pathways for re-entry of substance involved individuals that may include engagement by social workers, peer support, healthcare connections, and workforce development supports.

#### **Department of Corrections Substance Use Treatment Programs**

Sarah Johnson, Director, Division of Addiction Services, Kentucky Department of Corrections, gave a brief presentation on the different substance use treatment programs that the Department of Corrections utilizes. Director Johnson stated there are approximately 21,000 individuals that are incarcerated within Kentucky's jails and prisons. There are an additional 50,000 individuals

under some sort of supervision through Probation and Parole. Research shows 60-70 percent of those individuals have some form of a substance use disorder and are in need of treatment and an assessment. The Division of Addiction Services has been tasked to clinically assess those individuals and either provide treatment or lead them to the appropriate treatment and recovery services. Director Johnson stated this task provides a big opportunity to utilize best practices and evidence-based treatment to make a positive impact not only on the individuals, but the criminal justice system, and the families that have been devastated by substance use across the Commonwealth.

Director Johnson stated over the last couple of years, the division has made some significant changes to try to individualize care and offer additional modalities of treatment. She stated recently the division was moved from Adult Institutions to Community Programs. The reason for this change is the expansion of treatment options in the community, as well as more staff to assist with these options. The name was changed from Substance Abuse Program to Addiction Services to highlight that the Substance Abuse Program is only one of the many services offered in the division. The regions were also realigned and there are now seven branch managers. The division has over 100 staff, most of which are clinical. The prison staff programs are overseen by the Division of Addiction Services, while the other divisions are ran through contractual relationships where the division staff oversee the fidelity of the program.

Director Johnson stated in the addiction services treatment modality, the division has worked very hard to offer individualized care. The first modality that is offered is the Substance Abuse Program (SAP) which is the traditional substance abuse program. It is a six-month evidence-based substance use disorder treatment that is conducted within the jails or institutions for individuals with a severe substance use disorder. This program includes but is not limited to, evaluating prosocial behaviors and attitudes, a trial and error learning process, and it is supported and guided by the community and staff. Within this program, there are expectations of new behaviors and attitudes, accountability, and clearly defined expectations. The curriculum that is utilized is the Hazelden "New Directions" Workbook Series (Intro to Treatment, Criminal & Addictive Thinking, Drug & Alcohol Education, Socialization, Co-Occurring Disorders, Relapse Prevention, and Preparing for Release.)

The second modality that is offered is the SAP Mentor Program. This is an evidence-based ongoing substance use disorder treatment that is also six months in length. It is for individuals who have completed the first six months of programming, have shown themselves as leaders, and have stayed on to assist other individuals in SAP. This program will model prosocial behaviors and attitudes, success or failures, support and guidance, new behaviors and attitudes, appropriate accountability, and model leadership. The SAP Mentor Program will utilize the Hazelden book work "Now that you're Sober."

The Outpatient Substance Abuse Treatment Program is an evidence-based substance use disorder treatment for individuals assessed for lower level of care. This program is a modified SAP with less programming hours. Director Johnson stated the primary curriculum for all programs is the Hazelden New Direction Series as referenced in the above two programs. Evidence-based interventions such as cognitive behavior therapy, 12-step facilitation, social skills training, brief intervention, and relapse prevention are also utilized. Clients receive individual and group counseling services, as well as drug and alcohol education throughout

the duration of programming. Evidence-based activities and learning tools, such as role-plays and skits, are incorporated in the daily schedule.

Director Johnson stated the next program is the Co-Occurring Disorder (COD) SAP which allows individuals, with verifiable histories of substance use disorder and mental health disorders, to be eligible to receive an integrated treatment program to address both disorders. Treatment is provided utilizing a modified therapeutic community model.

The COD SAP Mentor program is for individuals who have completed COD SAP and may participate in the mentoring program by serving as a mentor. Mentors serve as role models for participants and also complete tasks as assigned by the administrator. Mentors are chosen at the discretion of the program administrator and are engaged in activities and assignments designed to teach leadership.

The next modality is Supporting Others in Active Recovery (SOAR) which began in 2019. The SOAR program supports clients in their goal to stay safe and sober after completing SAP. It is targeted toward relapse prevention, education, and re-entry skills/resources. The program consists of evidence-based curriculum from Hazelden called MORE (My Ongoing Recovery Experience). While enrolled in SOAR, clients are eligible to participate in up to two other re-entry programs. Family communication and engagement is also a vital part of the SOAR program.

The next modality offered is the SOAR Mentor Program. SOAR mentors demonstrate their leadership skills and assist with six-month programming. The SOAR mentors must model prosocial behaviors and attitudes, success or failures, support and guidance, new behaviors and attitudes, appropriate accountability, and leadership to create clear and understandable expectations. The Hazelden "Now That You're Sober" book work is utilized in this program. While in this program, participants may participate in two other re-entry evidence-based programs.

Supportive Assistance with Medications for Addiction Treatment (SAMAT) is the clinical and medical protocol that is used for the administration of medications for addiction treatment. The SAMAT Program is focused on preventing overdose, relapse, and recidivism for individuals with opioid use disorder and/or Alcohol Use Disorder whom have completed or are currently engaged in a SAP through the implementation of FDA-approved medication for addiction treatment, which includes Vivitrol (naltrexone) and at some locations Sublocade. Candidates for SAMAT are identified and screened for eligibility approximately two months prior to their anticipated release from incarceration. Participants in SAMAT are provided medication services for up to two months before release from incarceration, which may include two injections.

The Pretrial Substance Abuse Program (PSAP) is in response to Senate Bill 4, passed into law in 2009, and states that individuals charged with a Class C or D felony having no felony convictions within the past 10 years, may be eligible for treatment as an alternative



to conviction. At initial incarceration, the jail Pre-Trial Officer may alert the Division of Addiction Services Branch Manager or Program Administrator to conduct a clinical assessment to determine eligibility for SB 4/PSAP. Upon an agreement between the judge, the commonwealth attorney, the client in question, and his/her attorney, successful completion of a jail based six-month treatment program may serve as an alternative to a felony conviction.

There is also a County Inmate SAP, a substance abuse program offered for county inmates, overseen and funded through the Department of Corrections. This program utilizes evidence-based curriculum and is similar to SAP for state inmates.

Director Johnson stated the division has contractual relationships with several re-entry service centers for residential treatment in the community as well as all of the 14 Recovery Kentucky Centers (RKC). Within RKC, each center offers a total of 100 treatment/recovery beds, with 60 beds contracted by the Kentucky Department of Corrections in each location. As supportive housing projects, each center uses a recovery program model that includes peer support, daily living skills classes, job responsibilities, and establishes new behaviors. Re-entry Service Centers (RSCs) are for those individuals in need of substance use disorder treatment, who meet the classification criteria for community custody. They may participate in programs available in re-entry service centers approved by the department to offer substance use disorder treatment programming.

There are also RSC and RKC SAP Mentor programs. The program at RKC are for those individuals who have completed all requirements up through Phase I at an RKC and can apply and sign on to stay for Phase II/Peer Mentorship. The program at RSCs is for those individuals who have completed all the requirements for an RSC and can apply to stay for peer mentorship. Both programs allow for the individual to begin to give back to the community by acting as role models, mentors, and teachers to the other phases of the program.

Director Johnson stated there is a short-term treatment program through a contract with Volunteers of America (VOA). Volunteers of America Men's Halfway Back Program has made available a new level of care to male clients on probation or parole. The contract with VOA has been modified to allow for 45, 60, or 90 days of residential treatment. The treatment model is the same as the customary six-month residential treatment program, but the schedule has been modified to allow the client to complete the program earlier based on their individualized clinical progress. A treatment team meeting is held weekly in partnership with VOA and the Division of Addiction Services staff to review clinical progress and determine who is appropriate for completion of the program.

An Intensive Outpatient Program – Community SAP is also available. Through an agreement with the regional Community Mental Health Centers (CMHC), individuals who meet the clinical and classification criteria may attend a less restrictive six-month Intensive Outpatient Program (IOP). Clients meet weekly in an outpatient setting to receive evidence-based substance use disorder curriculum. Clients must abide by all treatment program standards and submit to random drug screening. Individuals can be sent from an incarcerated setting to complete remaining treatment at these locations.

A program was created through collaboration with the Hope Center called Supportive Housing for Adaptive Re-entry (SHARE). The SHARE-CO Program provides a facility for men with co-occurring substance use disorders and serious mental illness. The program addresses the substance use component by utilizing the peer-driven therapeutic community model that the Hope Center Men's and Women's Recovery Program has utilized for many years in its partnership with the Kentucky DOC. The SHARE-CO program utilizes recovery dynamics curriculum, integrating the 12-step model with the peer-driven therapeutic community model. Due to comorbid psychiatric conditions, individuals in the program require certain accommodations to ensure success, which includes supplementing the peer-driven therapeutic community model with licensed mental health professionals to provide direct services and support. It also maintains smaller therapeutic community groups, providing a personal format which allows both staff and clients to focus on the needs of this group. The SHARE-CO Program is partnered with New Vista, a local community mental health provider, to provide onsite mental health counseling as well as referrals for outpatient psychiatric counseling as needed.

The SHARE SMI program provides a facility for men with serious mental illness who may not meet criteria for any substance use disorders. Clients receive onsite mental health screening and diagnostic services, psychoeducational and support groups focused on mental health management, and basic life skills groups. The SHARE SMI program also provides onsite mental health counseling through a partnership with New Vista. The program also provides referrals for health care, job training, vocational support services, educational services, and permanent housing. Clients are given the opportunity to be referred for targeted case management services to provide ongoing aftercare support once they transition back into the community.

The Re-Entry Drug Supervision (RDS) program is a pilot program resulting from Senate Bill 120 from the 2017 Regular Session. The program consists of two phases, lasting a minimum of 12 months or until the sentence is completed. Phase one involves participants attending group therapy, re-entry program team meetings, submitting to random drug screens, obtaining and maintaining full-time employment, training, or education, and payment of court obligations and supervision fees must be completed. The participant must indicate an appropriate understanding of recovery principles, attend self-help programs and obtain and maintain housing approved by the re-entry team. Phase two participants will attend weekly meetings with the re-entry team and continue to submit to random drug screens.

Director Johnson stated that all the DOC jails or institutions have an Alcohol and Other Drug Entity (AODE) license through the Cabinet for Health and Family Services. They all utilize a therapeutic community, as well as cognitive behavioral therapy. The jails and institutions are audited annually from the Office of the Inspector General

(OIG), as well as internally by the Division of Addiction Services. They all utilize evidence-based curriculum through Hazelden Betty Ford and have worked with the Re-entry Services Centers to set a standard for licensure with the new master agreement contract.

Director Johnson stated another initiative that the Division of Addiction Services has worked on is the women's medical release program which went into effect in 2019. Since that time, 123 women were released to treatment, 74 women refused, 77 women completed treatment, and 29 women completed women's medical release supervision. There are 10 woman that are currently active in treatment, and 42 women have had violations with the women's medical release program.

Director Johnson stated that the Division of Addiction Services has enhanced their existing programs by adding a new co-occurring workbook, as well as having their staff trained by Hazelden. These evidence-based program changes are specifically designed for criminally justice involved individuals, as it addresses not only the addictive behavior, but criminal thinking as well. Research shows that this approach reduces recidivism measures on three fronts: rearrests, reconvictions, and re-incarceration. Director Johnson also added that there is supportive assistance with medications for addiction treatment in institutions, jails, and programs. She stated within the past year and a half, there have been substance abuse programs added to the Fayette County Detention Center, the Hope Center in Fayette County, VOA-Re-entry Service Center, The Men's Healing Place, Blackburn Correctional Complex, Southeast State Correctional Complex, Grant County Detention Center, SHARE CO, SHARE SMI, and Fulton County SOAR. Director Johnson stated that other services provided include Circuit Judges administering evaluation and treatment as a condition of supervision, District Judges in some areas have misdemeanor supervision, the implementation of the Woman's Medical Release Program, and help from the Probation and Parole offices and the Parole Board on evaluation, violation, and aftercare needs.

Director Johnson stated in 2019, a five-year \$8.8 million grant was awarded in conjunction with the University of Kentucky to expand programming within jails. The goal is to improve capacity of justice system response to Opioid Use Disorder. Kentucky is one of ten sites chosen for the grant and will focus on women in jails. University of Kentucky-Center on Drug and Alcohol Research, the Department of Corrections, and Behavioral Health and Intellectual Disabilities will work together to offer pretreatment and improve access to medications for addiction treatment. Support for this expansion will be provided by Voices of Hope.

In conclusion, Director Johnson stated that the Criminal Justice Kentucky Treatment Outcome Study (CJKTOS) found that among SAP graduates from Kentucky jails, prisons, and community corrections facilities that were interviewed 12-months post release: 61.6 percent had not been re-incarcerated, 87.8 percent were living in stable housing, 76.6 percent were employed and 77.1 percent of those with children reported providing financial support to their children. Of those graduates, 58.8 percent did not have a positive drug test in the year since release, 67.5 percent attended 12-step meetings, and 67.2 percent of those referred, attended aftercare. She added that the Division of Addiction Services of Kentucky's new initiatives include changing the message to "treatment is not punishment," promoting recovery as well as treatment, reducing the stigma of substance use, and expanding programming



available.

In response to a question by Chairman Alvarado, Director Johnson stated an increase in treatment capacity both within, and outside of jails and facilities would be helpful. She also added an increase in funding levels, as well as the ability to not only obtain, but retain clinical staff after they receive their license would go a long way in continuing to better assist individuals.

In response to a question asked by Representative Willner, Director Johnson stated she believes a vast majority of the 21,000 incarcerated inmates have substance use issues and are incarcerated due to those disorders and/or mental illnesses.

In response to a question asked by Senator Raque Adams, Director Johnson stated there can be a different recovery approach based on gender. She elaborated that trauma is more represented in the female population, therefore they focus on trauma-based treatment more so than they do with the male population.

In response to a question asked by Senator Raque Adams, Director Johnson stated medical staff is utilized to educate the substance users on infectious diseases that can be a result of intravenous drug use.

In response to a question asked by Chairman Alvarado, the cost of medication that is used for treatment for the incarcerated population is covered by various grants and funding that the division obtains. Once individuals have served their time, the social service clinicians that are in every Probation and Parole office are utilized. Anyone that has started on a medication during incarceration is flagged so that when the clinician meets with them for the first time after release, they are informed of after care and recovery services. If the individual is on a medication the clinician will link them to providers within their community to ensure a continuity of care. She added Medicaid will pay for the medication once they are out on supervision.

In response to a request made by Chairman Alvarado, Ms. Johnson stated she would email him how many people were included in the CJKTOS study.

In response to a follow-up question by Chairman Alvarado, Ms. Johnson stated the Division of Addiction Services does not handle employment issues with regards to previously incarcerated individuals, but that the Re-entry Division is who handles those tasks.

Amy Brady, Jailer, Henderson County Jailer, spoke to the task force about the substance abuse programs offered at the Henderson County Detention Center. Jailer Brady discussed a 30-bed outpatient pilot program for male inmates with a history of limited or no prior treatment that is being offered at the Henderson Co. Detention Center. The program is a six-month, 24-week program. The inmates in the program are approved for work release and are required to work. The program hours begin after work has ended. In the program, there is a 24-week stepdown recovery method that is used and the Hazelden New Directions series as well as other approved evidence-based curriculum is utilized.

Jailer Brady stated that phase one, the early treatment phase, begins with education and group therapy. Phase one consists of two sessions of education in group therapy of three hours per week, with a totally of six hours in two sessions. The groups are limited to ten individuals. Jailer Brady stated they have found that education opens communication between the staff, the mentors, and the program participants. She added in phase one, the focus is on the participants finding themselves and perhaps some hidden talents and skills they may possess, and what their goals are for obtaining a future they may want

for themselves. Phase one steps consist of intake and orientation, medical assessment and job assignment, drugs and alcohol discussions, socialization, and criminal and addictive thinking exploration.

Jailer Brady stated that phase two, the middle treatment phase, focuses on anger management, release and integration into society, co-occurring disorders, and 12-step work. In phase two, there is a decrease of educational hours and an increase of group therapy hours. In phase two, the focus is shifted to more of a self-help initiative, utilizing programs such as Narcotics Anonymous and Alcoholics Anonymous. The groups also increase to approximately 15 inmates in phase two.

Phase three is re-entry treatment that consists of four sessions: individual assignments assigned by the clinician based on each individual's need: intense relapse prevention; life skills; resume and interview skills; and healthy relationships, codependency, and boundaries. Phase three sessions are for six hours, four days a week.

Jailer Brady stated the program has been a success and has helped inmates to learn self-worth, life skills, possible gainful employment, and become productive members of society.

In response to a question asked by Chairman Alvarado, Jailer Brady stated inmate labor has helped daily operations, however the reduction of female beds to increase male beds needed for the program is an issue, as well as medical costs for inmates. She stated that inmates with addiction issues tend to have more medical expenses than inmates who do not. She added that it is difficult to provide adequate treatment for people at approximately \$9.00 per inmate. Jailer Brady requested that funding for the program be examined. She added it would be helpful for Medicaid to pick up any cost of the inmate's medical issues.

In response to a question asked by Chairman Alvarado, Jailer Brady stated they cut participant beds in the program and have not been able to increase the numbers in quite a while. She also reiterated what Director Johnson stated that it is difficult to keep clinicians after they receive the hours needed and licenses, as they move on to places that offer a higher salary.

Capacity for Medicaid Funds to be used for Addiction Treatment While Incarcerated

Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services gave a brief overview of the capacity for Medicaid funds to be used for addiction treatment while incarcerated. Commissioner Lee stated currently federal policy does not allow Medicaid payments for healthcare services for individuals who are incarcerated unless that individual has been admitted to an off-site hospital or other qualifying facility for at least 24 hours. However, Medicaid will allow federal matching funds for individuals who are on parole, probation, released to the community pending trial, living in a halfway house, individuals who voluntarily live in a public institution, or individuals who are on home confinement. Federal financial participation is not available for individuals living in state or federal prisons, local jails, detention facilities, federal residential re-entry centers, residential mental health and substance use disorder treatment facilities for incarcerated individuals, or hospitals or nursing facilities that exclusively serve incarcerated individuals.

Commissioner Lee reiterated Director Johnson's statement that approximately 65 percent of the individuals incarcerated have a substance use disorder. Commissioner Lee stated they also have chronic conditions such as asthma, diabetes, hypertension, or behavioral health disorders.

Commissioner Lee stated those same rules for federal participation apply to the juvenile justice population as well. She added that the juvenile justice population is vulnerable and needs to be kept in mind when addressing substance use issues.

Commissioner Lee stated she believes the Kentucky General Assembly had very forward thinking with the enactment of House Bill 352 (2020 Regular Session). The bill requested that Medicaid create an 1115 waiver in order to see if the Center for Medicare and Medicaid Services (CMS) will allow the coverage of certain services to incarcerated individuals. Leslie Hoffmann, Chief Behavioral Health Officer, Department for Medicaid Services, Cabinet for Health and Family Services, has been taking the charge on that project and has been in communication with CMS.

Ms. Hoffman said the bill states within ninety days after the effective date of this Act, the Department for Medicaid Services shall develop and submit an application for an 1115 demonstration waiver under 42 U.S.C. sec. 1315 to provide Medicaid coverage for substance use disorder treatment, including peer support services, to individuals incarcerated for a conviction under KRS Chapter 218A. Upon approval of the waiver, the cost of treatment for a substance use disorder or patient navigation provided by a licensed clinical social worker shall be a covered Medicaid benefit for an incarcerated individual. She also said the bill states, The Department of Corrections is directed to participate and assist in the development.

Ms. Hoffman stated an 1115 waiver is often described as a pilot or demonstration project that is likely to assist in promoting the objectives of the Medicaid program. The purpose of the demonstration is to give states additional flexibility to design and improve their programs. An 1115 demonstration project presents an opportunity for states to institute reforms that go beyond just routine medical care and focus on evidence-based interventions that drive better health outcomes and quality of life improvements. A demonstration must also be "budget neutral" to the Federal government, which means that, during the course of the project, Federal Medicaid expenditures will not be more than Federal spending without the demonstration.

Ms. Hoffman stated Kentucky is requesting approval from the CMS for an amendment to its Medicaid substance use disorder (SUD) 1115 waiver to authorize federal Medicaid matching funds for the provision of SUD treatment to eligible incarcerated individuals. Coverage for these services is requested for persons incarcerated in state and county facilities. The objective of the amendment will be twofold. The first objective will be to provide SUD treatment to eligible incarcerated individuals in order to ensure this high risk population receives needed treatment before release, and to strengthen follow up care with a Medicaid provider after release by paying for SUD treatment while incarcerated. The second objective will be to allow the recipient's chosen managed care organization (MCO) to coordinate aftercare with a Medicaid provider 30 days before release. Kentucky plans to retain and enhance the existing SUD programs in state and county facilities. Kentucky will be the first state in the nation to request this type of SUD incarceration amendment. The entire initiative will be pending CMS approval.

Ms. Hoffman stated The Department for Medicaid Services (DMS), Department for Behavioral Health (DBHDID), Office of Inspector General (OIG), and the Department of Corrections (DOC) developed a united team to work on Kentucky's initiative. The team has been meeting on a regular basis and communicating with CMS

since May 2020.

Ms. Hoffman stated the next steps and estimated timeframe include the submission of an amendment draft, conference call, and a revision with CMS in July 2020, a post for public comment in August 2020, the review, response, and consideration for revisions in the amendment in September 2020, and final submission to CMS for review and approval in September 2020. The timeline for CMS approval has not been determined by CMS due to internal guidance being developed.

In response to a question asked by Chairman Alvarado, Ms. Hoffmann stated the treatment would be covered as far as the services go. She added medication and management would also be included in the 1115 Waiver, if approved by CMS. Commissioner Lee added if a participant needed to be transferred to the hospital due to withdraw or other related issues, the cost of that would go from the hospital to Medicaid rather than through the institution.

In response to a question asked by Chairman Alvarado, Commissioner Lee stated if the 1115 Waiver is approved, and a facility does not have the clinician coverage to treat the individual, they would not be eligible to go to an outpatient center for treatment. The treatment would have to take place within the walls of the facility to apply.

In response to a question asked by Chairman Alvarado, Commissioner Lee stated after Covid-19, all prior authorizations for any Medicaid related services were suspended. Reimplementation of some of the prior authorization processes will be beginning August 1, 2020, however, there are to be no prior authorization processes on any substance use disorder or behavioral health treatment services at this time.

In response to Chairman Alvarado, Commissioner Lee stated that continued support in the Medicaid expansion program is needed. She stated without Medicaid, some individuals would not be eligible for services.

Chairman Alvarado announced the next Substance Use Recovery Task Force will be meeting Tuesday, August 11, 2020 at 3:00 P.M. With no further business to come before the Committee, Chairman Alvarado adjourned the meeting at 4:26 P.M.

**TOBACCO SETTLEMENT  
AGREEMENT FUND OVERSIGHT  
COMMITTEE**

**Minutes of the 2nd Meeting  
of the 2020 Interim  
July 23, 2020**

**Call to Order and Roll Call**

The 2nd meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, July 23, 2020, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Dennis Parrett, and Robin L. Webb; 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; Dave Maples, Executive Vice President, Kentucky Cattlemen’s Association (KCA); Becky Thompson, Director, Kentucky Beef Network; and Cary King, Vice President, Executive

Committee, KCA.

LRC Staff: Nathan Smith, Kelly Ludwig, and Rachel Hartley.

**Report on the projects considered for funding at the June meeting of the Agricultural Development Board**

Bill McCloskey described the Agricultural Development Board’s (ADB) projects for June. Mr. McCloskey highlighted programs including the County Agriculture Investment Program (CAIP), Next Generation Farmer, Shared-Use Equipment Program, and the Youth Agriculture Incentive Program (YAIP).

The requested program amendments discussed included:

Barren County Conservation District requested an additional \$106,972 in Barren County funds for CAIP. The board recommended approval, which would bring the program total to \$386,972.

Lee County Conservation District requested an additional \$40,300 in Lee County funds for CAIP. The board recommended approval, which would bring the program total to \$86,000.

Washington County Cattlemen’s Association requested an additional \$103,000 in Washington County funds for CAIP. The board recommended approval, which would bring the program total to \$257,000.

Washington County Cattlemen’s Association requested an additional \$11,000 for YAIP. The board recommended approval, which would bring the program total to \$21,350.

Owsley County Conservation District requested an additional \$124,000 in Owsley County funds for CAIP. The board recommended approval, which would bring the program total to \$264,000.

The projects discussed included:

Hardin County Agricultural Extension Foundation was approved for up to \$21,442 in Hardin County funds to purchase small animal livestock pens.

Trackside Butcher Shoppe was approved for up to \$247,500 in state and county funds to obtain a Global Food Safety Initiative (GFSI) audit and to make facility improvements. The state funds are a forgivable loan and county funds are a grant.

Jessamine County Future Farmers of America (FFA) Alumni Association was approved for \$8,000 in Jessamine County funds for a 4-H and FFA cost-share program.

Summit Holdings was approved for up to \$149,072 in state and county funds to obtain GFSI certification and to upgrade equipment to increase capacity and processing speed.

Baesler Farms was denied \$179,000 in state funds for a hemp processing facility expansion project based on ADB’s hemp policy.

International Farmaceutical Extracts was denied \$3,475,000 in state funds for a hemp education and processing facility based on ADB’s hemp policy.

Godby’s Farm and Produce was denied \$323 in state funds to add a water hydrant and drip irrigation system. The project did not meet criteria for a small scale grant.

Keeton Farms was denied \$10,150 in Wayne County funds to replace a bin dryer with a used high capacity grain dryer. The board denied the project because the payback is greater than 25 years.

In response to a question from Representative Dossett, Warren Beeler stated the amount of rain in Christian County has contributed to very good crops this year. Last year, hemp was approved to be grown on over 30,000 acres and this year hemp is only approved for approximately 10,000 acres. There has to be enough hemp processors for the amount of hemp grown.

**Kentucky Cattlemen’s Association**

Dave Maples testified about the Kentucky Cattlemen’s Association’s (KCA) long range plan that will be implemented from 2020 to 2025.

Agriculture is considered an essential business during Covid-19 by the Beshear administration. Most of the processing plants in Kentucky and the livestock markets have remained open.

The United States Department of Agriculture has implemented the Coronavirus Farm Assistance Program, which provides direct payments to farmers to offset the impact of Covid-19. In Kentucky, over 18,000 applications were received and approximately \$90 million was awarded to farmers.

**Kentucky Beef Network**

Becky Thompson provided an overview of the Kentucky Beef Network’s (KBN) partnership with the University of Kentucky to focus on management practices, on farm learning, and training programs.

The KBN operates the Eden Shale Farm in partnership with the University of Kentucky, and it has been used as a learning center and demonstration farm since 2012. The farm has hosted producers from 96 counties in Kentucky and 20 states. The large bale feeder plans have been uploaded to the KBN website and it has been downloaded in 30 states.

Beef Solutions is a program created in 2018 to process local beef for distribution through Kroger. The ground beef is available for purchase at 159 Kroger locations within Kentucky, Tennessee, Indiana, and Illinois. In April 2020, a pre-made beef patty was made available at 120 Kroger locations within Kentucky, Tennessee, and Indiana.

In response to a question from Representative King, Ms. Thompson stated during Covid-19, KBN has made training available online and there are management webinars. Cary King stated since Covid-19, the spread between the price of fed cattle and the price of boxed beef has increased approximately 323 percent, which is the largest spread since the inception of the Mandatory Price Reporting in 2001.

In response to a question from Representative Dossett, Mr. Maples stated technology and communication are the future of agriculture in Kentucky.

There being no further business, the meeting was adjourned.

# Child abuse and foster care,

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Sen. Julie Raque Adams, R-Louisville, asked particularly about the situation in Jefferson County.

Christa Bell, the director for the Division of Protection and Permanency within DCBS, said social worker turnover in Jefferson County had been a struggle.

DCBS Commissioner Marta Miranda-Straub said there's been a focus on reducing unmanageable caseloads.

Now, instead of 80 cases per social worker in Jefferson County, it's down to an average of 37 cases.

"That's still too high, but that's almost a 45 percent reduction in the caseload," Miranda-Straub said.

As for adoptions, committee co-chair Sen. Tom Buford, R-Nicholasville, asked why it can take up to three years for adoptions to move through the court system.

Bell said the paperwork and documentation process required of families and the cost of adoptions cause delays.

"We put in place some strategies to try to improve that," Bell said. "We actually reduced some of the requirements if the child had been in the same placement from the initial get-go. We removed some of those paperwork requirements."

So far this year, 1,293 adoptions have been finalized compared to 1,257 in all of 2019, according to DCBS data provided to the committee.

"We just want to get those social workers in your hands, so we get that caseload down and get our judges maybe a little bit more on board to handle these cases with a little more speed if possible," said Buford.

## Lawmakers receive update on food insecurity, food banks

by Jordan Hensley

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FRANKFORT -- In recent months, lawmakers have heard testimony from various organizations on the impacts the COVID-19 pandemic is having on child welfare, veterans and more.

Lawmakers on the Tobacco Settlement Agreement Fund Oversight Committee heard testimony on Aug. 13 about COVID-19's effect on food insecurity and hunger in Kentucky and how state funding has helped meet the needs of hungry Kentuckians across the state.

"As people struggle still not earning as much, still not receiving the benefits they're used to receiving, ... we're quite concerned about the impact of the pandemic," said Tamara Sandberg, executive director of Feeding Kentucky.

As of July 21, over 270,000 Kentuckians did not have enough to eat, according to Sandberg's presentation. Sandberg said that number is expected to increase by 40 percent in the next 12 months.

United States Department of Agriculture (USDA) data from the presentation shows nearly one in seven Kentuckians were food insecure before the pandemic. Sandberg said that included 190,600 children and 1 in 6 of older adults.

Sandberg said Feeding Kentucky works with seven regional food banks across the Commonwealth that serve all 120 counties that were feeding around 50,000 Kentuckians per week before the pandemic.

"We've never seen anything like this," Sandberg said about the need for food bank assistance since the pandemic. "We experienced an enormous increase in the need for food assistance particularly in March and April. At the same time, we experienced a decrease in the amount of food available as some of our typical sources ran out as the entire food (supply) chain was stretched."

With social distancing requirements and with many food bank volunteers being older adults who are more vulnerable to contract COVID-19 and experience complications, food banks have had to spend more money to meet the needs of their respective communities.

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Sandberg said thanks to support from the General Assembly, Kentucky Department of Agriculture and Kentucky Farm Bureau, Kentucky's food banks have been able to meet the increased demand for food bank assistance.

With the Farms to Food Banks program, farmers donate produce and other agricultural products that would have otherwise gone to waste to Kentucky's food banks. While the products are donated, Feeding Kentucky works to offset the cost it takes to harvest, pack and ship the products.

Sandberg said in 2019, nearly 3 million pounds of Kentucky grown produce were "rescued" to provide a half a plate of fruits and vegetables for nearly 5 million meals. Since 2011, the program has led to the "rescue" of 21 million pounds of food with \$4.2 million paid to farmers.

"So the dollars that you all in the General Assembly contribute to this program is making a huge impact on hungry people, on the farmers and the communities where those farmers are located, so we're very proud of that," Sandberg said.

Kentucky has seen an \$8.9 million return in its investment, she added.



Rep. Kim King, R-Harrodsburg, shares statistics she read recently about Kentucky children experiencing food insecurity during the Aug. 13 Tobacco Settlement Agreement Fund Oversight Committee.

# Legislative panel gets update on "direct ship" law

by Jim Hannah

FRANKFORT – Don't "cheers" just yet to a new law that would allow brewers, distillers and vintners to ship alcohol directly to consumers.

It's going to take time to implement, Alcoholic Beverage Control (ABC) Commissioner Allyson Taylor said while testifying before the July 30 meeting of the Interim Joint Committee on Licensing, Occupations and Administrative Regulations.

Committee Co-chair Rep. Adam Koenig, R-Erlanger, said the proposed regulations required under HB 415 were submitted on July 14 to the Administrative Regulation Review Subcommittee. He added that he hoped the regulations are implemented in time for the Christmas shopping season.

"As far as how long it takes to implement after that I believe it will depend on the public comments and how many changes we implement," Taylor said in response. She added that the computer system required for producers to apply for shipping licenses is ready to go.

Dubbed the direct ship bill, House Bill 415 from this past session clears the path for producers of alcohol – in and out of Kentucky – to be licensed with ABC to ship directly to consumers. No more than 10 liters of distilled spirits, 10 cases of wine and 10 cases of malt beverages per month could be shipped to an individual. The packages would have to be clearly labeled and be signed for by someone 21 or older. And shipping to dry territories, communities where alcohol sales are prohibited by local laws, would still be banned.

Sen. Jimmy Higdon, R-Lebanon, said he has heard from retailers, wholesalers and distributors concerned that some language in the proposed regulation may allow out-of-state wholesalers and distributors to sell in Kentucky. Senate Majority Caucus Chair Julie Raque Adams, R-Louisville, said she too has heard concern about how out-of-state importers will work into the proposed regulations.

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Senate Majority Floor Leader Damon Thayer, R-Georgetown, speaks about regulations required to implement a new law to allow brewers, distillers and vintners – in and out of Kentucky – to ship alcohol directly to consumers.

Senate Majority Floor Leader Damon Thayer, R-Georgetown, said he wanted to make sure ABC follows the legislative intent of HB 514. Taylor responded that ABC had three goals when drafting the proposed regulations. The objectives were to implement the legislative intent, make sure Kentucky producers and suppliers are on the same footing as their out-of-state competitors and to respect the three-tier system.

Thayer then characterized HB 415 one of the most important bills passed last session.

“As everyone knows, because of COVID-19 our bourbon tourism venues are pretty much flat on their back,” Thayer said. “We all know downtown Louisville is pretty much shut down because of the riots and there is a lot of bourbon tourism down there.

“Anything we can do to open up another revenue stream for the bourbon industry is incredibly important, but I do support making sure we got this right.”

# Lawmakers discuss curtailing no-knock warrants

by Jordan Hensley

FRANKFORT – After a statewide outcry over the use of no-knock warrants in Kentucky following the shooting death of Breonna Taylor, Senate President Robert Stivers II, R-Manchester, reported to a legislative panel that he’s working on a bill to regulate the use of such warrants.

“This would not allow a no-knock warrant to be a standalone use or tool for police officers,” Stivers said during the July 28 meeting of the Interim Joint Committee on Local Government.

A no-knock warrant allows law enforcement officers to enter a property without announcing their presence. Stivers noted these are typically used in situations where it is considered dangerous for law enforcement’s presence to be known.

The bill deals with an issue that has gained much attention since Taylor, a 26-year-old EMT from Louisville, was shot and killed during the execution of a no-knock warrant in connection to a narcotics investigation on March 13. When officers entered her home unannounced, her boyfriend shot at officers thinking they were intruders. One officer was injured during the incident, but charges against the boyfriend in relation to the shooting of the officer have been dismissed. No drugs were found in the home.

Taylor’s death has led to statewide and nationwide protests calling for the ban of no-knock warrants and police reform.

Stivers added he’s consulted many different groups, including the Kentucky Association of Police Chiefs and the Kentucky Sheriffs’ Association. He said he’s also read many articles and manuals on how to use certain investigative tools to aid him in crafting this bill, which he hopes to have a draft available for review soon.

Stivers noted there are some situations where no-knock warrants are needed, but those situations are rare and officers seeking a no-knock warrant should have to follow a certain list of guidelines in obtaining and executing them.

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Stivers said the bill bans the use of standalone no-knock search warrants and law enforcement agencies would have to use it as a secondary tool alongside an arrest warrant or any other type of search warrant.

The bill's draft also calls for no-knock warrants to be conducted by those who are trained in handling tactical situations, such as a SWAT team, Stivers said.

Stivers added a supervisor would be required to sign-off on its use. The legislation also calls for judges to certify that the application has not been presented to any other judge.

As for liability, Stivers said there should be entity and individual liability if a no-knock warrant is improperly obtained and executed.

"But where it is specific and distinct, that you can show someone was willful, wanton or grossly negligent in obtaining warrants (or) have falsified applications for warrants, then that individual should be specifically held, in this instance, individually liable," Stivers said.

In discussing civil and criminal penalties, Stivers said that is something that will require further discussion with the Interim Joint Committee on Judiciary.

Representatives of the Kentucky Association of Police Chiefs and Kentucky Sheriffs' Association also shared their thoughts on no-knock warrants during Tuesday's meeting.

"No-knock search warrants should not be used for purposes to recover property, drugs or anything like that," said Art Ealum, police chief of the Owensboro Police Department and president of the Kentucky Association of Chiefs of Police.

Ealum added no-knock warrants should only be used in extreme circumstances, such as to prevent the loss of human life during a hostage situation.

Ealum said the association would refrain from expressing an opinion on the bill Stivers is working on until they are able to review the piece of legislation.

"We have had the opportunity to work with President Stivers and meet with him, and (we) anxiously await to see the bill," said Shawn Butler, executive director of the Kentucky Association of Chiefs of Police. "But I would tell you, in theory, we support everything he has discussed."

Butler noted that in surveying the association's members, no-knock warrants are rarely, if ever, used.

Daviess County Sheriff Keith Cain, of the Kentucky Sheriffs' Association, said across Kentucky's 120 sheriff's departments, many do not use no-knock warrants.

"I did an informal survey in preparation for this testimony today," Cain said. "I spoke with a number of my peers and with sheriffs across Kentucky and I could not find one that would endorse their use. Not one."

While Cain cannot think of any exceptions where a no-knock warrant should be used, he believes the exceptions can be clearly laid out in Stivers' bill.

During his testimony to the committee, Stivers did not say when a draft of the bill would be completed but did note the bill was already nine to 10 pages in length.



Senate President Robert Stivers II, R-Manchester, discusses a proposal to regulate the use of no-knock search warrants during the July 28 meeting of the Interim Joint Committee on Local Government.



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