

Final Reports Of The Interim Joint, Statutory, And Special Committees

Informational Bulletin No. 259

December 2020



Kentucky Legislative Research Commission

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The Kentucky Legislative Research Commission is a 16-member committee that comprises the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the Commission constitutes the administrative office for the Kentucky General Assembly. Its director serves as chief administrative officer of the legislature when it is not in session. The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the General Assembly. The Commission provides professional, clerical, and other employees required by legislators when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual members in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, furnishing information about the legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting a pre-session orientation conference for legislators, and publishing a daily index of legislative activity during sessions of the General Assembly.

The Commission also is responsible for statute revision; publication and distribution of the *Acts* and *Journals* following sessions of the General Assembly; and maintenance of furnishings, equipment, and supplies for the legislature.

The Commission functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of The Council of State Governments as it relates to Kentucky.

**Final Reports Of The
Interim Joint, Statutory,
And Special Committees**

2020

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Informational Bulletin No. 259

Legislative Research Commission
Frankfort, Kentucky
legislature.ky.gov

December 2020

Foreword

Sections 36 and 42 of the Kentucky Constitution provide that the General Assembly shall meet on the “first Tuesday after the first Monday in January” for 60 legislative days in even-numbered years, and for 30 legislative days, including up to 10 days for an organizational component, in odd-numbered years.

Between legislative sessions, the interim joint committees of the Legislative Research Commission (LRC), as well as statutory and special committees, meet to discuss and receive testimony on a number of important issues that may confront the General Assembly.

During the 2020 Interim, all 14 interim joint committees, 10 statutory committees, and 7 special committees held meetings.

LRC provides this informational booklet as a summary of the activity of the interim joint, statutory, and special committees since adjournment of the 2020 General Assembly. The reports were prepared separately by the committee staff.

Jay D. Hartz
Director

Legislative Research Commission
Frankfort, Kentucky
December 2020

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**Report Of The 2020
Interim Joint Committee On Agriculture**

**Sen. Paul Hornback, Co-Chair
Rep. Richard Heath, Co-Chair**

Sen. Jared Carpenter
Sen. Julian Carroll
Sen. Matt Castlen
Sen. David Givens
Sen. Stan Humphries
Sen. Robby Mills
Sen. Dennis Parrett
Sen. Damon Thayer
Sen. Robin Webb
Sen. Stephen West
Sen. Whitney Westerfield
Rep. George Brown
Rep. Myron Dossett
Rep. Larry Elkins
Rep. Kelly Flood
Rep. Joe Graviss
Rep. Chris Harris

Rep. Mark Hart
Rep. Kim King
Rep. Matthew Koch
Rep. Phillip Pratt
Rep. Rick Rand
Rep. Brandon Reed
Rep. Rachel Roberts
Rep. Rob Rothenburger
Rep. Steven Rudy
Rep. Dean Schamore
Rep. John Sims Jr.
Rep. Wilson Stone
Rep. Nancy Tate
Rep. Walker Thomas
Rep. James Tipton
Rep. Susan Westrom
Rep. Les Yates

LRC Staff: Stefan Kasacavage, Kelly Ludwig, Nathan Smith, and Susan Spoonamore

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Agriculture

Jurisdiction: Matters pertaining to crops, livestock, poultry, and their marketing; disease control; warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; county fairs.

Committee Activity

The Interim Joint Committee on Agriculture held five meetings during the 2020 Interim. A variety of topics were discussed, and several agencies and organizations updated committee members on projects and proposed legislation for the 2021 Regular Session.

The Impact of COVID-19 On Kentucky's Agriculture Industry

The committee received testimony from the executive director of the Kentucky Poultry Association, the executive vice president of the Kentucky Cattlemen's Association, and the commissioner of agriculture relating to the impact of the COVID-19 pandemic on Kentucky's meat industry. The panel discussed supply and demand issues as well as transportation obstacles resulting from the pandemic. The executive director of the Governor's Office of Agricultural Policy explained that COVID-19 spread throughout the workforce of some of the largest meat processing plants in the United States, causing facilities to shut down. As a result, the Governor's Office of Agricultural Policy and the Agricultural Development Board are offering a new meat processing investment program for Kentucky farmers. The commissioner of agriculture explained how funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act are being allocated to Kentucky farmers and the agriculture industry. A representative of the University of Kentucky's College of Agriculture, Food, and Environment gave an overview of the economic impact of COVID-19 on Kentucky's agriculture industry.

Kentucky State Fair Board

At the Kentucky State Fair, in Louisville, the president and chief executive officer of the Kentucky State Fair Board updated committee members on fair activities and potential projects relating to the Kentucky Exposition Center. He provided details on renovation projects at the Kentucky International Convention Center. The mayor of Louisville/Jefferson County welcomed committee members.

Food Establishments

The regulation coordinator of the Department for Public Health and the executive director and the deputy executive director of the Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, gave committee members an update on proposed administrative regulations 902 KAR 45:110 and 902 KAR 45:180. The proposed regulations change the permit fee structure for food establishments. The old fee structure was based on a facility's square footage, whereas the new fee structure would be based on risk associated with food production or storage.

Kentucky Commercial Rye Crop Initiative

The director of the Grain and Forage Center of Excellence at the University of Kentucky College of Agriculture, Food and Environment; the executive director of the Kentucky Small Grain Growers' Association; the owner of Walnut Grove Farms; and the senior director of external relations for American Farmland Trust gave an overview of the Kentucky Commercial Rye Crop Initiative. The initiative will determine how to best grow cereal rye as a high-quality grain crop and will develop a network of farmers and buyers of cereal rye.

Administrative Regulations

During the 2020 Interim, 34 administrative regulations were referred to the committee from the Kentucky Department of Agriculture and the University of Kentucky Agricultural Experiment Station. The regulations related to hemp policies and procedures, equine issues, cervids, ginseng, egg grading and classification, stockyards, produce safety standards, fertilizer, and seed testing and labeling.

Legislative Proposals/Policy Positions Received

The committee received legislative proposals and comments for the 2021 Regular Session from representatives of the Kentucky Farm Bureau, Kentucky Department of Agriculture, Kentucky Corn Growers Association, Kentucky Poultry Association, and Kentucky Cattlemen's Association.

Kentucky Farm Bureau

- Expand broadband and high-speed internet service availability throughout Kentucky by using CARES Act funding.
- Support the Kentucky Production Agri-Tech (KPAT) Initiative, relating to ag-based technology.
- Continue 50 percent allocation of the Master Settlement Agreement fund to the Agricultural Development Board for the purpose of improving net farm income of individual farmers in production agriculture.
- Maintain agricultural sales tax exemptions for production agriculture.
- Support the provisions of HB 44 (KRS 132.010), limiting revenue from property taxes to 4 percent plus new growth.
- Support adequate funding of the rural secondary and county road fund.
- Support adequate funding of the Kentucky Department of Agriculture.

Kentucky Department of Agriculture

- Modernize motor fuel statutes.
- Modernize pesticide statutes.
- Reinstate tax credits for farmers' donations to food banks.

- Support wild game meat donations to extension offices for the purpose of sampling and education.

Kentucky Corn Growers Association

- Support and monitor administrative regulations implementing the availability of E-15 motor fuel legislation from the 2020 Regular Session.
- Support the KPAT Initiative.

Kentucky Poultry Federation

- Adequately fund agriculture infrastructure projects.
- Support adequate staffing and workforce initiatives for agricultural industries.
- Support the KPAT Initiative.
- Continue 50 percent allocation of the Master Settlement Agreement fund to the Agricultural Development Board for the purpose of improving net farm income of individual farmers in production agriculture.

Kentucky Cattlemen's Association

- Support and continue 50 percent allocation of the Master Settlement Agreement fund to the Agricultural Development Board.
- Strengthen agricultural research, demonstration, and outreach programs.

Reports Received

The committee received the following reports:

- Kentucky Tobacco Research and Development Center, Quarterly Report, April 1, 2020–June 30, 2020
- Kentucky Agriculture Water Quality Authority, Biennial Report for State Fiscal Year 2019 and 2020

**Report Of The 2020
Interim Joint Committee On Appropriations And Revenue**

**Sen. Christian McDaniel, Co-Chair
Rep. Steven Rudy, Co-Chair**

Sen. Tom Buford
Sen. Matt Castlen
Sen. Rick Girdler
Sen. David P. Givens
Sen. Stan Humphries
Sen. Alice Forgy Kerr
Sen. Morgan McGarvey
Sen. Stephen Meredith
Sen. Gerald A. Neal
Sen. Michael J. Nemes
Sen. Dennis Parrett
Sen. Robin L. Webb
Sen. Stephen West
Sen. Phillip Wheeler
Rep. Lynn Bechler
Rep. Danny Bentley
Rep. Myron Dossett
Rep. Joseph M. Fischer

Rep. Kelly Flood
Rep. Jim Glenn
Rep. David Hale
Rep. Mark Hart
Rep. Angie Hatton
Rep. Russ A. Meyer
Rep. Jason Nemes
Rep. Ruth Ann Palumbo
Rep. Melinda Gibbons Prunty
Rep. Brandon Reed
Rep. Steve Riley
Rep. Rob Rothenburger
Rep. Sal Santoro
Rep. John Sims Jr.
Rep. Jim Stewart III
Rep. Wilson Stone
Rep. James Tipton
Rep. Susan Westrom

LRC Staff: Jennifer Hays, Kevin Branscum, Cynthia Brown, Cameron Childress,
Katy Jenkins, Sarah Watts, and Chase O'Dell

**Presented to the
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2021 Regular Session of the
Kentucky General Assembly**

**2020 Interim
Budget Review Subcommittee Organization And Membership**

**Budget Review Subcommittee
On Economic Development, Tourism, And Environmental Protection**

**Sen. Rick Girdler, Co-Chair
Rep. Lynn Bechler, Co-Chair**

Sen. Perry Clark
Sen. Alice Forgy Kerr
Sen. Morgan McGarvey
Sen. Max Wise
Rep. Terri Branham Clark
Rep. David Hale

Rep. Savannah Maddox
Rep. Ruth Ann Palumbo
Rep. Bart Rowland
Rep. Dean Schamore
Rep. Les Yates

Rep. Russell Webber, ex officio

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

Budget Review Subcommittee On Education

**Sen. Alice Forgy Kerr, Co-Chair
Rep. Steve Riley, Co-Chair
Rep. James Tipton, Co-Chair**

Sen. C.B. Embry Jr.
Sen. Gerald Neal
Sen. Johnny Ray Turner
Sen. Mike Wilson
Rep. Kim Banta
Rep. Tina Bojanowski
Rep. Randy Bridges
Rep. Joseph Fischer

Rep. Kelly Flood
Rep. Jim Glenn
Rep. Cluster Howard
Rep. Ed Massey
Rep. Bobby McCool
Rep. Rob Rothenburger
Rep. Attica Scott

Rep. Regina Huff, ex officio

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

**Budget Review Subcommittee
On General Government, Finance, Personnel, And Public Retirement**

Sen. Robby Mills, Co-Chair
Rep. Myron Dossett, Co-Chair
Rep. Jim Stewart, Co-Chair

Sen. Julie Raque Adams
Sen. Dennis Parrett
Sen. Reginald Thomas
Sen. Phillip Wheeler
Rep. Kevin Bratcher
Rep. Joe Graviss
Rep. Mark Hart
Rep. Adam Koenig

Rep. Michael Meredith
Rep. Russ Meyer
Rep. Suzanne Miles
Rep. Patti Minter
Rep. Phillip Pratt
Rep. Wilson Stone
Rep. Nancy Tate

Rep. Jim Gooch, ex officio
Rep. Jerry Miller, ex officio

LRC Staff: Liz Columbia, Seth Dawson, Zach Ireland, Emma Mills, Nick Peak, Justin Perry,
David Talley, Chuck Truesdell, and Spring Emerson

Budget Review Subcommittee On Human Resources

Sen. Matt Castlen, Co-Chair
Rep. Danny Bentley, Co-Chair

Sen. Julie Raque Adams
Sen. Julian Carroll
Sen. Morgan McGarvey
Sen. Stephen Meredith
Rep. Adam Bowling
Rep. Deanna Frazier
Rep. Melinda Gibbons Prunty

Rep. Josie Raymond
Rep. Steve Sheldon
Rep. Cherlynn Stevenson
Rep. Russell Webber
Rep. Susan Westrom
Rep. Lisa Willner

Rep. Kimberly P. Moser, ex officio

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

Budget Review Subcommittee On Justice and Judiciary

Sen. Stephen West, Co-Chair

Rep. Jason Nemes, Co-Chair

Sen. Denise Harper Angel

Sen. John Schickel

Sen. Robin Webb

Sen. Whitney Westerfield

Rep. Daniel Elliott

Rep. Angie Hatton

Rep. Nima Kulkarni

Rep. Stan Lee

Rep. Jason Petrie, ex officio

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

Budget Review Subcommittee On Transportation

Sen. Jimmy Higdon, Co-Chair

Rep. Sal Santoro, Co-Chair

Sen. Dennis Parrett

Sen. Robin Webb

Sen. Max Wise

Rep. Chris Fugate

Rep. Chris Harris

Rep. Samara Heavrin

Rep. Thomas Huff

Rep. Charles Miller

Rep. Bart Rowland

Rep. John Sims Jr.

Rep. Ken Upchurch, ex officio

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

Ex Officio Members For All Budget Review subcommittees

Sen. Stan Humphries

Sen. Chris McDaniel

Rep. Brandon Reed

Rep. Steven Rudy

Interim Joint Committee On Appropriations And Revenue

Jurisdiction: Matters pertaining to the executive budget and other appropriations of state money; levying of state and local taxes, including school taxes; property tax rates and assessments; state debt; revenue bond projects; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection, and refund of taxes.

Committee Activity

During the 2020 Interim, the Interim Joint Committee on Appropriations and Revenue held six meetings. The committee received testimony regarding a wide range of topics.

Actions Taken By The Consensus Forecasting Group—Executive Branch Response

The state budget director testified to the actions taken by the Consensus Forecasting Group (CFG) and the executive branch response.

The General Assembly chose to use the CFG's pessimistic revenue estimate from December 2019 as the enacted 2020–2021 budget. The May 2020 revised CFG revenue estimate is \$456 million lower than the enacted estimate for FY 2020, a 4 percent decline. Most of the revenue estimate reductions are in individual income and sales and use taxes. Reductions in corporate income and limited liability entity tax make up roughly 20 percent of the shortfall. The FY 2020 estimate is a 3.5 percent decline from FY 2019. The CFG's revised fourth-quarter estimate for FY 2020 projects a 22.5 percent reduction in receipts from the fourth quarter of FY 2019.

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

The CFG chose the pessimistic scenario for the purposes of the May and June revision. Real gross domestic product contracted 16.4 percent in the fourth quarter of FY 2020. Kentucky nonfarm employment growth was flat in January through March and was expected to drop almost 11 percent in the fourth quarter of FY 2020. A 10.7 percent decline in Kentucky manufacturing employment was projected for the fourth quarter of FY 2020. Kentucky wages and salaries were projected to be reduced by 24.3 percent in the fourth quarter.

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

Budgetary Impacts Related To Prisons And Jails

Representatives from the Department of Corrections testified on budgetary impacts related to prisons and jails.

For FY 2020, the Department of Corrections saved \$10 million due to a lower-than-forecast inmate population. This is the first time in 10 years that the department has not had to make a Necessary Government Expense request. In FY 2020, the department received \$3.5 million from the Coronavirus Aid, Relief, and Economic Security (CARES) Act to replace state costs. The department needs additional prison beds due to the level of controlled intake.

CARES Act Funding Received—How Funding Will Be Spent

The state budget director discussed CARES Act funding received and how funding would be spent.

Congress increased the share that the federal government pays on Medicaid benefits by another 6.2 percent. Through May 20, that increase in share amounted to \$204.2 million to the Kentucky Medicaid program. The commonwealth had received almost \$1.6 billion from the coronavirus relief fund for state and local government COVID-19 expenses. These funds cannot be used for revenue shortfalls; they can be used only for expenses related to preparing for, and responding to, COVID-19. The Governor is allocating \$300 million from these funds to cities and counties. More than \$20 million has been spent on medical supplies, such as personal protective equipment (PPE) and testing supplies. The Department of Education has allocated \$173 million to school districts to assist with expenses incurred in response to COVID-19. Public postsecondary education in Kentucky has received \$109 million. Universities and the Kentucky Community and Technical College System must use half of that money to assist students. The other half of the funds is for the institutions themselves to react to COVID-19. The funds will help replace lost revenues and cover expenses. The commonwealth has received \$113.5 million for testing and contact tracing.

Coal And Mineral Severance For Counties

The county judges/executive of Harlan County, Pendleton County, and Webster County testified on coal and mineral severance for counties.

Even though production is down, coal is still viable for many Kentucky counties and still provides jobs. The 2021 state budget projects coal severance tax revenues to the state to reach \$46.1 million in FY 2021. The budget appropriated \$26.2 million of these revenues for debt service. A projected \$18.2 million in revenues will be returned to coal-producing counties. Collections were slightly above projections through the first quarter of FY 2021.

County governments use coal severance revenues to provide basic services such as 911 call centers or jails.

Mineral severance, like coal severance, is a state-assessed tax shared with counties. Mineral severance revenues are projected to total \$32.6 million in FY 2021. Historically, the state splits collections in half with mineral producing counties. A projected \$16.3 million in revenues will be returned to mineral-producing counties in FY 2021. Mineral severance was slightly down through the first quarter of the fiscal year.

Closeout Of FY 2019–2020

The state budget director discussed the closeout of FY 2019–2020.

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

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

FY 2020 ended with a \$177.5 million general fund surplus. This was a result of revenues above the enacted estimate and spending lapses.

Actual road fund revenues in FY 2020 totaled \$1,491.5 million. Actual revenues were higher than the CFG's revised May 2020 estimate but lower than the estimate enacted during the 2020 Regular Session. The revenue shortfall from the enacted budget totaled \$60.3 million, or 3.9 percent.

FY 2020 fourth-quarter revenues declined by 4.5 percent compared to fourth-quarter FY 2019. Sales and use tax revenues declined by almost 6 percent. Withholding, excluding unemployment insurance benefits, declined by 5.5 percent. Individual estimated payments were down 12 percent. Business taxes were down 16.5 percent. Wages and salaries were down 16 percent in the fourth quarter. Coal severance tax revenues were the worst ever recorded.

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

Election Expenses And Other Concerns

The Secretary of State provided testimony on election expenses and other concerns.

Congress has paid the vast majority of election costs. Following the primary, almost \$2 million was left in Help America Vote Act dollars earmarked for election equipment upgrades. Another \$2.5 million was left in CARES Act funding, which is much more flexible. The Secretary of State reviewed the budget for the general election, which he said would cost \$9.74 million. A total of \$4 million was needed for absentee ballot postage. Additional county staffing would cost another \$2.2 million. Election equipment upgrades would cost \$2 million. Other expenses included funds for a State Board of Elections call center, public service announcements, and other miscellaneous costs.

Kentucky Chamber of Commerce Request For CARES ACT Funding For Unemployment Insurance Loan Repayments

The vice president of public affairs for the Kentucky Chamber of Commerce discussed the chamber's request for CARES Act funding for unemployment insurance (UI) loan repayments.

The chamber is concerned about the status of the UI trust fund. Benefits are even more important during the pandemic. The chamber is concerned about the tax increase that will come early in 2021 to replenish the fund.

Businesses were at tax rate schedule A, the most favorable schedule. The chamber expects to move from the lowest-cost to the highest-cost tax schedule at the beginning of 2021. The chamber, along with other organizations, has urged the Governor to provide some of the CARES Act federal dollars to the state trust fund, an allowable expense under the CARES Act.

Kynect/Health Benefit Exchange

The secretary of the Cabinet for Health and Family Services and the cabinet's chief analyst for health policy discussed the Kynect/Health Benefit Exchange.

The Governor sent a declaration letter of intent to the Centers for Medicare and Medicaid Services on June 16 to transition to a state-based exchange beginning on January 1, 2022. In 2013, Kentucky implemented a state-based exchange known as Kynect. Through Kynect, more than 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.

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

Most Recent Revenue Estimates And Expected Budgetary Needs For FY 2022

The state budget director testified on the most recent revenue estimates and expected budgetary needs for FY 2022.

The Office of State Budget Director (OSBD) forecasts a general fund revenue shortfall of \$99 million compared to the enacted revenue estimate. OSBD also forecasts a \$9 million overage in road fund revenue. No budget cuts are expected for FY 2021, because of better-than-expected revenues and more flexibility in the federal coronavirus relief fund.

General fund revenues for FY 2021 were expected to total roughly \$11.5 billion. Individual income and sales and use tax revenues were expected to see small growth. Corporate income tax and limited liability entity tax revenues will see a substantial decline. A significant reduction was expected in coal severance revenues.

Revenues for the road fund were expected to reach \$1.55 billion in FY 2021, \$9 million more than the enacted estimate for the year. Motor fuels revenues were down 5 percent in the first quarter but were expected to recover to reflect 2 percent growth for the full year. Motor vehicle usage revenues bounced back after April and May.

October general fund receipts were up 3 percent compared to the previous year. Road fund receipts were up more than 1 percent year-to-date.

Lower revenues were expected in FY 2022 than what was originally considered in the 2020 Regular Session.

The base calculation of Support Education Excellence in Kentucky (SEEK) was not expected to change much.

Medicaid enrollment has risen. The federal government increased its share of Medicaid spending as a result of the national public health emergency. No reduction in enrollment was expected through FY 2022. The additional 6 percent federal share of Medicaid spending was effective through March 31, 2020. Through the enhanced federal share, Kentucky received a budget benefit of \$450 million.

In FY 2021, the average daily population of inmates was expected to be 5,200 fewer than was initially considered during the 2020 Regular Session. For FY 2022, there were expected to be 4,600 fewer inmates, resulting in a decrease in the Community Services and Local Facilities' county jail bed budgets for FY 2021 and FY 2022 compared to the 2020 Regular Session budget.

Coronavirus relief fund dollars will cease on December 30, 2020. There will still be costs associated with testing, contact tracing, and distributing vaccines.

Unemployment Insurance Update

The general counsel of the Labor Cabinet and the cabinet's deputy secretary provided an update on unemployment insurance.

The federal Pandemic Unemployment Assistance program was established to provide benefits to individuals who do not typically qualify for UI. The federal Pandemic Unemployment

Compensation (PUC) program provides an additional \$600 a week to individuals receiving UI. The PUC program was set to expire at the end of July 2020.

More than 930,000 new claims were filed between March 8 and June 6, 2020. Roughly 550,000 individuals filed claims. An average of 2,000 to 3,000 duplicate claims were filed every day. More than 90 percent of eligible claims received an initial payment. Among the remaining claims, 300,000 to 400,000 issues needed to be resolved. As of June 6, 2020, a total of \$2.4 billion in UI funds had been distributed. The Kentucky UI trust fund balance was at \$0. As of June 5, 2020, the federal UI trust fund balance was at \$1.3 billion.

The UI division is understaffed, so Kentucky contracted with vendors to assist with answering UI calls. It can take 3 to 6 months to learn how to manage a UI claim.

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

University Of Louisville Hospital Purchase Update

The chief executive officer of UofL Health provided an update on the system's hospital purchase.

UofL Health met its objective outlined to the legislature during the 2020 Regular Session. The system made approximately \$34 million in normalized net income in FY 2020; it had expected to lose about \$11 million. For FY 2020–2021, \$140 million has been budgeted for capital investments back into the hospital. COVID-19 has had a negative \$93 million impact on UofL Health. The system has received CARES Act funding from the federal government, which has offset that amount by \$31 million.

The integration of KentuckyOne Health and UofL Health into one system has been successful despite the pandemic, community and social unrest, and the difficulty of credentialing some insurance payers. The Leapfrog rating of Jewish Hospital has improved from an F to a C.

The system has also continued to make capital investments into its hospital. All current commitments of the loan from the Kentucky Economic Development Finance Authority have been met. The loan requires UofL Health to maintain 5,880 full-time Kentucky jobs. There are more than 6,000 Kentucky jobs within the system today. The system is also meeting the needs of the underserved and investing in new clinics in West Louisville and in rural communities.

Update On Effect Of COVID-19 On Kentucky Hospitals

The president of the Kentucky Hospital Association and the chief executive officer of Harrison Memorial Hospital provided an update on the effect of COVID-19 on Kentucky hospitals.

Hospitals are on the front lines of the fight against COVID-19 and will continue to face financial challenges from the effects of the pandemic. Kentucky hospital losses in 2020 from responding

to COVID-19 were estimated to exceed \$2.6 billion. Federal relief funds have covered less than half of that amount, leaving more than \$1 billion in uncovered losses by the end of 2020.

Hospitals have faced losses due to fear and the shutdown of elective procedures. By the end of April, Harrison Memorial Hospital was at a negative 159 percent operating margin. Fear causes people to put off preventive and chronic care. Inpatient treatment has returned to better than 85 percent of pre-COVID levels. Emergency room use has not rebounded above 70 percent of pre-COVID levels. Hospitals had to furlough more than 3,000 employees as elective procedures were stopped and a surge of COVID patients into hospitals did not occur.

Many hospitals requested and received advance payments from Medicare to help with critical cash flow when elective procedures were stopped. Under the CARES Act, these payments are treated as loans and must be repaid. Harrison Memorial Hospital ended the fiscal year on September 30 with a negative 21 percent operating margin. Had it not been for the paycheck protection program, the advance payments from Medicare, and CARES Act money, the hospital would have faced dire consequences as early as May.

Update On Federal COVID-19 Funding

The president and the director of budget and finance at the Council on Postsecondary Education (CPE) provided an update on COVID-19 funding. During FY 2020, Kentucky's public colleges and universities are estimated to have incurred \$144,853,700 in costs and lost revenues, which equates to 17 percent of the state general fund dollars allocated to public colleges and universities for the year.

Housing and dining refunds and credits accounted for more than 50 percent of costs incurred by public colleges and universities. Tuition costs were not refunded, because classes continued virtually. The public postsecondary education system lost \$21.5 million in tuition and fee revenues in FY 2020. Another \$17.2 million in other revenues was lost.

The CARES Act provided two major pools of funding to colleges and universities: the Higher Education Emergency Relief Fund (HEERF) and the Governor's Education Emergency Relief Fund (GEERF). A total of 45 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, and child care.

A total of 56 percent of the \$54.5 million in funds reserved for institutions through the HEERF has been disbursed. These funds are intended to cover significant costs related to COVID-19. 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 and targeted financial aid for high-need students.

Subcommittee Activity

The Interim Joint Committee on Appropriations and Revenue is organized into six Budget Review Subcommittees. Their purpose is to review revisions to the enacted budget, to monitor the budgetary operations and programs of state government, and to address agency budget needs for the 2020–2022 biennium.

Budget Review Subcommittee On Economic Development, Tourism, And Environmental Protection

The Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection held five meetings during the 2020 Interim.

The secretary of the Energy and Environment Cabinet, the assistant director of the Division of Financial Management, and the Department of Environmental Protection’s commissioner and deputy commissioner gave an update on the regulatory flexibility that was implemented within the department in response to the COVID-19 pandemic. The commissioner gave examples of waivers or extensions that were in place and discussed plans to ensure that businesses return to compliance.

Personnel from the Justice and Public Safety Cabinet testified about several COVID-19 topics. The secretary provided an update on the cabinet’s response to the virus but had limited expenditure data. The commissioner of the Department of Corrections gave an overview of the commutation of inmate sentences. The commissioner of Kentucky State Police discussed actions taken, including its assistance with implementation of testing facilities.

The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities provided an overview of the department and outlined the steps taken to ensure the continuation of mental health treatment and addiction recovery assistance during the pandemic.

The VisitLEX vice president of finance and operations and the executive director of the Somerset-Pulaski County Convention and Visitors Bureau gave an overview of COVID-19’s impacts on tourism, focusing on updated safety protocols and the decline in the hospitality industry.

The president of the Waterfront Botanical Gardens gave a video tour of the facility and provided updates on the completed projects and upcoming developments.

All cabinets that fit under this subcommittee—Economic Development; Energy and Environment; Labor; Public Protection; and Tourism, Arts, and Heritage—gave a broad overview of their respective appropriation units and provided an update on FY 2021 budgeted amounts.

Budget Review Subcommittee On Education

The Budget Review Subcommittee on Education held six meetings during the 2020 Interim.

Representatives from the Kentucky Department of Education (KDE) discussed budget issues for FY 2020, FY 2021, and FY 2022. The representatives discussed budget reductions and budgetary needs for FY 2022. The presentations also addressed the impact of COVID-19 on school districts, the CARES Act, and how attendance would be counted for the SEEK formula.

Personnel from the Center for School Safety, Department for Criminal Justice Training, and from KDE updated the subcommittee on implementation of school safety and resiliency legislation.

Representatives from the Education and Workforce Development Cabinet and the Labor Cabinet provided an update on the transition of unemployment insurance from the Education and Workforce Development Cabinet to the Labor Cabinet, undertaken via Executive Order 2020-686, effective August 16, 2020.

The Labor Cabinet has identified 30,000 residents as chronically unemployed. Targeted outreach to those individuals was to be completed by career centers to see what resources and training can be provided. Increases in weekly amounts of unemployment insurance will occur in 2021, and the average increase will be \$90 per year per employee. CARES Act funding will cover any deficits.

Representatives from the Kentucky Higher Education Assistance Authority spoke about statewide financial aid programs funded through state appropriations and discussed the impact of COVID-19 on those programs.

The president of the Council on Postsecondary Education and the president of Murray State University spoke about the effects of COVID-19 on the budgets of public postsecondary institutions. CPE's presentation included an overview of its FY 2021 budget and budgetary needs for FY 2022 for postsecondary institutions.

The president of the Association of Independent Kentucky Colleges and Universities spoke about the effects of COVID-19 on Kentucky's private nonprofit institutions.

Representatives from the Kentucky Department of Education, the Education and Workforce Development Cabinet, and the Council on Postsecondary Education presented a high-level comparison to the current FY 2021 cabinet budget to include increases in cost that will require an additional budget request, decreases in cost that may result in savings, and other budgetary items.

Budget Review Subcommittee On General Government, Finance, Personnel, And Public Retirement

The Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement held five meetings during the 2020 Interim.

The commissioner of the Kentucky State Police provided an overview and update on Capitol campus security. The commissioner responded to inquiries regarding the Kentucky State Police's role and involvement in protest activity, security assessments for property damaged during protests, and plans for the management of Capitol Annex complex guests and visitors during the upcoming legislative session.

The commissioner of the Finance and Administration Cabinet's Department of Facilities and Support Services provided an overview and update on Capitol campus upgrades and maintenance. The commissioner answered questions about the Capitol complex parking garage repairs and maintenance, the removal of the Jefferson Davis statue, the rehabilitation and modernization of the Governor's Mansion, and the Capitol Education Center building.

The executive director of the Finance and Administration Cabinet's Office of Legislative and Intergovernmental Affairs provided information regarding the cabinet's response and changes in operation in light of the COVID-19 pandemic. The executive director addressed cabinet employees' transition to remote work, the challenges associated with the transition, and the use of technology and equipment to support remote work.

The chief information officer of the executive branch provided an overview of the Commonwealth Office of Technology's roles, responsibilities, and services to state agencies, and addressed the challenges related to the transition of state employees to remote work and the importance of information technology during the COVID-19 pandemic.

The secretary of the Personnel Cabinet provided information regarding the cabinet's pandemic response and timeline, the expanded use of telehealth services by state employees, and the cabinet's role in COVID-19 testing for state employees and the "Healthy at Home" initiative.

The commissioner and the deputy commissioner of the Department of Veterans Affairs (KDVA) and the executive director of the Veterans Centers testified about the impact of COVID-19 on KDVA Benefits Representatives and Veterans Centers. The commissioner discussed how KDVA used \$3,938,405 in CARES Act funding and described how the pandemic is impacting the agency.

The adjutant general of the Kentucky Department of Military Affairs provided an overview of how the agency has responded to the pandemic, focusing on the Department of Emergency Management's massive PPE distribution effort to health care facilities around the state. The adjutant general also answered questions regarding the National Guard presence at protests during the summer and National Guard preparations for the November elections.

The executive director of the Kentucky Office of Homeland Security (KOHS) discussed the agency's activities during the pandemic. Though KOHS has received no CARES Act money, the executive director provided an overview of the agency's efforts to coordinate with other state agencies to address the challenges posed by the pandemic.

The executive assistant and budget specialist for the Office of the Governor provided an overview of the agency's budget. Agency representatives answered a question regarding federal funding being received by the Kentucky Military Affairs Commission within the Office of the Governor. The federal grant is being used toward supplementing a cyber security program at the University of Louisville.

Representatives from the Department of Housing, Buildings, and Construction, the Kentucky Fire Commission, and the City of Henderson Fire Department discussed their respective fire safety responsibilities, as well as issues related to the COVID-19 pandemic and agency budget information.

The secretaries of the Finance and Administration Cabinet and the Personnel Cabinet, along with representatives from the Office of the Governor, the Department for Local Government, the Office of the Attorney General, the Department of Treasury, the Department of Agriculture, the Kentucky Communications Network Authority, the Kentucky Retirement Systems, and the Teachers' Retirement System provided overviews of their FY 2021 budgets and discussed their budget outlook for FY 2022.

Budget Review Subcommittee On Human Resources

The Budget Review Subcommittee on Human Resources held four meetings during the 2020 Interim.

The secretary of the Cabinet for Health and Family Services (CHFS) and the executive director of CHFS' Office of Finance and Budget provided an update on the federal funding received by CHFS for services related to COVID-19.

The commissioner of the Department for Medicaid Services (DMS), the chief financial officer of DMS, and the executive director of the Office of Finance and Budget of CHFS provided an update on the FY 2020 year-end Medicaid expenditures, as well as the FY 2021 projection for Medicaid expenditures.

The commissioner of DMS and the executive director of the Office of Finance and Budget, CHFS, provided an update on the federal funding received and expenditures by CHFS for services related to COVID-19. The commissioner of DMS also provided an update on the status of the implementation of SB 50 of the 2020 Regular Session.

The secretary and the executive director of the Office of Finance and Budget, CHFS, provided an overview of the FY 2022 budget outlook for the cabinet.

The chief clinical officer and co-founder and senior vice president of government affairs and compliance of HealthPlan Data Solutions provided a presentation on pharmacy benefits integrity.

Budget Review Subcommittee On Justice And Judiciary

The Budget Review Subcommittee on Justice and Judiciary held four meetings during the 2020 Interim.

Presenters for the Departments of Criminal Justice Training and Corrections, including their commissioners, testified regarding the unprecedented impact of COVID-19 on their agencies, including an explanation of the new policies and procedures each agency is operating under to still achieve its mission.

The executive officer of the Department of Court Facilities and the budget director of the Administrative Office of the Courts provided a status update on court facility projects authorized by the General Assembly.

Representatives of the Department of Corrections, including the commissioner, provided an overview of its provision of health care for offenders under its custody. Testimony included an update on the status of COVID-19 as it relates to various prison institutions.

Various presenters for the Office of the Attorney General, including the assistant deputy attorney general of the Criminal Division, outlined the status of grant applications submitted to the Justice and Public Safety Cabinet for elder and child abuse. Testimony also addressed the impacts of COVID-19 on efforts to prevent elder abuse, human trafficking, and child abuse.

Representatives of the Justice and Public Safety Cabinet and the judicial branch testified regarding budgetary needs for FY 2021 and FY 2022, respectively.

Budget Review Subcommittee On Transportation

The Budget Review Subcommittee on Transportation held six meetings during the 2020 Interim.

The secretary and the budget director of the Transportation Cabinet (KYTC) discussed budgeting issues pertaining to the road fund and how road fund collections were affecting revenues and project timelines. The secretary said that some contractors were willing to continue working on already-signed contracts while waiting for their funds to come in.

The special assistant gave an update on the progress of the REAL ID program and federal approval of an extension to the current deadline of a year and how that would affect implementation and rollout of the mobile units and regional offices. The deputy secretary and the assistant state highway engineer gave an update on highway maintenance spending and their continued efforts to reduce spending during the COVID-19 outbreak.

The secretary reviewed the Strategic Highway Investment Formula for Tomorrow process and explained how KYTC determines which road projects are considered, moved forward, and let to construction. The budget director provided an overview on all the state agencies that receive a portion of the road fund as well as an explanation of how KYTC handles losing large amounts of estimated revenue while still keeping the road fund solvent.

The transportation engineering director of the Division of Program Management discussed the use of federal funds, including the continuation of the Fixing America's Surface Transportation Act at the federal level, and explained the Better Utilizing Investments to Leverage Development grants and Transportation Investment Generating Economic Recovery grants that KYTC had recently received. The commissioner of aviation discussed his department's use of federal funds and how they typically go straight to the airports. The commissioner of the Office of Transportation Delivery discussed that office's use of federal funds for replacing older, less efficient buses.

The budget director discussed the upcoming budget for KYTC as well as the difficulties of operating during the pandemic. The REAL ID rollout and regional offices are expected to be operational before the deadline.

**Report Of The 2020
Interim Joint Committee On Banking and Insurance**

**Sen. Jared Carpenter, Co-Chair
Rep. Bart Rowland, Co-Chair**

Sen. Julie Raque Adams
Sen. Tom Buford
Sen. Rick Girdler
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Dennis Parrett
Sen. Albert Robinson
Sen. John Schickel
Sen. Brandon Smith
Sen. Reginald Thomas
Rep. Terri Branham Clark
Rep. Joseph M. Fischer
Rep. Deanna Frazier

Rep. Jim Glenn
Rep. Jim Gooch Jr.
Rep. Kathy Hinkle
Rep. Adam Koenig
Rep. Stan Lee
Rep. Derek Lewis
Rep. Michael Meredith
Rep. Sal Santoro
Rep. Dean Schamore
Rep. Wilson Stone
Rep. Ken Upchurch
Rep. Rob Wiederstein

LRC Staff: Jessica Sharpe, Breanna Miller, and Liz Hardy

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Banking And Insurance

Jurisdiction: Matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity, and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

Committee Activity

The Interim Joint Committee on Banking and Insurance met two times during the 2020 Interim.

Banking During COVID-19

The president and chief executive officer of the Kentucky Bankers Association (KBA) discussed how COVID-19 affected the banking industry, which was deemed an essential business during the pandemic.

Due to the pandemic, banks had to implement human resources policies and operational policies to protect banking employees and customers. Banks also provided modified loans, suspended foreclosures and evictions, and participated in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act's Paycheck Protection Program (PPP). The president discussed several challenges and risks associated with the PPP. Despite these risks, by June 30, 2020, Kentucky banks had made approximately 47,000 PPP loans, which protected roughly 592,000 jobs. The loan amounts ranged from \$100 to more than \$5 million, and community banks were the first to make loans under the program.

The KBA's governmental affairs consultant discussed the KBA's work with county clerks and other stakeholders to advance electronic filing legislation. Banking operations were affected by county clerk offices, which had differing practices. The president stated that county clerk offices must continue to operate and adopt consistent practices, including electronic filing.

The president of the Bluegrass Community Bankers Association (BCBA) provided information about the association and introduced the BCBA's new executive director. A BCBA director discussed challenges that community banks encountered in administering PPP loans during the pandemic. These challenges included communication and processing issues, substantial regulatory uncertainty, and access to limited funds. Banks are still waiting on final directives from Congress in regard to PPP loan forgiveness, but the director added that instituting a \$150,000 audit threshold would be helpful. The director also discussed how PPP loans made a difference in her community.

Serving Credit Union Members During COVID-19

The president and chief executive officer of the Kentucky Credit Union League (KCUL) provided general information about credit unions and discussed credit union operations during the pandemic. Credit unions adjusted their operating procedures and reached out to employees and their communities. The president explained that, although most credit unions do not participate in business lending, four Kentucky credit unions made 273 PPP loans, totaling \$5.5 million, with an average loan amount of approximately \$20,000. The financial impact of COVID-19 has not been determined for Kentucky credit unions. Many credit unions went into payment deferrals, but one area where business boomed was mortgage refinancing, due to low interest rates. Similarly to the KBA, KCUL would like the county clerk system to use electronic filing.

Insurance Institute Of Kentucky 2021 Legislative Priorities

The executive director of the Insurance Institute of Kentucky (IIK) discussed two of its legislative priorities. IIK is working on a towing bill that seeks to eliminate egregious practices relating to vehicle towing and storage businesses. These issues include inadequate rate transparency, differing rates for insurers and consumers, and expensive gate fees.

The executive director also discussed legislation pertaining to distracted driving. This bill would require that any cell phone usage while driving be hands-free. A total of 24 states have adopted hands-free driving legislation, and 19 more are considering it. A consultant for IIK discussed car-related fatality statistics and reiterated the need to address distracted driving as both a business issue and a safety issue.

Department Of Insurance Update

The commissioner of the Department of Insurance (DOI) stated that the department implemented a threefold plan of action to address the COVID-19 pandemic. It issued 15 guidance policies, 8 of which have expired. With its guidance documents, DOI addressed incoming issues and prepared for issues that could occur because of the pandemic. The commissioner praised the insurance industry for its response to the pandemic and stated that the department is well prepared if there is another increase in COVID-19 cases.

The deputy commissioner of DOI discussed Kentucky's transition from a federally based health insurance exchange to a state-based health insurance exchange. Both DOI and the Cabinet for Health and Family Services, which is implementing the transfer, value the role of insurance agents in the operation of the exchange. The state-based exchange is expected to roll out for the 2022 insurance plan year, will continue to have persons serving in the role of connectors, and will be expanded to include other state services.

DOI will not be requesting legislation for the 2021 session. The commissioner of DOI discussed a decrease in workers' compensation insurance rates, which is good news for employers. The commissioner stated that Kentucky was given a full recommendation for accreditation with the National Association of Insurance Commissioners for the next 5 years with no exceptions. This

accreditation is important, because it shows other states that they can rely on Kentucky's insurance companies to maintain solvency.

Department Of Financial Institutions Update

The commissioner of the Department of Financial Institutions (DFI) discussed guidance issued by the department in response to the COVID-19 pandemic. He also discussed DFI's experience with off-site examination and supervisory activity. The commissioner was pleased with the work of many financial institutions in their facilitation of the PPP and of accommodations for customers.

The commissioner discussed how the economy is affecting financial institutions. Although there has been an economic shock, that shock has yet to flow to the financial industry. The commissioner also discussed how the PPP affected financial institution balance sheets and the Main Street Lending Program, which is another federal loan program for businesses that was not used as much as the PPP.

The commissioner also provided an update on the condition of state-chartered financial institutions. Kentucky banks and credit unions rank highly in financial soundness and stability indicators as compared to surrounding states. There was slight growth in registration numbers for securities businesses. As for the mortgage industry, there has been growth in the number of company, broker, and loan originator registrations, as well as an increase in the number of loans, which is linked to increased home sales and home prices.

Finally, the commissioner stated that DFI is looking at possible legislative initiatives for the 2021 Regular Session relating to third-party service providers, cryptocurrencies in relation to the regulation of money transmitters, and contingency planning and cybersecurity for securities businesses.

**Report Of The 2020
Interim Joint Committee On Economic Development
And Workforce Investment**

**Sen. Danny Carroll, Co-Chair
Rep. Russell Webber, Co-Chair**

Sen. Karen Berg
Sen. Perry Clark
Sen. Rick Girdler
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Alice Forgy Kerr
Sen. Wil Schroder
Sen. Reginald Thomas
Sen. Mike Wilson
Sen. Max Wise
Rep. Kim Banta
Rep. Lynn Bechler
Rep. John Blanton
Rep. Charles Booker
Rep. Adam Bowling

Rep. Kevin Bratcher
Rep. R. Travis Brenda
Rep. McKenzie Cantrell
Rep. Daniel Elliott
Rep. Chris Freeland
Rep. Al Gentry
Rep. Kathy Hinkle
Rep. Thomas Huff
Rep. Nima Kulkarni
Rep. Savannah Maddox
Rep. Jason Petrie
Rep. Bart Rowland
Rep. Ashley Tackett Laferty
Rep. Buddy Wheatley

LRC Staff: Andrew Manno, Drew Baldwin, Audrey Ernstberger, Chip Smith, and
Sasche Allen

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Economic Development And Workforce Investment

Jurisdiction: Matters pertaining to commerce, industry, economic and industrial development, the workforce and the workplace, and tourism not specifically assigned to another committee; economic development planning, international trade, and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

Committee Activity

Unemployment Insurance

Prior to the COVID-19 pandemic, there had been a loss of 29 Office of Unemployment Insurance (OUI) locations across the state and a loss of 95 employees, and no staff members were dedicated to in-person unemployment services. In the Adjudications Branch, 23 staff members could adjudicate unemployment insurance claims. With the increase in claims due to the pandemic, approximately 58 employees are currently assigned to the Benefits Branch, 40 are assigned to the Adjudication Branch, and there are 50 contracted employees. A contract with Ernst and Young has been extended through the end of 2020. In response to the pandemic, the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act created three unemployment insurance programs—pandemic unemployment assistance, pandemic emergency unemployment compensation, and pandemic unemployment compensation—for which a person could be simultaneously eligible.

From December 8, 2019, to March 7, 2020, there were 44,841 new unemployment insurance claims filed, with 77 percent of eligible claims paid. From March 8 to September 30, 2020, there were approximately 1,126,000 new unemployment insurance claims filed and more than \$5 billion of unemployment insurance funds distributed. As of November 18, 2020, there were 654 unresolved March 2020 unemployment insurance claims and 10,879 unresolved April 2020 claims. There are also unresolved claims for May 2020 to September 2020, but the OUI has tried to focus on resolving the oldest claims first. Common reasons for a claim to be unresolved and under investigation include employer protest, ID verification issues, missing information, failure to timely claim benefits, and multistate claims.

The Unemployment Insurance Trust Fund had a 2019 balance of \$618,704,000, but with the influx of unemployment insurance claims, it currently has a deficit of \$486,853,492.69. To

provide security for states' unemployment insurance trust funds, the CARES Act allowed access to zero-interest loans, and Kentucky was approved for an \$865 million loan in June 2020. Interest on the loan will begin accruing on January 1, 2021, but the US Treasury will not take action to collect the loan until January 1, 2023. When a state has an outstanding loan balance on January 1 for 2 consecutive years and does not repay the full amount of its loan by November 10 of the second year, the Federal Unemployment Tax Act credit rate will be reduced each year until the loan is repaid. The Governor had committed to putting a significant amount of remaining CARES Act funds into the UI Trust Fund at the end of 2020. Schedule E will be the applicable schedule effective January 1, 2021, and a majority of employers will experience a modest increase in their respective tax rates in 2021 and 2022.

The former executive director of the OUI testified about his tenure as executive director from January 16 to May 5, 2020, and the conditions surrounding the OUI's response to the closing of the state's economy as a result of the COVID-19 outbreak. He detailed his experiences with implementing three new 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 OUI, issues he had with decisions of his superiors, and the circumstances involving his termination from the Education and Workforce Development Cabinet. The OUI formally transitioned to the Labor Cabinet on August 16, 2020, and currently has an interim executive director.

Cabinet Updates

Cabinet For Economic Development. There was a reduction in the total number of business announcements for the first 7 months of 2020 compared to previous years, but Kentucky has 8 percent foreign direct investment, while the nationwide rate is 5 percent. A total of 61 expansions and new-location projects have been announced, with 3,314 new full-time jobs and \$1.18 billion in investment. The Cabinet for Economic Development announced two new state programs: the Regional Innovation for Startups and Entrepreneurs (RISE) Program and the Kentucky Commercialization Ventures (KCV) Program. The RISE Program supports entrepreneurs and startups throughout the state by offering comprehensive services and connections to regional resources with six regional support offices and a \$2.6 million investment. The KCV Program is a public-private partnership that creates products, services, and businesses from research and intellectual property developed at the state's public universities, with a \$1.16 million investment. The cabinet has redoubled its marketing efforts to remain competitive in recruiting new and expanding businesses.

Tourism, Arts, And Heritage Cabinet. In 2019, spending and visitation growth in the tourism industry across the commonwealth increased, with trips topping off at \$73.8 million and spending reaching \$7.9 billion. This growth created more than 95,800 jobs and generated \$823 million in state and local taxes. When the COVID-19 pandemic reached Kentucky in March 2020, weekly travel spending declined by 40 percent from the first week of March to the last week of April 2020. Overall, \$2.9 billion in travel spending and \$26 million in tax revenue has been lost. There have been gradual increases in spending since the end of April 2020. Outdoor activities, lodging at state parks, and travelers deciding to drive instead of fly to their

destinations helped to increase spending. The Tourism, Arts, and Heritage Cabinet created campaigns to encourage in state travel.

Tourism Updates

State Fair And Fairgrounds. The Kentucky Exposition Center and Fairgrounds in Louisville underwent improvements that allow for more events to occur at the same time and included new signs, more lanes, and new pavement. Cardinal Stadium was torn down, providing additional parking, and the Transportation Building was demolished to add land for more outdoor activities. In response to the COVID-19 pandemic, Kentucky Venues hired a compliance officer and worked with Louisville Tourism to obtain a Good Housekeeping Approval, which is a star rating for the handling of infection, sanitation, and compliance with health measures. The 2020 Kentucky State Fair was closed to guests due to the pandemic, a decision made jointly by the State Fair Board, Kentucky Venues, and the Tourism, Arts, and Heritage Cabinet that was highly influenced by the Governor's executive orders in place at the time. The Kentucky State Fair lost between \$10.5 million and \$11 million in business.

VisitLEX. The hospitality industry was the first industry in the state to be hit by the COVID-19 pandemic, and one of the hardest hit. The travel industry may be the last industry to recover, and pre-pandemic levels of travel may not return until 2024. VisitLEX, Lexington's convention and visitors bureau, along with many other businesses across the state, did not receive funds from the CARES Act. Projections showed VisitLEX ending FY 2020 with \$8.1 million in transient room tax revenue, but due to the pandemic, the fiscal year ended with \$5.75 million in revenue. In any given month, the occupancy rate for Lexington hotels is 65 percent to 73 percent, but the rate plummeted to 16.1 percent in April 2020. The average daily rate for a hotel room in Lexington is usually \$100, but it dropped to approximately \$76, which translates to losses of \$3.5 million for VisitLEX and \$88 million in room revenue for Fayette County.

Somerset, Pulaski County Convention And Visitors Bureau. In 2019, Pulaski County had an increase in economic growth of 6.4 percent, which translated to \$126 million with a total economic impact of \$305 million in the five counties that surround Lake Cumberland. At the start of the pandemic, the area's occupancy rate fell to 11 percent, and the Somerset, Pulaski County Convention and Visitors Bureau lost approximately \$55,000 from March to May 2020, with a projected total loss of \$110,000 for summer 2020. The bureau's total budget is \$390,000, and it did not receive funds from the CARES Act. Through the Department of Tourism, the organization does participate in a matching funds program for advertising funds, but those funds were decreased to \$16,000 for 2020, compared to the \$44,000 that was matched in 2019.

Kentucky Chamber Of Commerce Updates

The president and chief executive officer of the Kentucky Chamber of Commerce gave an overview of the Unemployment Insurance Trust Fund, the state of the business community in Kentucky, and issues that the chamber will be advocating for during the 2021 Regular Session. The Unemployment Insurance Trust Fund was completely depleted after the pandemic began, and as a result a loan of almost \$900 million was taken out with the federal government to pay unemployment insurance benefits. Employers' rates will increase beginning in January 2021, but

the chamber asked the Governor to use CARES Act funds to help with the loan repayment. In addition, as of July 2020, Kentucky ranks 49th in the nation for workforce participation. In partnership with the Education and Workforce Development Cabinet, the chamber created an online database called “Who’s Hiring” in an effort to increase participation rates and display employers that are actively seeking employees. The business community is also facing issues related to child care. More in-home and at-work options for child care are needed across the state. In the 2021 Regular Session, the chamber will promote legislation to address infrastructure investment, criminal justice reform, and COVID-related legal liability.

Call Center Relocations

HB 13 from the 2020 Regular Session is a bipartisan bill that would create a new section in KRS Chapter 337 to require call center employers, if they intend to relocate to a foreign country, to notify the secretary of the Labor Cabinet at least 120 days prior to the relocation. It would also require the secretary to compile a list of call center employers that have relocated to another country. If a call center is placed on the secretary’s list, the company would not be eligible for any state tax incentive programs for 5 years. Failure to notify the secretary would result in a civil penalty.

Tax Increment Financing

Tax increment financing (TIF) is an economic development tool to use future gains in tax revenue to finance current public infrastructure improvements for development that will create those gains. When a public infrastructure project occurs, there is an increase in property taxes, as well as a potential increase in sales and withholding tax for that area. That tax revenue, known as the tax increment, can be used to assist in financing the cost of public infrastructure projects. Areas of development must be either local-only development areas or blighted urban redevelopment areas. The TIF program was designed to aid areas that would otherwise have no development. Projects fall into three categories: real property tax ad valorem revenues, signature projects, and mixed-use redevelopment in blighted areas. Each category has its own requirements for minimum capital investment, economic activity, and types of state taxes that can be pledged. Since the TIF program allows projects to begin generating taxes in the formative years, it is difficult to determine what the long-term effects of the COVID-19 pandemic will be, but TIF districts are retooling the way business is done to prepare for likely decreases in future tax increments.

Office Of Vocational Rehabilitation

The mission of the Office of Vocational Rehabilitation (OVR) is to recognize and respect the contribution of all individuals as a necessary and vital part of a productive society while assisting Kentuckians with disabilities to achieve suitable employment and independence. Approximately 21.3 percent of funding for the OVR comes from the state, and 78.7 percent comes from federal funding. The OVR offers employment assistance to people diagnosed with a wide range of disabilities, including psychological and mental disabilities, cognitive disabilities, sensory disabilities, and physical disabilities. In 2019, only two categories of services were open, but the

OVR now has all priority categories of service open and has suspended all cost sharing for individuals due to increases in financing and staff resources. The categories include

- most significant disability with limitations in three or more functional capacities,
- most significant disability with limitations in two functional capacities,
- significant disability with limitation in one functional capacity, and
- nonsignificant disability.

From January 1 to October 1, 2020, the OVR served 36,781 individuals even though the COVID-19 pandemic caused a drastic drop in numbers for referrals, potentially eligible individuals, applications, accepted individuals, individualized plans for employment, and positive employment outcomes. There has been collaboration with other state agencies and workforce partners to assure essential service delivery and allowing exceptions in some service delivery.

Manufacturing In Kentucky

The Kentucky Association of Manufacturers (KAM) has served as the leading advocate for manufacturing interests in the commonwealth since 1911. Its mission is to create, support, and protect a manufacturing-friendly environment through advocacy, workforce development, education and training, and cost-saving benefits for its members. KAM represents more than 400 Kentucky businesses that are vital to the state's economic success. Manufacturing represents more than \$38 billion in annual gross domestic product and more than 250,000 employees in the commonwealth as of February 2020. The weighted average hourly wage in the manufacturing sector is \$23.52, or \$48,922 annually. KAM has created several initiatives to promote the future of manufacturing, including

- “Be Pro Be Proud,” which helps to combat today's growing skills gap by providing hands-on experience through a live and interactive program;
- Kentucky Manufacturing Going Pro Signing Day, a partnership with the Kentucky Community and Technical College System designed to highlight the system's college graduates in advanced manufacturing programs; and
- a partnership with the Work Ready Scholarship Program.

Though many manufacturers remained open amid COVID-19 business closures, the industry has been heavily impacted. In April 2020, manufacturing employment plummeted to 197,000 jobs statewide, down from March 2020's near all-time high of 251,000. However, by June 2020, the manufacturing sector had increased to 233,000 employees. The quick rebound can likely be attributed to

- increased demand for products needed for do-it-yourself and stay-at-home work,
- the Paycheck Protection Program loans keeping businesses open,
- an increased demand for local supply chains, and
- the retooling and refocusing of manufacturers to meet the nation's demand for personal protective equipment.

KAM advocated for state manufacturers to be considered essential businesses and worked with the Governor's administration to maintain the largest economic driver in Kentucky's economy as a fully functioning and safe sector while adapting to stringent guidelines.

**Report Of The 2020
Interim Joint Committee On Education**

**Sen. Max Wise, Co-Chair
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LRC Staff: Jo Carole Ellis, Joshua Collins, Yvette Perry, Lauren Busch, Maurya Allen, and
Chris White

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Education

Jurisdiction: Matters pertaining to elementary, secondary, and postsecondary education; the Kentucky Board of Education; the Department of Education; the powers and duties of local boards of education; state support of education; operation of school districts; conduct of schools; attendance; curriculum; pupil transportation; school property and buildings; teachers' qualifications, certification, and retirement; vocational education and rehabilitation; state universities and colleges; community colleges; regional education; educational television.

Committee Activity

The Interim Joint Committee on Education met six times during the Interim. All meetings were held at the Capitol Annex in Frankfort. The committee heard presentations regarding the challenges facing schools and extracurricular activities during the COVID-19 pandemic from superintendents, parents, educators, students, the Kentucky High School Athletic Association (KHSAA), and the Kentucky Department of Education (KDE). Other reports concerned racial inequalities in Jefferson County Public Schools (JCPS), the positive impact of dual-credit opportunities for students with disabilities, the Kentucky School Nurse Initiative, and legislative proposals regarding accountability and early literacy initiatives.

KDE Updates On COVID-19 Issues Pertaining To K-12 Schools

The interim commissioner of the Kentucky Department of Education testified regarding the many impacts the COVID-19 pandemic had on K-12 schools in the spring. The passage of SB 177 provided relief by allowing KDE to assist districts with completion of the 2019–2020 school year, especially with regard to emergency provisions for nontraditional instruction (NTI). SB 177 allowed districts to wind down the school year, but it was designed to be temporary, and additional legislation will be needed.

Work by KDE was guided by three principles: educate, feed, and support. Using waivers provided by the US Department of Agriculture, Kentucky schools were able to continue to serve meals where NTI was being carried out using remote instruction.

SB 177 included an unlimited number of NTI days for schools to use virtual or distance learning as available. Instruction was delivered in various ways including handouts, virtual instruction via live meetings, and recorded lessons. Much was learned about the most effective methods and strategies, which went on to inform improvements to the NTI program for the 2020–2021 school year. Other waivers were issued to release schools from participation in the statewide assessments, which was necessary but also eliminated a critical element of the state's school accountability system. Discussion continues at the federal level regarding assessments for the 2020–2021 school year. There were also changes to the ways students could meet select graduation requirements.

KDE formed an Education Continuation Task Force to serve as a guiding coalition for delivery of services during the current period of school closures. The primary goal of the task force is

providing timely information, research, and instructional resources to schools and districts. There were also significant funds provided to schools through the Coronavirus Aid, Relief, and Economic Security (CARES) Act from the federal government. Kentucky initially received approximately \$223 million for K-12 education, an amount equivalent to approximately 4 percent of the state's annual education budget. The CARES Act funds allow for flexibility to cover Every Student Succeeds Act expenditures, the Individuals with Disabilities Education Act, needs for coronavirus mitigation, cleaning, and mental health supports.

The interim commissioner spoke about increased concerns expressed by public health officials and teachers regarding the reopening of districts. Social distancing would be required, and masks would be required when social distancing was not possible. Primary funds from the CARES Act had been allocated, and KDE was hopeful that more funds would be approved in the future. Most school districts had received CARES Act funds for child care operations at the district level from the Cabinet for Health and Family Services, and the Federal Emergency Management Authority may provide assistance to schools for the purchase of personal protective equipment and increased sanitation.

During the 2020–2021 school year, KDE will maintain the same average daily attendance related data choices that districts made for the 2019–2020 school year and will temporarily “decouple” attendance-driven participation, moving toward a participation model that focuses on student engagement, considering the heightened use of remote instruction. The waiver issued regarding NTI regulations remains in effect. KDE has issued additional emergency NTI guidance for schools and districts, which continues to be updated. During the pandemic, districts are collecting and submitting weekly district-level student participation information to KDE.

Superintendent And Stakeholder Concerns Related To COVID-19

Health and safety is critical when students return to the classroom, but education loss and increase in the achievement gap due to inequity were major concerns for superintendents and stakeholders. Accommodating students doing remote learning while others are in the classroom was highly problematic, as there was not sufficient staffing or time for teachers to instruct both in class and also via remote learning technology. Superintendents asked that KDE, the Governor, and members of the General Assembly continue to be agile in response to the relief needs of schools. Further changes may be necessary to address the pandemic, especially in order to function during outbreaks in the 2020–2021 school year and beyond. Regulations need to be practical, to be consistent, and to provide timely support for schools, especially financially.

The director of advocacy for the Kentucky School Boards Association (KSBA) said the biggest concerns identified on a questionnaire addressed to school board members regarding reopening schools safely were as follows: providing multiple modes of instruction; staffing concerns; funding for classroom materials, cleaning supplies, and other virus mitigation measures; additional instruction regarding education technology; and expectations for statewide assessment. Survey results also indicated a concern for district, school board, and individual employee liability.

In-person instruction was widely regarded as the gold standard, provided that it could be offered safely. Concerns about staffing shortages were also expressed by school boards in light of retirements, leaves of absence, and unavailability to work due to underlying health concerns increasing risk for teachers and staff. The KSBA director of advocacy acknowledged that the most likely means of increased funding for K-12 would be provided by the federal government and urged members to advocate for this relief in a timely manner. KSBA supports another waiver for testing in the 2020–2021 school year and will continue working with KDE and the General Assembly on this matter going forward.

The president of the Kentucky Education Association (KEA) said it was critical that plans for reopening be made at the school district level so that the voices of those who work closely with students play the largest part in final decision making. While many agree that the most effective education is provided in person, reality requires that educators instruct students in a variety of ways during the pandemic. Clear definitions of the educator’s workday, requirements for worker/educator protections, and reasonable job expectations are critical. Additional resources for testing and to support educators directly impacted by COVID-19 will also be crucial. The KEA president asked the committee to consider extending the protections provided in SB 177.

The executive director of the Kentucky Association of School Superintendents spoke about the need for local control and the ability to provide in-person instruction when safe. Parents should be allowed to choose whether to keep their students home or to assume the risk of sending them in person. There are no solutions that will wholly satisfy all parties. Schools wanted to be allowed to implement the reopening plans they spent the summer developing.

The committee heard from superintendent representatives from McCracken County, Covington Independent, and Whitley County. McCracken County and Covington Independent had opened with an alternating schedule, which decreased the number of students in the building each day, allowed for in-depth cleaning between cohorts, and allowed for a designated planning day for teachers. Maintaining the planning day for staff was very beneficial, as it supported their mental health and that of their students. There were expected challenges for teachers trying to meet the needs of both in-person and remote-attending students. Approximately 25 percent of student populations remained remote-attending in these districts due to high risk to the student or to a family member.

Representatives of districts spoke about the apparent significant instructional “slide” or loss of proficiency since the shutdown, as illustrated on various assessments given to returning students either in person or remotely. All school districts’ representatives spoke about the rapid expansion and distribution of technology, through issuance of Chromebooks to students and Wi-Fi hotspots to families without home internet accessibility. The politics surrounding COVID-19 have also posed a challenge for school districts because they complicate the effectiveness of health strategies designed to allow students and staff to return safely.

There also remain significant equity concerns in supporting students from different socioeconomic levels. Some students are still receiving NTI through the use of paper packets, because even hotspots will not work in homes that do not have cell service. Meal distribution has

remained critical, as has the need for qualified substitute teachers, which will possibly require schools to resort to NTI should too many educators contract the virus and not be able to teach.

School Athletics And Transportation For Extracurricular Activities

The commissioner of the Kentucky High School Athletics Association discussed how KHSAA communicated with and worked with schools to determine how to move forward with sports at a local level. He remained optimistic that a balance could be achieved between playing sports and safety concerns. School sports remain the best school retention tool, and KHSAA will continue to be a good custodian of this program to prevent dropouts and keep children interested in school.

Representatives from KDE spoke regarding school transportation guidelines for extracurricular activities, including school athletics. The Centers for Disease Control and Prevention recommended social distancing on school buses, as well as other mitigation criteria including wearing masks, temperature checks, use of hand sanitizer, and rigorous cleaning between routes. In partnership with the Kentucky Department for Public Health (KDPH), KDE encouraged districts to use good-faith efforts for social distancing on buses when practical. Schools are enhancing the use of regular mitigation strategies with assigned seating and capacity charts on buses in some districts. All districts are encouraged to use existing resources to achieve the best results.

Importance Of Engaging Students, Educators, And Families In A Changing World

Student representatives from the Prichard Committee for Academic Excellence Student Voice Team presented results of a survey conducted in May assessing student perspectives on nontraditional instruction used at the beginning of the novel coronavirus pandemic. The survey was designed in collaboration with students and faculty at the University of Kentucky and covered all 120 counties and almost every school district.

Three themes were identified from the survey results, first being the importance of a high-quality educational environment, including strong and timely communication with teachers. As communication waned with their teachers, students' involvement with and commitment to their schoolwork diminished drastically. The second major theme was the impact of a changing home environment. Students reported concerns about food security and other needs security, including psychological safety. The presenters recommended that going forward, schools adopt more flexible attendance policies to help accommodate students and remove barriers to education success. The third theme was physical and mental wellness. Students' emotional experiences were intimately connected to their academic success. There was also a 50 percent increase in the number of students who wanted mental health services. Unfortunately, there was not a corresponding increase in the availability of these services. Additionally, students who had received mental health support services prior to shutdown lost access to those needed services at a very vulnerable time.

Finally, the survey illustrated the heightened concerns regarding postsecondary prospects for high school students. Many juniors and seniors saw their grades falter or families lose income,

significantly decreasing the affordability of postsecondary programs. The Prichard Student Voice team recommended that schools and administrators address these concerns with robust postsecondary advising tailored to the changes in the postsecondary landscape as a result of the pandemic in order to help students allay fear and achieve postsecondary success.

Access To Area Technology Centers During COVID-19

Working with the KDPH and KDE, many of the 51 area technology centers (ATCs) throughout the state were able to bring small groups of students into buildings to address specific needs and provide limited in-person instruction during the pandemic. This was deemed critical because so many career pathways taught at ATCs require hands-on instruction. Local area vocational education centers (LAVECs) were not subject to the same directives given in the NTI plan recommended by the Governor. While treating the state-controlled ATCs as a district increases consistency and continuity, it also increases the disparity in access among students attending an ATC versus a LAVEC.

In areas that were still not offering in-person instruction, students have completed portions of their orientation virtually and have been given take-home packets of materials for at-home study. Representatives of KDE stressed that they are working closely with districts to provide the best balance of local control, mitigation of COVID-19 spread, and access to necessary tools and instruction for career pathways. They have also worked with the Kentucky Community and Technical College System to provide open labs for small groups as needed to complete industry certifications and dual-credit courses.

Racial Inequities In Jefferson County Public Schools

The superintendent of Jefferson County Public Schools spoke about the significant challenges of educating students in JCPS with significant diversity, as illustrated by the fact that 125 languages are spoken in the system's schools. Racial equality has been at the forefront of conversations among the JCPS board and administration, with an emphasis on closing the achievement gap. Two years ago, the JCPS Board of Education adopted a racial equity policy. It was determined that the best course of action was to acknowledge the problem, specifically with disproportionality and achievement, and include outside factors influencing the achievement gap in order to create different outcomes. Also, it is important to change and examine how students are taught. In order for the change to be effective, it must be approached correctly and must be sustainable for years.

The district hopes to have full implementation of its racial equity plan by 2021, and it is working to reduce disproportionality in academic achievement, increase access to career and technical education, address equitable student discipline, and improve underserved population enrollment in Advanced Placement and gifted programs. Comprehensive surveys of parents, staff, and students have shown that black students have less sense of belonging at schools in JCPS than white students, which has a significant negative impact on student achievement. To address this, the district has adopted more Afro-centric and gender-centric curriculum in select school buildings during the past 3 years, with dramatic positive results.

Communication is critical to ensure that staff are equipped to address racial equity. These conversations have included anti-racism training and implicit bias training for all certified staff as well as teachers and administrators. JCPS has also formed partnerships with Simmons College and the University of Louisville to enhance recruitment and retention of teachers, especially with an aim of increasing staff diversity. Data shows that academic suspensions continue to disproportionately affect students of color, even while attrition rates for teachers of color have improved from 14 percent to 7 percent since 2018.

Additional challenges for JCPS include the deteriorating condition of school buildings, the intense and expanded need for reliable internet, growing need for an extension of the US Department of Agriculture summer feeding program, and enhanced support for students experiencing trauma. The number of counselors and mental health professionals will be greater than ever, as will the need for trauma-informed care and for wraparound services provided through community partnerships.

How Dual Credit Can Help Students With Disabilities

Representatives of the organization Jack Be Nimble spoke in support of legislation that would help students with disabilities get access to learning that best helps them succeed, such as dual-credit courses. More than 70 percent of disabilities, including autism, are invisible, and their potential cannot be known just by looking at students. Often these students go overlooked as they are not on the educational radar for many school districts. While dual credit is promoted for all students, it is not explicitly marketed to students with disabilities, even as it could provide much greater employment opportunities for them.

Thirty percent of students with disabilities are disengaged with education 1 year out from high school. This will only worsen as a result of the pandemic. Transition to college is especially helped by participation in dual-credit education by students with individualized education programs. Not only does this improve their employability and reduce the pay gap, but it also improves quality of life and helps these individuals contribute more fully to society through taxes and reduced reliance on welfare programs. The presenters urged legislators to change how students with disabilities are addressed and to get them on the radar of school counselors and policy makers.

Kentucky School Nurse Initiative

School nurses give students the ability to succeed, because students do better academically when they are healthy. Schools are second only to homes in their influence on children. Those students attending schools with nurses have better outcomes physically, academically, and psychosocially. Kentucky is ranked in the bottom 10 states for children's health in many categories. It is likely that the long-term impact of the pandemic will only deepen the concerns regarding children's health in this state.

Although many schools have nurses, there are great disparities in how these nurses are used, with few districts having a full-time nurse. Superintendents are in support of increased numbers of school nurses, and the National Association of School Nurses has recommended one school

nurse for every 750 students. In Kentucky, 43 percent of schools do not meet this ratio. Students in schools with school nurses have decreased food insecurity, increased access to care, increased reading skills at 4th grade, reduced exposure to violence, and increased positive communication with parents.

The current initiative of the Kentucky Nurses Association School Nurse Task Force is to encourage that every school have a full-time school nurse. Options for funding would be the expansion of Medicaid billing for students receiving medically necessary services at school and partnerships between local schools and health departments or hospitals. The task force is also proposing a pilot project requiring a \$3 million allocation in the upcoming state budget. These funds would be used to hire 56 school nurses in the highest-need districts across the state and to gather data on the impact of adding nurses to schools.

2021 BR 176—A Joint Resolution Relating To Accountability

Representatives Bojanowski and Banta spoke to the costs of state testing, including the almost \$21 million spent on developing, administering, and scoring the assessments. They also expressed concerns about the testing system.

High-stakes testing frequently drives classroom instruction, because teachers are very concerned about how their students will perform. However, scores do not have value when they are received at the end of the year. Districts sometimes implement even more testing than the state requires. The representatives emphasized that they did not want to interfere with local districts' implementation of further testing if the districts felt it was useful, but if the testing does not inform classroom instruction, perhaps it is time for a change.

As educators, they know there are other assessments that have been found to better inform instruction and give a more accurate understanding of what students retain. Standardized tests frequently do not adequately assess students, especially those with special education needs. Educational goals that confer lifelong success for students, such as critical thinking skills, are also rarely assessed using a standardized multiple-choice testing format.

The proposed joint resolution would create a committee that will identify flexibilities within the federal standards regarding testing and accountability measures. This committee would consist of individuals with expertise regarding assessments and make recommendations of assessments that both meet the federal standards and inform classroom instruction. A move to change the testing structure would enhance education because it would remove high-stakes assessments and replace them with a more informative and equitable assessment and accountability system.

2020 RS Senate Bill 214/House Bill 488— Early Literacy Initiatives And The Read To Succeed Act

Results over the last 5 years (with the exclusion of the data from 2020, when testing was waived) show that there has been a decline in reading proficiency resulting in approximately 118,000 students who were not proficient in reading by the end of 3rd grade. These students are

4 times as likely to not complete high school. The National Assessment of Education Progress scores for Kentucky also show downward trends.

Key features of the bill include comprehensive actions to improve early literacy outcomes using early intervention and instruction, reading improvement plans, family and community engagement, teacher certification, and state professional learning support strategies. The bill would also require educator preparation programs to promote more evidence-based reading instructional programming and better interpretation of screener assessments. There is also an emphasis on working with the Collaborative Center for Literacy Development and the Education Professional Standards Board to identify educator training programs that meet the higher standards. Finally, the bill would provide for literacy coaching programs to be embedded in schools not only assist new educators, but also to enhance professional development training for veteran educators. Enhancing the skills of educators and distributing best literacy teaching methods widely will best reach the students with highest need.

The Prichard Committee Teacher Preparation work group met to consider teacher preparation and professional development, specifically in regard to early literacy and numeracy. Teacher preparation matters almost as much as socioeconomic situation in regard to student success. In some instances, well-equipped teachers can also help mitigate and surmount socioeconomic disadvantage for students. The working group final report will be available after December 15 with recommendations in professional learning, educator preparation, funding, and family engagement and cultural competency.

**Report Of The 2020
Interim Joint Committee On Health, Welfare, And Family Services**

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Sen. Tom Buford
Sen. Danny Carroll
Sen. Julian M. Carroll
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LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Samir Nasir, Becky Lancaster, and
Hillary McGoodwin

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Health and Welfare

Jurisdiction: Matters pertaining to human development, health, and welfare; fire prevention and protection; delivery of health services; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; children's homes; disabled persons; family welfare; aid to the blind; commitment and care of children; mental health; substance abuse; health, medical, and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics, and long-term care facilities; health professions; physicians, osteopaths, and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; psychologists; optometrists; ophthalmic dispensers; physical therapists; senior citizens; eliminating age discrimination; non-public-sector retirement; problems of aging; violent acts against the elderly.

Committee Activity

The Interim Joint Committee on Health and Welfare met seven times during the 2020 Interim.

COVID-19 Pandemic

The committee heard several presentations relating to the COVID-19 pandemic.

Infectious Diseases

The acting state epidemiologist, Department for Public Health (DPH), Cabinet for Health and Family Services (CHFS), gave an overview of the COVID-19 pandemic. As of July 23, 2020, Kentucky had 25,147 cases of COVID-19 and the United States had approximately 3,952,273 cases. By comparison in Kentucky, 11,239 human immunodeficiency virus (HIV) infections had been diagnosed and reported since the start of the HIV epidemic in 1982; 58,587 positive tests of influenza were reported from October 2016 to May 2020; 5,031 positive hepatitis A tests were reported from January 2017 to June 2020; and 25,140 positive tests of hepatitis C were reported from January 2017 to June 2020. Between March 6 and July 2020, there were 684 deaths from COVID-19 in Kentucky.

Information related to COVID-19 was presented regarding asymptomatic transmission, data collection, hospitalization, intensive care unit beds, hospital beds, testing capacity, new laboratories, test reporting mechanisms, and public reports of tests and deaths. Visitors have been prohibited in long-term care (LTC) facilities to reduce exposure to the virus that causes COVID-19. CHFS has a team of people who work on outbreak investigations for LTC facilities. CHFS has worked to manage outbreaks and to teach workers how to reduce the risk of transmission once the virus is in a facility.

Vaccine Development

The DPH commissioner, CHFS, discussed information as of October 28, 2020, on a COVID-19 vaccine. On September 16, 2020, the Centers for Disease Control and Prevention (CDC) released the *COVID-19 Vaccination Program Interim Playbook For Jurisdiction Operations*, which contains guidelines for states to create their own state-based distribution plans. Each state was asked to submit its plan within 30 days. The first draft of Kentucky's vaccination plan was submitted to the CDC on October 16, 2020. The federal government announced partnerships with CVS and Walgreens for LTC facilities. The absence of additional resources from the federal government to help at the beginning of 2021 will make it difficult for every state to navigate the transitions related to the vaccine rollout. DPH personnel have not discussed mandating the vaccine, but DPH hopes to make the COVID-19 vaccine available to everyone who can potentially benefit from it.

Long-Term Care Facilities

The inspector general, Office of the Inspector General, and the senior adviser, Office of the Secretary, CHFS, presented an overview of the cabinet's actions to address the spread of COVID-19 in long-term care facilities. A Long-Term Care Task Force was created to provide the CHFS secretary with a professional resource on COVID-19 in LTCs and to recommend evidence-based policies, procedures, and protocol. The inspector general stated that, going forward, the key anticipated issues are residents' safety; the emotional toll of extended isolation; sufficient staffing, testing, and personal protective equipment (PPE); and the influenza season.

The committee also heard testimony from the president/executive director of the Kentucky Association of Health Care Facilities and the Kentucky Center for Assisted Living. Other states have either increased the federal medical assistance percentage add-on for providers or used Coronavirus Aid, Relief, and Economic Security (CARES) Act funding to assist LTC providers.

Alzheimer's And Dementia

The committee heard testimony from the director of public policy of the Greater Kentucky and Southern Indiana Alzheimer's Association. One of the biggest issues for patients with Alzheimer's in long-term care during the pandemic is social isolation, which can lead to a more rapid decline. Patients with Alzheimer's also have behavioral issues, anxiety, loneliness, and depression. More than 95 percent of people with Alzheimer's and other forms of dementia have an additional chronic health condition that may increase the likelihood of complications from COVID-19. The Alzheimer's Association recommended

- creating a permanent position within CHFS to coordinate Alzheimer's and dementia services and supports and dementia-specific training,
- setting a base level of training requirements for home direct-care workers, and
- establishing incentives for direct-care workers.

Adult Day Centers

The executive director of the Kentucky Association of Private Providers (KAPP) stated that KAPP members provide community-based services through 1915(c) waivers. KAPP members work with individuals with intellectual and developmental disabilities. Adult day trainings are furnished in certified adult day training centers or licensed adult day health centers. Adult day training and health centers were ordered closed by the Governor on March 20, 2020, and were allowed to reopen on June 29, 2020, but many have been unable to reopen because of low utilization. The centers do not receive any CARES Act funding. Telehealth has been used only in rare cases. The patients do not have internet access or cannot tolerate telehealth.

Child Care Providers

The executive director of Child Care Council of Kentucky Inc. stated that the number of child care providers has decreased approximately 50 percent from 2013 to 2020. Prior to the COVID-19 pandemic, statewide child care capacity was 165,314 children. A survey conducted by the Prichard Committee for Academic Excellence found that 11 percent to 15 percent of child care providers may close permanently because of COVID-19. The Child Care Council survey found that 44,333 children were enrolled prior to the pandemic, but 25,728 children were enrolled after reopenings in June.

Child Welfare

The commissioner of the Department for Community Based Services (DCBS) and the director of the department's Division of Protection and Permanency presented information on child welfare during the COVID-19 pandemic. The number of children in the custody of or committed to the cabinet declined by several hundred from April to October 2020. Data was presented on adoptions, caseloads, permanency, efforts to overcome barriers, and transition-age youth. During the pandemic, monthly caseworker visits and foster parent training were conducted via videoconferences. In-person parent/child visitation resumed at the end of May. Court closures caused reduced entries into care and exits from care. Efforts were made to limit youth ages 18 to 21 from leaving state care during the emergency. Training was developed for reporting maltreatment during the pandemic. Child welfare workers continue to experience high rates of trauma and burnout. Current initiatives to improve child welfare services were also discussed.

Hospital Preparedness And Capacity

The president of the Kentucky Hospital Association (KHA) presented an update on the impact of the COVID-19 pandemic on hospital preparedness and capacity. Prior to the pandemic, some hospitals were facing financial challenges. Only 53 of 118 hospitals have received enough federal relief to cover losses due to COVID-19 to date. Many hospitals have resorted to cost-cutting efforts that include furloughing thousands of employees. Approximately 20 Kentucky hospitals are in vulnerable situations and fit the criteria of other US hospitals that have closed. Behavioral health hospitals have also felt the impact of the federal response.

Hospitals have approximately 1,350 intensive care unit (ICU) beds available for use. The number of additional ICU beds was increased 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. There were approximately 9,959 staffed beds and the ability to surge the number of beds to an additional 10,000 beds.

KHA would like to see

- providers be able to continue to provide telehealth to patients and be paid a rate equal to that for office visits,
- telehealth be allowed to be provided in both rural and urban areas, and
- all Medicare and Medicaid providers be able to continue to bill and be paid for telehealth services.

KHA supports keeping the Affordable Care Act coverage and the Medicaid expansion in place.

Rural Health Care Providers

The director of advocacy and government affairs of the Kentucky Primary Care Association (KPCA) presented an overview of the impact of COVID-19 on the 51 independent rural health clinics and the 27 federally qualified health centers it represents. Many rural health care providers have set up telehealth services to provide care to patients. 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 PPE, guidance, and support throughout the pandemic. KPCA has started a network for purchasing PPE from different vendors. KPCA is beginning to stockpile PPE in case there is an increase in COVID-19 cases. There would be a significant impact if KPCA providers were to lose the Medicaid expansion population.

The chief executive officer of Grace Health stated that prior to the Governor's executive order, Grace Health's emergency management team and providers followed CDC guidelines and created a protocol with telehealth to care for its patients.

The chief executive officer of HealthPoint Family Care stated that that organization began modified operations and testing for COVID-19 on March 14, 2020. Telehealth did not address childhood immunizations, many of which have been missed during the pandemic. If the expansion were stopped, HealthPoint Family Care would have some financial risk and many patients would lose coverage and not be able to care for themselves.

Field Hospitals

The director of government relations of University of Kentucky (UK) Healthcare stated that as COVID-19 began to spread in 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 spikes related to COVID-19, and it was projected that UK Healthcare would have a hospital census of 1,575 patients, of whom 619 would need an ICU bed. UK Healthcare created an alternative site at the UK Nutter Field House with 400 additional beds. UK Healthcare will not create a second field hospital if the number of COVID-19 cases

were to spike again, because it believes that it can handle the COVID-19 cases within existing facilities.

The assistant vice president of government relations of University of Louisville Healthcare stated that it did not play an active role in setting up the field hospital at the Kentucky fairgrounds in Louisville.

Telehealth

The executive director of the Office of Health Data and Analytics and the program manager of the Telehealth Program, CHFS, presented on the expanded use of telehealth services during the pandemic. Provider services using telehealth during the pandemic totaled more than \$31 million in services, compared to approximately \$1 million prior to the pandemic. The Medicaid telehealth claims that were fee-for-service in the 3 months prior to the pandemic totaled \$95,686; during 3 months of the pandemic, 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.

The president of the Kentucky Medical Association (KMA) added that KMA moved quickly to transfer practice to make sure 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.

The executive director of the Kentucky Mental Health Coalition added that community mental health centers could not open because of lack of PPE and went from no patient usage of telehealth services to 70 percent to 85 percent of the patients using telehealth services. Telehealth has helped to address mental health needs that were not being met because people could not get to their services.

The executive director for employer and individual, UnitedHealthcare Kentucky, added that prior to the pandemic, approximately 1,000 of its doctors were using telehealth services; that number rose to 14,000 doctors.

Obesity And Diabetes

Information was presented on the convergence of obesity, diabetes, and COVID-19. People with a body mass index (BMI) greater than 30 are at greater risk of contracting the virus, being hospitalized, needing intensive care, and dying. In August, the CDC expanded its definition of elevated risk for severe COVID-19 to include individuals with a BMI greater than 25.

Public Health Transformation

The DPH deputy commissioner, CHFS, presented an update on the public health transformation required by HB 129 from the 2020 Regular Session. COVID-19 has interrupted progress in many ways because local health departments are focused primarily on emergency response. Continued

involvement and education of various participants—such as boards of health and county, state, and federal government—will be needed for the transformation of public health.

Mental And Behavioral Health

The committee heard testimony from the commissioner of the Department for Behavioral Health, Developmental, and Intellectual Disabilities (DBHDID), CHFS, on impact of COVID-19 on inpatient and residential facilities and community providers. DBHDID operates or oversees the operations of multiple facilities including two long-term care (skilled nursing) facilities, four acute care psychiatric hospitals, one forensic psychiatric hospital, and four intermediate care facilities for those with intellectual disabilities. Community mental health centers have seen an increased demand for crisis services, and telehealth has been crucial for access to services.

Other Topics

Health Care Disparities

The former director of the Center for Health Equity, Louisville Metro Department of Public Health, presented information from the center's 2017 Health Equity Report. The report reviews issues such as infant mortality, intimate personal violence and sexual assault, mental health, and substance use in the community and state. It also examines how the issues affect poverty rates and people's interaction with their community.

The associate vice president, health affairs and diversity initiatives, Department of Pediatrics, University of Louisville, and an associate professor, Department of Behavioral Science, UK College of Medicine, presented data and perspective on health disparities. Such disparities are the result of systemic, avoidable, and unjust social and economic policies and practices that create barriers to opportunity and are preventable differences in the burden of disease, injury, and violence, or in opportunities to achieve optimal health experienced by socially disadvantaged racial and ethnic communities and other population groups.

Health Insurance Exchange: kynect Relaunch

CHFS representatives presented on the relaunch of the kynect self-service portal (SSP) on October 5, 2020, for accessing the Kentucky Health Benefit Exchange to find a qualified health plan as well as benefit programs related to food assistance, financial assistance, health assistance, child care assistance, and premium assistance. CHFS is hoping to add more programs as the SSP expands. The 2020 open enrollment will proceed with all six managed care organizations.

Brain Injury Waiver Update

The chair of the Kentucky chapter of the Brain Injury Association of America presented an update on the brain injury waiver. During 2019, a total of 15,835 Kentuckians were treated for or died from a traumatic brain injury. Recommended changes to the brain injury waiver include

- expanding programs and adjusting rates based on individual needs,

- modifying the definition of *brain injury* to include all causes,
- increasing standardized audits of providers by professionals, and
- requiring consistent and ongoing training for personnel.

Proposed Legislation

2021 BR 97: Health Care Disparity Reviews

Senator Gerald A. Neal stated that 2021 Bill Request (BR) 97, the Health Disparities Impact bill, has been prefiled. The health disparities impact methodology will work similarly to how fiscal notes or other impact statements are prepared when needed for a bill. BR 97 requires the Legislative Research Commission staff to indicate that a bill, amendment, or committee substitute may have a health disparity impact. *Health disparity impact* means a difference in health outcomes that affects the rates of incidence prevalence, mortality, burden of disease, or other adverse health condition. The health disparity impact would notify the bill sponsor and CHFS of the possible disparities.

2021 BR 61: Mental Health Parity

Representative Kimberly Poore Moser presented on prefiled 2021 BR 61, relating to mental health parity. BR 61 is not about new insurance coverage; it is about ensuring compliance with existing law. It requires insurers to submit comparative analyses about how they design and apply managed care practices.

Referred Block Grant Applications

No block grant applications were referred to the committee for a legislative hearing.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 65 ordinary and 12 emergency administrative regulations upon referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

Referred Executive Orders

No executive orders were referred to the committee for a legislative hearing.

**Report Of The 2020
Interim Joint Committee On Judiciary**

**Sen. Whitney Westerfield, Co-Chair
Rep. Jason Petrie, Co-Chair**

Sen. Danny Carroll
Sen. Perry B. Clark
Sen. Alice Forgy Kerr
Sen. Gerald A. Neal
Sen. Michael J. Nemes
Sen. John Schickel
Sen. Wil Schroder
Sen. Robert Stivers II
Sen. Robin L. Webb
Sen. Stephen West
Sen. Phillip Wheeler
Rep. Kim Banta
Rep. John Blanton
Rep. Charles Booker
Rep. Kevin D. Bratcher
Rep. McKenzie Cantrell
Rep. Daniel Elliott
Rep. Joseph M. Fischer

Rep. Chris Harris
Rep. Angie Hatton
Rep. Samara Heavrin
Rep. Jeff Hoover
Rep. Nima Kulkarni
Rep. Stan Lee
Rep. Derek Lewis
Rep. Savannah Maddox
Rep. C. Ed Massey
Rep. Chad McCoy
Rep. Reginald Meeks
Rep. Patti Minter
Rep. Kimberly Poore Moser
Rep. Jason Nemes
Rep. Brandon Reed
Rep. Maria Sorolis
Rep. Rob Wiederstein

LRC Staff: Katie Comstock, Janie Boyd, Cynthia LeFevre, Randall Roof, Matt Trebelhorn,
and Yvonne Beghtol

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Judiciary

Jurisdiction: Matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills, and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, circuit courts and district courts; family courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation, and retirement; clerks of courts; juries; attorneys; receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional facilities; civil rights; juvenile matters.

Committee Activity

The Interim Joint Committee on Judiciary held seven meetings during the 2020 Interim.

Impact Of Breonna Taylor's Death

The president of the Louisville Metro Council reviewed the impact of Breonna Taylor's death on Louisville, including examining the credibility of the police department and stressing the need for trust between the community and the police. Some suggestions were to give subpoena power to civilian review boards and to ban no-knock warrants. A Black Lives Matter member stressed the need for white leadership to speak out against racism and for race demographics to be considered when crafting legislation.

Supreme Court's Reopening Task Forces

The Chief Justice of the Kentucky Supreme Court addressed the COVID-19 pandemic and highlighted the following:

- Increase of electronic filing
- Decrease in pretrial jail population
- Success in connecting youth to resources, lowering youth detention population
- Increase of group meetings and counseling due to telehealth resources
- Urine screenings switched to oral screenings
- Judicial branch budget returning \$12.1 million to the general fund
- Hiring freeze

Executive Powers Under KRS Chapter 39A

The Kentucky Attorney General reviewed the governor's powers outlined in KRS Chapter 39A and noted that actions taken by the Governor during the COVID-19 pandemic have been ruled unconstitutional. The Attorney General listed topics of concern and gave suggestions on limiting executive power during a state of emergency. The assistant deputy attorney general added that

the issue of separation of powers should be at the forefront of any legislation that might limit executive power.

Declaring An Emergency: State Cross Comparisons And Recommendations For Reform

The interim executive director of the Pegasus Institute reviewed how states have dealt with concerns regarding separation of powers during the COVID-19 pandemic and provided reform recommendations.

Body Cameras

The executive director of the Kentucky Association of Chiefs of Police, the University of Kentucky Police Department chief, the Daviess County sheriff, and the executive director/chief executive officer of the Kentucky League of Cities reported on the current usage of police body cameras across the United States and in Kentucky and highlighted the estimated cost, the pros and cons, and suggested guidelines and policies for police body cameras.

COVID-19 Liabilities

The vice president of public affairs of the Kentucky Chamber of Commerce, and representatives from the Frost Brown Todd, McBrayer and DeCamillis & Mattingly law firms reviewed the challenges for businesses during the COVID-19 pandemic and the need for public policy and guidelines to assist employers.

COVID-19 Pretrial Release Numbers

The director of the Administrative Office of the Courts and a representative of the Department of Pretrial Services gave an overview of the pretrial process and the effects of the COVID-19 pandemic, such as expediting and extending the Administrative Release Program, the drop in pretrial arrests, and the ability to work remotely.

Uniform Deployed Parents Custody And Visitation Act

An attorney with Morgan Pottinger McGarvey and the legislative counsel for the Uniform Law Commission reviewed child custody issues for military parents and the advantages of adopting the Uniform Deployed Parents Custody and Visitation Act.

Evictions

Representatives of the Kentucky Equal Justice Center, Legal Aid of the Bluegrass, Legal Aid of Kentucky, the Apartment Association of Kentucky, and the Greater Cincinnati Northern Kentucky Apartment Association reviewed the potential rise in evictions due to the COVID-19 pandemic, the status of the Uniform Residential Landlord Tenant Act, the need for uniformity across the state in relation to evictions, and the financial burdens and risks for landlords who are not receiving rental payments.

**Prosecutorial Issues And Concerns:
COVID's Impact On The Criminal Justice System**

The commonwealth's attorney for the 16th judicial circuit advised of case backlogs due to the COVID-19 pandemic, the importance of Rocket Docket, Marsy's Law requiring more victim advocates, crimes against children not being reported, and a funding request denied by the Governor.

The county attorney for Pulaski County also reported on case backlogs in district courts, the importance of Rocket Docket, the decrease in county revenue, the negative effects of the Administrative Release Program, issues to be addressed during the 2021 Session, and the continued use of virtual arraignments.

**Criminal Defense Issues And Concerns:
COVID's Impact On The Criminal Justice System**

A representative of the Kentucky Association of Criminal Defense Lawyers advised of the continued overcrowding in jails, suggested raising the threshold on crimes for incarceration, encouraged body cameras for police officers, recommended prohibiting no-knock warrants, advocated for civilian review boards, and stressed the negative effects of COVID-19 on client communications.

The public advocate highlighted the need for increased staffing to handle the backlog of cases, the Department of Public Advocacy's legislative priorities, jury empowerment, and the negative effects of COVID-19 on attorney-client communication, the preparing of cases, and the transporting of prisoners.

Accountability For State Expenditures During The Pandemic

The state treasurer and the general counsel of the office of the treasurer reviewed actions taken by the Governor during the COVID-19 pandemic that infringe upon the free exercise of religion and freedom to assemble, stating that such actions violate the Constitution of Kentucky.

Neuroelectric Therapy Recovery Treatment

The operations manager of NET Recovery Corp. explained that neuroelectric therapy is a nonmedication, noninvasive monotherapy that deals with withdrawal symptoms and cravings during an opioid discontinuation, has an improved relapse prevention rate, and is more cost effective than methadone or The Bridge treatments.

Constitutional Discussion Of Religious Liberty

A University of Louisville School of Law professor and an attorney with Sturgill Turner provided a constitutional overview of freedom of religion, discussed requirements for the government to treat religious organizations equally to secular organizations, and summarized recent cases challenging the Governor's executive orders relating to COVID-19.

Restorative Justice

Representatives of Volunteers of America reported on the success, process, and cost benefits of Restorative Justice.

Governor's Commutation Powers

An attorney with Frost Brown Todd reviewed the governor's commutation and pardon powers under Section 77 of the Constitution of Kentucky.

The Governor's Commutations Due To COVID-19

The secretary and the general counsel of the Justice and Public Safety Cabinet and the deputy commissioner of the Department of Corrections reviewed the conditional commutations granted by the Governor during the COVID-19 pandemic, explaining the reasons, requirements, and conditions for the commutations.

**Report Of The 2020
Interim Joint Committee On Licensing,
Occupations, And Administrative Regulations**

**Sen. John Schickel, Co-Chair
Rep. Adam Koenig, Co-Chair**

Sen. Julie Raque Adams
Sen. Tom Buford
Sen. Julian M. Carroll
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Paul Hornback
Sen. Christian McDaniel
Sen. Michael J. Nemes
Sen. Damon Thayer
Sen. Reginald Thomas
Rep. Kim Banta
Rep. Tom Burch
Rep. Al Gentry
Rep. Thomas Huff

Rep. Matthew Koch
Rep. Nima Kulkarni
Rep. C. Ed Massey
Rep. Chad McCoy
Rep. Michael Meredith
Rep. Jerry T. Miller
Rep. Kimberly Poore Moser
Rep. Ruth Ann Palumbo
Rep. Phillip Pratt
Rep. Rachel Roberts
Rep. Sal Santoro
Rep. John Sims Jr.
Rep. Susan Westrom
Rep. Buddy Wheatley

LRC Staff: Tom Hewlett, Bryce Amburgey, Melissa McQueen, Jasmine Williams, and
Lisa Moore

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Licensing, Occupations, And Administrative Regulations

Jurisdiction: Matters pertaining to professional licensing not assigned specifically to another committee; racing; prizefighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable, and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salespeople; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices; review of administrative regulations.

Committee Activity

Alcohol-Related Issues

Alcohol Production Minimums For Educational Programs. The director of the James B. Beam Institute for Kentucky Spirits from the University of Kentucky (UK) testified that the institute was formed in 2019 with the goal of facilitating the growth of Kentucky's spirits industry. Experts from fields such as engineering, chemistry, business, law, horticulture, forestry, food science, and entomology are drawn together to elevate education and research and align their missions with the Kentucky economy. The institute, however, will not meet the minimum quantity requirements for distilleries established in SB 99 in the 2020 Regular Session. It is requesting an exemption from the quantity requirements but not the licensing requirements. The distilling will be conducted on UK's campus, close to the chemical and agricultural engineering departments on the corner of Cooper Drive and South Limestone.

Server Age Limits. The mayor of Walton testified in support of legislation that would lower the age for serving alcohol in restaurants from 20 to 18. The change would assist rural cities with sit-down restaurants by allowing adults under 20 to wait tables. It is logical for a server to be able to take a beer from the bar and deliver it to the restaurant table. The mayor has discussed this with many business owners and stakeholders across the area and feels this is a good economic deal for the state. He presented the bill to the Kenton County Mayor's Group, where it was openly discussed, with no negative comments. The mayor did not know the particulars on this issue in other states. Senator John Schickel would like a written report from the Department of Alcoholic Beverage Control (ABC) to address any problems or issues that might arise with the legislation.

HB 347 2020 RS—AN ACT Relating To Regulatory Licensing Fees. Representative Phillip Pratt is proposing to expand the authorization for a regulatory fee to counties that contain a city with a population larger than 20,000 that imposed a regulatory license fee prior to January 1, 2019. Any city or county that held a local option election between July 15, 2014, and July 15, 2017, would be able to enact a regulatory licensing fee.

A representative of the Kentucky League of Cities said this legislation is a correction to SB 29 that passed in the 2019 Regular Session. The cities thought they were getting rid of the remnants

of the old classification system, but the changes also took away the ability of places such as Scott County and 12 other counties to impose a regulatory fee, because they moved to a population basis based on cities within counties. The changes also removed the ability of roughly 30 cities to impose the regulatory fee, because no window was created with a 2-year contemporaneous requirement. In total, 30 cities and 12 counties were left without the ability to impose a regulatory fee. Representative Pratt's bill corrects that situation but does not expand upon it. Chairman Adam Koenig said he supports the bill but would like to see this authorization extended to all counties that contain a wet territory, so that they could impose the fee and regulate properly.

Alcohol Shipping (2020 RS HB 415). The commissioner of the Department of Alcoholic Beverage Control discussed the status of the administrative regulation being promulgated in response to HB 415 from the 2020 Regular Session. The three primary goals were to implement legislative intent, respect the three-tier system, and ensure that Kentucky producers and suppliers are on the same footing with out-of-state producers and suppliers. All stakeholders were consulted before the drafting of the administrative regulations. Final adoption will depend on the number of public comments and the extent of the changes.

Senator Jimmy Higdon said his constituents have concerns that the administrative regulation would allow out-of-state wholesalers and distributors to ship products into Kentucky, which was not the legislative intent. Senator Julie Raque Adams said she is hearing concern that out-of-state importers will be included in the regulation language, and she cautioned against such inclusion.

At a subsequent meeting on this topic, the executive director of Wine and Spirits Wholesalers of Kentucky said his organization and several others were concerned that importers would be allowed to directly ship foreign-made alcohol to Kentucky. Direct shipping should be limited to domestic manufacturers and domestic products. ABC specifically allows importers to obtain a direct shipper license. A foreign-made alcohol product must be imported by a federally licensed importer. In order to sell foreign products to retailers, Kentucky wholesalers and distributors must purchase them from an importer.

Chairman Koenig said he knows people who order wines directly from other countries. People order champagne directly from France and tequila from Mexico, noting that federal laws take precedence. The executive director said that state laws can be more restrictive than the federal allowance, with regard to federal importer permits and not Kentucky importer permits. He said this bill is a disadvantage for state wholesaler licensees and federal importer permittees, and he stated that there is no allowance in state law for receiving shipments from foreign countries.

Chairman Koenig reiterated that there are no state restrictions and that alcohol is already being shipped to Kentucky from Italy, France, and Mexico. It would be ideal for in-state operations to be able to import alcohol from foreign countries to sell to Kentuckians. The bill was intentionally drafted to be different from that of any other state. Although Chairman Koenig respects the wholesalers' position, his intent is to represent the consumers who live in wet territories in Kentucky and to provide them with as many options as possible.

Senator Damon Thayer said it was premature to discuss changes to the direct alcohol shipping bill when it still has not been implemented. ABC is still in the process of promulgating the administrative regulations. He said HB 415 was the most important bill the General Assembly passed in the 2020 Regular Session, noting that revenue streams are important for the bourbon industry now as it has been hit hard by the COVID-19 pandemic and by rioting in the state's downtown cities. Tourism and on-premise sales are down across the board, which affects everyone in the three-tier system. The alcohol direct shipping bill will generate a revenue stream that needs to be implemented for the distilleries as they fight to break out of this economic downturn resulting from the quasi-lockdown and the pandemic. Craft breweries and small farm wineries are also struggling due to the pandemic. Senator Thayer wanted to emphasize that it is not just the bourbon industry that has suffered. He encouraged the ABC to follow the statute and legislative intent when finalizing the regulations.

Senator Higdon said that this bill will be beneficial for the bourbon industry but that there was concern about importers. It was his understanding that the intent of the legislation was for producers and manufacturers to ship out-of-state and for out-of-state manufacturers and producers to ship in-state. He reiterated that he is not complaining about the bill as it relates to the bourbon industry and the domestic production and manufacturing of spirits in Kentucky and across the country. His only concern was the adding of importers to the mix.

The vice president of government relations of the Distilled Spirits Council of the United States said HB 415 required that suppliers be included and that definitions in the statutes include importers as a supplier, because this is the only way to get their product through the US market. He said the legislature was clear on the intent of the legislation. This legislation primarily affects specialty products, and wine accounts for a very small percentage of alcohol being shipped. It is usually limited-edition spirits, engraved bottles, or very rare items that are not readily available in stores.

The administrative regulation implementing this legislation, 804 KAR 4:415, was placed on the agenda for discussion at the committee's December 14 meeting.

Retail Package Sales Of Alcoholic Beverages. Senator Paul Hornback explained new legislation for the retail package sales of alcoholic beverages. The increasing popularity of small-batch and vintage bourbons, along with craft beers and breweries, has resulted in an increased demand for small-volume sales of high-quality packaged spirits. The demand has exceeded the supply of quota retail package licenses and threatens the ability to attract and retain businesses that want to supplement sales with low-volume offerings. Businesses can generate needed revenue if they have access to the bourbon package market. Such access also helps the tourism industry and provides tourists with a better experience. Current regulations for alcohol sales limit the ability to grow and create new jobs, ultimately decreasing new revenue for local communities.

The owner of Goodwood Brewery in Louisville and Frankfort testified that he would like to sell his own craft bourbon by the bottle in his Frankfort restaurant. Its primary function is being a brewery, but it also produces bourbon through collaborations with distilleries. Tourism is thriving at the Frankfort facility, but tourists can buy the bourbon only by the glass, not by the

bottle. Two years ago, language in statute allowed distillery gift shops to sell craft beers. That language could be reciprocated this year to allow microbreweries to sell craft bourbons.

Senator Hornback said he is more than happy to include the distilleries. The Kentucky League of Cities favors this proposed legislation, understanding the growth it can bring to cities and communities throughout the state. There was a discussion of quota licenses. All entities, including the Kentucky Guild of Brewers, are in support of the proposed legislation and increasing tourism.

Restaurant To-Go Sales. The president of the Kentucky Restaurant Association discussed issues that have affected restaurants since the beginning of the pandemic. More than 114,000 employees have been laid off or furloughed since the outbreak began, and 37 percent of operators say it is unlikely their restaurant will still be in business in 6 months without an additional relief package from the federal government. Consumers have responded favorably to alcohol to-go sales that have been in effect under the Governor's executive order. A bill will be proposed to keep to-go alcohol sales permanently.

Distillers' Issues. The senior director of governmental and external affairs of the Kentucky Distillers' Association spoke about its priorities for the 2021 Regular Session. Kentucky is the only place in the world that taxes aging barrels of spirits. One of the association's priorities is the elimination of the barrel tax. The senior director also spoke in favor of reforming restrictions on gift shop sales to remove the wholesale tax on bottles that never pass through a wholesaler. He also spoke in favor of direct-to-consumer shipping and of restaurant to-go sales. The distillers would also like liability protection for businesses that provided hand sanitizer and other targeted relief during the COVID crisis, and they requested that spent grains and other byproducts from distilling be classified as agricultural waste, not industrial waste.

Brewers' Issues. Representatives of the Kentucky Guild of Brewers (KGB) updated the committee on the growth of the brewing industry and reported that the pandemic has reduced overall sales by more than 50 percent. The pandemic has also led to shortages in essential supplies such as cans and carbon dioxide. In order to rebound from the pandemic and continue to grow, the brewers need limited self-distribution, not to exceed 2,500 barrels per year. This limit is much lower than that of many states that border Kentucky. The KGB is also seeking contract equity so that contract provisions adopt nationally accepted standards related to brand value.

Quadricycles. Senator Higdon proposed changing the definition of *quadricycle* by removing the word *exclusively*. This change would allow propulsion other than by human muscular power so that quadricycles can use electric motors.

Conversion Therapy

Senator Alice Forgy Kerr explained that conversion therapy attempts to change a gay person into a straight person, or to stop a person from being transgender. In actuality, it has no scientific basis. The practice of conversion therapy has been outlawed in 22 states and in four countries.

Representative Lisa Willner said she teaches psychology and is well versed in social and emotional development. She stated that efforts to change a person's sexual orientation or gender identity are not effective and that these efforts are associated with severe and deadly consequences. Every leading medical and mental health organization in the country has concluded that conversion therapy is dangerous, along with a bipartisan effort supported by policymakers across the political spectrum, as well as religious leaders. Proposed legislation would prevent state-licensed providers from engaging in conversion therapy with minors. It will prevent public dollars from being distributed to any agency in the commonwealth offering conversion therapy practices. It would also provide evidence-based information to agencies on the risks associated with providing conversion therapy to minors.

A citizen testified before the committee about his experience of being a gay youth undergoing conversion therapy. He said that the therapist inflicted trauma upon him and that none of the therapists that he worked with in conversion therapy were actually licensed. He experienced chronic depression and anxiety, disconnection from his sexuality and body, and inability to trust himself or others. He feels lucky to be a survivor, and he said conversion therapy is a shame-based practice that strips people of all of their identities.

A pastor said that this is his 51st year in ministry, and that he is opposed to conversion therapy. He said many people he has counseled and met over the years did not make a conscious decision to become gay.

The founder and ministry director of Abba's Delight spoke in favor of conversion therapy. Abba's Delight is a Christian ministry that assists born-again believers and families and friends of those who are gay-identified to resolve the conflict of the effects of homosexuality on their lives. Realizing he had been feeding a sexual addiction for nearly 30 years, he went into recovery in 1993 through mentor counseling and attending support and recovery group meetings, and he continues that overcoming process today. He said the proposed bill can hurt the people he counsels who no longer want to experience homosexual desires. As presented, it offers protections to minors and vulnerable adults from coercive practices and aversion therapies by licensed counselors, but it has been decades since professionals practiced these techniques. He said one of his primary concerns about this legislation is that it will censor counseling to those with unwanted same-sex attractions and gender dysphoria. These individuals can receive help if they want to be gay, but not if they want to lead a heterosexual life following their religious convictions. He said this is discrimination. All people should have the choice to pursue counseling options that align with their personal life goals without being under government control. If passed, the bill would violate the guaranteed First Amendment right of free speech for secular counselors, pastoral counselors, and any professionals whose beliefs are not in agreement with this bill's one-sided makeup. The bill also takes away the basic rights of parents to freely choose the care they deem best for their children. Kentucky should not make it illegal for Christians to provide licensed, professional care.

A representative of The Family Foundation said the First Amendment to the US Constitution states that Congress should make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech. He said passing the bill would violate the constitutions of both the United States and Kentucky.

An attorney for the Family Research Council said the legislature interferes with the right of self-determination. Parental rights should play an important part in determining the care and treatment of children. He said the definition of *conversion therapy* includes sexual orientation and gender identity, which are radically different concepts. He said the proposed legislation is just an attempt to regulate speech and hinders therapists from exploring different options in treating clients' desires.

The Kentucky Horse Racing Commission

Medication. Senator Thayer discussed the Equine Research Council's collaboration with the Kentucky Horse Racing Commission (KHRC) on Kentucky's medication reform. Years ago, Kentucky had a problem with stacking drugs in the Thoroughbred industry. Reform has occurred over numerous administrations. Senator Thayer said he supports the administrative regulations filed to address this issue. The equine medical director of KHRC said the regulations are a compromise proposal. The regulations eliminate furosemide on race day for 2-year-olds in 2020 and will begin the elimination on stakes horses in 2021. By adopting this compromise, Kentucky can come into alignment with the rest of the racing world and help lessen negative public perception of medication issues in racing.

Senator Hornback expressed concern that, if Lasix is banned, other illegal drugs will be used in its place. He said Lasix is relatively safe and helps with bleeding. He feels that the administrative regulations are being rushed and said that not many other states such measures in place. He said the administrative regulations need more vetting because they could be a detriment to Kentucky's claiming races.

A veterinarian with the North American Racetrack Veterinarian Association (NARVA) urged the committee members to vote to find the administrative regulation deficient on behalf of two groups: Kentucky's private veterinary practitioners, and the majority of the horsemen and horsewomen of the Thoroughbred and Standardbred horse industries. She said science should drive policymaking. Data suggests that a ban on Lasix will increase horse deaths. She stated that if a horse breaks its leg, exercise-induced pulmonary hemorrhage almost always occurs.

The NARVA veterinarian cautioned that published data shows that horses can test positive for steroids even if none were administered. Drug testing in horse racing is sensitive enough to detect drugs that came from other horses through casual contact, increasing the chance of a drug-stacking violation. Representative Michael Meredith said there is a large divide among horsemen and regulators in the horse industry. He said the data should be closely tracked to ensure that legislators make the right decision. It is best to be leery of public opinion on livestock issues and to do what is best for the horse.

New Harness Association. The executive director and the general counsel of KHRC said they are seeking approval to establish a new harness horseman's association called the Kentucky Harness Association (KHA). The general counsel said Kentucky stands on the brink of substantial improvements to its Standardbred industry as The Red Mile, Churchill Downs, and Keeneland collectively spend more than \$250 million on physical plants to help build a Standardbred circuit. Currently, KHRC allows for only one harness horseman's association, the

Kentucky Harness Horseman's Association (KHHA). The KHHA has been in place for more than 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 additional representation to ensure that all groups are represented across Standardbred racing. The president of The Red Mile and the executive director of racing of Churchill Downs said they support the regulations as well.

The president and the vice president of the KHHA testified that they strongly oppose the regulation. The changes would allow the KHA to negotiate with racetracks and serve on an advisory panel that helps to determine how millions of taxpayer dollars are spent within the Standardbred industry. The KHHA vice president stressed that the proposed changes benefit only The Red Mile and Churchill Downs at the expense of thousands of rank-and-file horsemen and horsewomen. The changes would allow the racetracks to pit the two competing associations against each other, resulting in a financial race to the bottom for the horsemen and horsewomen.

Definition Of *Pari-Mutuel*. On September 24, 2020, the Kentucky Supreme Court issued an opinion stating that historical horse racing machines were not operating in such a way that they could be defined as pari-mutuel in nature. In response, the co-chairs of the committee scheduled a meeting for December 14, at which time the definition of *pari-mutuel wagering* will be discussed. Representatives of the Thoroughbred industry and the Kentucky Family Foundation were invited to the meeting to discuss the issue.

The State Of Real Estate In Kentucky

The president of the Kentucky Association of Realtors said that real estate is an essential business but that challenges due to COVID-19 have been tremendous. Strict guidelines were implemented on how to operate to keep everyone safe, and Realtors are performing well despite the pandemic. Home sales in Kentucky have hit all-time highs during 3 of the last 4 years. In 2019 in Kentucky, a record 51,000 homes were sold. Kentucky is on track for another record in 2020, despite the pandemic. Metro area house prices are forecast to track the national market, with an estimated 7.7 percent increase in the next 12 months. Kentucky's housing market vitality, based on the nine metro housing markets which the state comprises, ranks the state as 20th in the nation.

A representative of the Kentucky/Louisville Apartment Association said property owners and landlords own more than 350,000 rental units in Kentucky. Rental property contributes \$173 million in property taxes and provides many jobs. Rent collections have been stable, but since the pandemic, landlords are seeing a decline in rent payments received. Landlords and owners have seen a 3.1 percent decline in timely rental payments and have tried to implement flexible payment plans with renters, including waiving late fees and helping residents apply for financial assistance through nonprofit agencies. Many landlords have gone without rental payments from tenants for up to 7 months, resulting in a significant hardship for landlords, who are responsible for many operating expenses including federal, state, and local taxes; insurance; maintenance; and utilities that have to be paid whether or not landlords are receiving rental payments.

Issues With Licensed Occupations

Certification Of Welders (Similar To 2020 RS HB 306). Representative Bobby McCool testified regarding a welding safety bill. It does not apply to all welding but focuses on buildings and bridges, and only when a design engineer requires it. The legislation is bipartisan and has passed the House of Representatives twice but has stalled in the Senate. Many other states have similar laws and processes for welding certification. This bill would retain welding standards across the board and increase safety.

The president of the Iron Workers Union testified in favor of the legislation, saying it was good public safety legislation. It saves taxpayers money by ensuring that projects are completed responsibly and efficiently. There are four certified testing facilities for welders, and the certification requires applicants to perform welding, not just pass a written test.

Two welding industry businessmen testified in opposition to the legislation. One said he opposes the bill as it stands, although he is not against certifications. The other said he feels that existing building codes already cover these safety issues, and that there are more than enough safeguards. It was also noted that employees would miss work days when testing.

CPA Licensure Issues (Similar To 2020 RS HB 383). Representative Kim Banta said the State Board of Accountancy, along with the Kentucky Society of Certified Public Accountants (CPAs), is requesting two changes to KRS 325.240 and one change to KRS 325.280. New language would authorize the board to adopt regulations so that it can issue scholarships using its own money. The purpose is to boost enrollment in accounting programs, because the number of CPAs retiring is outpacing the number coming into the profession. The board and the society also want to grant immunity from lawsuits to state board members, employees, and agents who are acting in good faith in performing their normal duties. A number of other Kentucky professional licensing boards have similar language. Although the board already has a layer of protection in case law, it recommends that this statute be updated to bring the board in line with other licensing boards in the state.

The statute would also authorize the board to grant licensure to out-of-state licensed CPAs who relocate to Kentucky without retaking the CPA exam. The exam requirement is currently in the licensing statute for Kentucky-based CPAs, but the statute was not intended to affect those seeking a license via reciprocity. A CPA who has a current valid license in another state should be able to get a Kentucky license via reciprocity. The statute's current language puts an unintended burden on CPAs trying to relocate to Kentucky.

Embalmers And Funeral Directors. Representatives of the Board of Embalmers and Funeral Directors requested the authority to move their licensing fees from statutes to administrative regulation. They noted that they were seeking not excessive increases in the fees, but only sufficient revenue to keep the board self-sustaining.

Charitable Gaming

The Department for Charitable Gaming proposed statutory changes to help charitable organizations deal with the effects of the COVID pandemic. Most significantly, the department proposed to waive the 40 percent rule for calendar year 2020. The 40 percent rule requires at least 40 percent of the proceeds of charitable gaming to be used for charitable purposes. Because of the downturn in gaming in response to the pandemic, it may be difficult for a number of charities to generate enough revenue to meet this rule. The department also proposed waiving licensing requirements for facilities that host two or fewer charitable gaming organizations or facilities that host only charity fundraising events.

**Report Of The 2020
Interim Joint Committee On Local Government**

**Sen. Wil Schroder, Co-Chair
Rep. Michael Meredith, Co-Chair**

Sen. Ralph Alvarado
Sen. Denise Harper Angel
Sen. Stan Humphries
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Robby Mills
Sen. Michael J. Nemes
Sen. Albert Robinson
Sen. Damon Thayer
Sen. Johnny Ray Turner
Rep. Danny Bentley
Rep. Randy Bridges
Rep. George Brown Jr.
Rep. Jeffery Donohue

Rep. Larry Elkins
Rep. Deanna Frazier
Rep. Joe Graviss
Rep. Cluster Howard
Rep. Regina Huff
Rep. Kim King
Rep. Adam Koenig
Rep. Stan Lee
Rep. Russ Meyer
Rep. Jerry T. Miller
Rep. Brandon Reed
Rep. Rob Rothenburger
Rep. John Sims Jr.
Rep. Ashley Tackett Laferty

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

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Local Government

Jurisdiction: Matters pertaining to the officers, organization, government, and financing of county and city governments; city- and county-imposed taxes and licenses; special purpose assessment and taxing districts within a city; financing of local government improvements; issuance of bonds for county, city, and special district projects; local government and special district indebtedness generally; compensation of county and city officers and employees; the imposition of duties and costs on local governments; interlocal government cooperation and consolidation of services; local government employees, civil service, and retirement; the powers, duties, and composition of fiscal courts and municipal legislative bodies; the offices of county judge/executive, magistrate, county attorney, sheriff, constable, jailer, coroner, surveyor, and county clerk; forms of local government; incorporation and classification of cities; housing projects; manufactured housing; urban renewal and redevelopment; planning and zoning; annexation of territory; public works; parks and playgrounds; police and fire departments and their retirement systems; county roads; city streets and sidewalks; local government utilities and waterworks; acquisition of waterworks and water districts by local governments; sewers; metropolitan sewer and sanitation districts; public road districts; water districts; fire protection districts; drainage districts and local flood control and water usage; local air pollution control districts; urban service districts; library districts; city and county libraries; special districts not assigned to another committee.

Committee Activity

COVID-19 Relief Programs

The commissioner of the Department for Local Government (DLG) and the acting executive director of the department's Office of Federal Grants updated the committee on money that was made available to local governments in an effort to provide relief from financial stressors related to COVID-19. DLG is administering Coronavirus Relief Funds and Community Development Block Grant COVID-19 funds. The Governor announced a \$300 million award to city and county governments as part of the Coronavirus Aid, Relief and Economic Security (CARES) Act, which established the Coronavirus Relief Fund to reimburse local governments for expenses incurred in responding to the pandemic.

Fiscal Impacts On Local Government Relating To The Economic Impact Of COVID-19

A senior fellow with the Pegasus Institute discussed local tax structures and fiscal impacts on local governments in light of the effects of COVID-19. By May 2020, the number of jobs in Kentucky had fallen by approximately 15 percent, but the fiscal data at that point had been better than the economic data. The local tax structure had held up reasonably well, given the statewide economic damage. Revenue from property taxes and insurance premium taxes continued to grow, and many local government had built up their rainy-day funds during the past several years. The CARES Act also provided benefits.

Some of the economic downturn was damped by good employment numbers prior to the pandemic in the first part of the fiscal year, and the industries that were hit the hardest tended to exhibit lower pay and consist of part-time positions. Because of this context, job losses look worse than income losses, which directly affect local occupational tax revenues.

Economic offsets exist: For instance, when people reduced their frequency of eating out, they cooked at home more, increasing grocery store revenues by 30 percent. People who were out of work sought and gained other employment. People still made dry goods purchases, and money that had been earmarked for travel was used in some cases on home improvement projects.

Law Enforcement Issues And Reforms

The executive director and the president of the Kentucky Association of Chiefs of Police (KACP), a representative of the Kentucky Sheriff's Association, and the Senate President addressed the committee on departmental and state policies and potential legislation relative to policing to be presented to the 2021 General Assembly.

The KACP president noted national discussion of choke holds. Choke holds should meet the continuum of deadly force and as such should be used only in a deadly force encounter.

Regarding discussions about defunding the police, 80 percent of police department budgets is dedicated to personnel. Defunding efforts would mean either losing personnel or lessening training. More money for training is requested from the General Assembly.

There was discussion of legislative efforts to strengthen existing police officer decertification. Agencies hiring police officers who have been terminated by another department should have the means to be aware of these officers' performance backgrounds in order to make sound hiring decisions.

A representative of the Kentucky Sheriff's Association noted that few, if any, of Kentucky's sheriffs historically or presently used no-knock warrants, because the risk to officers, suspects, and innocent bystanders is predictably high. Those risks outweigh any perceived advantage of being authorized for forcible entry into a home without announcing the presence of police officers with a search warrant.

In a discussion on qualified immunity, it was mentioned that some believe qualified immunity is a license for law enforcement to violate people's rights, and therefore the standard should be abandoned. Qualified immunity is most commonly used in federal court cases brought against officers and their agencies, so it is not certain that it is an issue for the state legislature.

The Senate President Robert Stivers told the committee that he is sponsoring a bill that would not forbid police from using no-knock search warrants as a stand-alone tool. There are times when an officer does not want to knock before entry when serving an arrest warrant, but in those instances, the officer should also possess a secondary search warrant to allow the seizure of evidence when securing a space after entry. These warrants should only be used by officers

trained in tactical situations. The obtaining of these warrants should also require that a supervisor sign off, and the warrants should be taken before a judge.

Governor's Executive Order 2020-323 Relating To Utility Cutoffs

The manager of Bowling Green Municipal Utilities (BGMU), the Kentucky League of Cities (KLC) director of governmental affairs, the Fulton city manager, and the executive director of the Kentucky Rural Water Association (KRWA) discussed the impacts of the Governor's executive order that disallowed utility service cutoffs and banned assessment of late fees during the pandemic.

The manager of BGMU said that there are two opposing and unenviable options. The first is to allow disconnections for nonpayment, with the concern that financial strain or household displacement for vulnerable persons may occur in the midst of the pandemic. The second is to suspend disconnections and let the balances accumulate to an unmanageable position for those same customers.

The May 8 executive order states that the suspension of disconnects and assessment of late fees will continue until the lifting of the emergency order. No one knows when the order may be lifted.

Many customers misunderstand suspension of disconnection. They believe that the balances will be written off and that they will not be held responsible to pay. Not all past-due accounts are those of customers under financial strain. Some customers are gaming the order. Without the pressure of payment and disconnection, customers needing financial assistance are not seeking help from the many sources available to assist, such as the Low Income Home Energy Assistance Program and the Tennessee Valley Authority's TVA's assistance fund.

A total of 26 states did not mandate the suspension of disconnection. As of April 2, mandates had expired in 14 states, leaving only 10 states with disconnection mandates. Of those 10 states, only 4, including Kentucky, have orders that last until further notice or until the end of a declared emergency.

If the executive order is not lifted, the following suggested modifications should be considered:

- Establish a final end date, which would be a vast improvement.
- Rework the order to apply only to residential accounts, and let utilities return to disconnection and late fee assessment for commercial accounts.
- Allow utilities return to assessing late fees.
- Allocate and release sufficient CARES Act funds to local governments to apply to qualifying past-due customer accounts.

The KLC director of governmental affairs said that the COVID-19 pandemic created several challenges for cities. The financial strain currently facing municipal utilities may be one of the most impactful. Nearly half of Kentucky cities own at least one utility. Cities spend billions on their operation. A total of \$2.3 billion was spent in FY 2018. Utilities are very capital-intensive,

requiring significant funding for construction and maintenance. In addition to providing vital services such as gas, electric, water, and sanitation, these utilities also provide jobs.

A KLC survey conducted in conjunction with the Kentucky Municipal Utilities Association (KMUA) and KRWA shows that the prolonged abatement of on-time payments is having a significant impact on the operation of these utilities. At minimum, municipal utilities need a modification to the Governor's executive order with collaboration on what can be reasonably be done to address the needs of people affected by the pandemic while also recognizing the revenue reality that local utilities face.

The KRWA executive director said his group joined with KLC and the KMUA on the COVID-19 utilities survey mainly because it was getting calls from its membership, which is made up mainly of cities of under 10,000 in population. Those cities were concerned not only about the financial stability of their utilities in light of the executive order, but also about their customers' financial stability. Most of the KRWA's utilities are small and have personal relationships with their customers. The KRWA will be asking the Governor to consider ending this moratorium.

Conservatorship For Abandoned Properties

Senator Robby Mills (sponsor of SB 225, filed in the 2020 Regular Session), the KLC director of governmental affairs, and KLC legislative counsel discussed the fact that communities of all sizes are dealing with blighted and abandoned properties. Senator Mills said that blighted and abandoned properties—such as homes, businesses, and former industrial sites—are often more than a nuisance. They can attract crime, decrease property values, and create a fire hazard. SB 225 aimed to help communities deal with this problem. The bill permitted courts to appoint a conservator to bring blighted, abandoned, and deteriorated buildings into local government code compliance if they have been vacant for at least 1 year.

The KLC director of governmental affairs stated that city leaders will say that one of the hardest things they deal with is blighted and vacant properties. The ability to create a conservatorship for blighted and abandoned properties gives cities a new way to address this problem. A total of 22 states have implemented similar legislation, including 6 of the 7 states that border Kentucky. Rehabilitation of an abandoned or blighted property benefits a community by providing for productive reuse, reinstatement of taxable property, and increased property values, in addition to the promotion of affordable housing.

The KLC legislative counsel said that KLC has worked for some time on developing the provisions of this legislation and held meetings with stakeholders throughout the 2020 Regular Session. The counsel discussed the details of the legislation.

Broadband Internet Resources

The legislative director of the Kentucky Association of Counties (KACo) and the Calloway County judge/executive discussed issues related to access to broadband internet resources, brought to light during the pandemic.

The legislative director said that as COVID-19 forced a transition to virtual work at all levels of daily lives, it shed light on the pre-COVID issue of the significant stretches of unserved and underserved broadband access. Broadband access is lacking at various levels but is certainly an issue for almost every county. It has become the 21st-century equivalent of the need for access to electricity in the 20th century. More people are teleworking, using nontraditional instruction and virtual learning, and virtually attending General Assembly meetings.

The judge/executive stated that adequate internet coverage in Calloway County is spotty—even in the city of Murray. There are problems with Federal Communications Commission census block data. If one person in a census block has 25 Mbps/3 Mbps connectivity, that counts toward declaring that the whole census block has that level of connectivity. Calloway County is applying for a matching grant from the US Department of Agriculture to improve access.

Internet dependency is increasing, through channels such as telemedicine and entrepreneurship. The West Kentucky Telephone Cooperative has put up six hotspots in Calloway County. Kentucky Farm Bureau put a hotspot on its facility in Murray. People are trying to address the deficiency in many ways.

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

KentuckyWired was originally billed as a solution to Calloway County's internet connectivity needs, but years later, after hundreds of millions of taxpayer dollars, the county is finding that the project was only for the middle mile.

A Kenton County magistrate recently said, "We've got natural gas, electricity, and water—things we could get in some other way if need be—but there is no other way to get internet service."

Local Control Of Water Fluoridation

Senator Stephen West, Representative Mark Hart, a concerned citizen, a concerned dentist, the mayor of Cynthiana, a concerned University of Kentucky professor emeritus of chemistry and biology, and the president of the Kentucky Dental Association presented their views on the mandatory addition of fluoride in Kentucky's drinking water.

Senator West said that local control of water fluoridation needs investigation and is getting national attention. He is sponsoring clean-water legislation for the 2021 Regular Session, and he said Kentucky's goal should be 100 percent access to the cheapest and safest water. One of the main reasons for discussing the issue now is that many studies are coming out every day relating to the addition of fluoride to water. Representative Hart noted that the legislation calls only for local control of water fluoridation and to undo an unfunded mandate.

A concerned citizen stated that there is no question that fluoride is harmful. She noted two research reports that contained research on harmful effects of fluoride. She was distressed that

the addition of fluoride to water systems was law in Kentucky, which is one of 13 states that mandate fluoridation. Emissions from smokestacks can elevate nonpharmaceutical grade fluoride levels in drinking water. She noted a bibliography in the meeting materials for additional studies on the topic.

A concerned dentist said that the state fluoridation mandate should be removed. The core issues are freedom of choice, informed consent, and whether the state has a right to place children in harm's way. The issue extends beyond water fluoridation and the prevention of cavities. There is an oral-systemic connection—how conditions in the mouth affect conditions in the body. The dentist discussed the safety of materials and procedures used in dentistry. Given that fluoride is a known neurotoxin, the addition of fluoride to water is questionable. The proponents of water fluoridation have not proven its safety. Until they do so, no government should require adding a neurotoxin to the water supply.

The mayor of Cynthiana noted that Cynthiana has its own water treatment facility. Experts are divided on fluoridation. The issue is to have local control. The leadership of the water plant wants to produce the best product for its customers.

A University of Kentucky professor emeritus of chemistry and biology said that fluoride is toxic and induces oxidative stress in the tissues it reaches. Oxidative stress is the symptomatic end of every known disease. Fluoride also crosses the blood-brain barrier and gets into the brain. In Alzheimer's disease, Parkinson's disease, and other diseases, the damage done is through oxidative stress in the brain by many factors, of which fluoridation can be one.

The president of the Kentucky Dental Association said that the association supports continuing the state mandate of water fluoridation. Fluoridation is the single most effective measure in preventing tooth decay. The Centers for Disease Control and Prevention has declared community water fluoridation one of 10 great public health achievements of the 20th century. Tooth decay has devastating effects on people. Fluoridation is an effective, safe, and cheap method for preventing tooth decay. People have died from tooth decay and from abscesses resulting from tooth decay. Peer-reviewed science says the current levels of fluoridation are safe and effective. Considering the current levels of sugar consumption, children would be greatly affected if it were not for fluoridated water. Alaska stopped fluoridation, and the effects of losing fluoridation can be seen via comparisons of the levels of Medicaid dollars spent on fixing children's teeth before and after the stoppage.

Local Control Of Tobacco Sales And Marketing

Representative Kimberly Poore Moser, Senate Majority Caucus Chair Senator Julie Raque Adams, the manager of public affairs of the Kentucky Chamber of Commerce, and the vice president for public policy of the Foundation for a Healthy Kentucky addressed the committee on giving more controls to local governments relating to tobacco and tobacco products for sales and marketing purposes.

Representative Moser said that allowing local control of marketing of tobacco products is the next logical, cost-free step by which Kentucky can reduce tobacco-related illnesses and the

associated health care expenses, as well as losses in business productivity in the commonwealth. Kentucky ranks first in the nation for cancer deaths, and smoking causes more than a third of those deaths. Smoking also leads to heart disease, strokes, and chronic obstructive pulmonary disease.

From 2019 to 2020, the number of US youth who use e-cigarettes decreased by approximately 1.8 million. However, one in five US youth still use e-cigarettes, down from one in four in 2019. The rate for middle schoolers is 1 in 20 this year, compared to 1 in 10 in 2019. They use disposable flavored e-cigarettes. It is not known whether these national trends are reflected in Kentucky, but the state's youth vaping rate has been higher than the national rate every year.

The manager of public affairs of the Kentucky Chamber of Commerce stated that compared to nonsmoking employees, employees who smoke were 33 percent more likely to miss work and were absent from the workplace for an average of 2.7 more days per year. Absenteeism decreases when smokers quit, and is measurable even among those who have recently quit. Smoke breaks are the largest single cost from a smoking employee; they result in 8 to 30 minutes per day per employee in lost work time.

On average, employers pay an additional \$659 per year in medical and pharmacy costs for each employee who smokes. Across US states, 6 percent to 18 percent of total health care expenditures are attributed to smoking-related illnesses. Tobacco use is also associated with increased risk of injury and property loss due to fire, explosions, and vehicular collisions.

Senator Raque Adams said tobacco use varies across Kentucky. Data from 2018 shows that smokeless tobacco use is higher in the eastern and southern parts of the state than in greater Louisville and western regions.

There are demographic smoking disparities. Smoking rates are higher among Native Americans, persons with lower education and income levels, the uninsured, Medicaid recipients, persons with disabilities, the LGBTQ community, and people with mental disorders.

Communities can adopt only one measure to reduce the health care risks and costs associated with tobacco use: smoke-free laws. Many, but not all, communities have done so. The vice president for public policy of the Foundation for a Healthy Kentucky stated that local smoke-free laws prohibit smoking and vaping in indoor workspaces and public places. A total of 56 Kentucky communities have enacted local smoke-free laws, protecting 36 percent of Kentuckians. State statutes prohibit city and county governments from regulating the use, display, sale, and distribution of tobacco products.

Beginning in 1985, "Big Tobacco" began using preemption as a tactic to overturn existing local laws and block new ones. By getting preemption laws at the state level, the companies could avoid lobbying local governments. The Foundation for a Healthy Kentucky supports repealing the state law preventing local controls.

Special Purpose Governmental Entity And Fire Department Annual Reports

The DLG cities and special districts branch manager and the DLG general counsel presented the annual report required by KRS 65A.020 on special purpose governmental entity (SPGE) fiscal and administrative reporting compliance in conformity with KRS Chapter 65A. In addition, the branch manager informed the committee of changes being implemented in the registration processes of SPGEs and the administration of their data. The Kentucky Fire Commission's executive director, legislative director, and auditor presented the annual report required by KRS 95A.055 on the fiscal and administrative reporting compliance of fire departments that are required to be registered with the fire commission.

Kentucky Association Of Counties' 2021 Legislative Agenda

KACo's president, first vice president, executive director/chief executive officer, and legislative director presented the association's 2021 legislative agenda:

- Transportation infrastructure investments
- Broadband access and affordability
- Jail relief
- Streamlining state and local functions
- County revenue flexibility

Kentucky League Of Cities' 2021 Legislative Agenda

KLC's president, first vice president, executive director/chief executive officer, and director of governmental affairs presented the league's 2021 legislative agenda:

- Road funding—amend the gas tax road fund formula
- Revenue diversification—dealing with restaurant revenue, local sales tax, and the occupational license tax credit, and opposing centralized collection
- Economic development—related to historic tax credit and blighted, deteriorated, and vacant properties
- Online publication
- Policing—decertification law, no-knock warrants, and qualified immunity
- Open records—electronic requests
- Substance abuse
- Alcohol regulatory license equity
- Training of paramedics and emergency medical technicians
- Rehiring of retired police and firefighters
- Training of city officials
- Wholesale water rates
- Constables
- Annexations
- Testing of firefighters' physical agility
- Work schedules of peace officers
- Encroachment permits
- Ambulance certificates of need

- Splash parks and pads
- Planned unit and homeowner associations
- Transportation improvement districts
- Administrative regulations—notification
- Massage parlors

Administrative Regulations Reviewed

The following administrative regulations were referred to the committee and heard:

- 739 KAR 002:040, relating to survivor benefits for death of a firefighter
- 739 KAR 002:155, relating to the Alan “Chip” Terry Professional Development and Wellness Program
- 815 KAR 020:191, relating to the Division of Plumbing’s minimum fixture requirements

**Report Of The 2020
Interim Joint Committee On Natural Resources And Energy**

**Sen. Brandon Smith, Co-Chair
Rep. Jim Gooch Jr., Co-Chair**

Sen. Jared Carpenter
Sen. Matt Castlen
Sen. C.B. Embry Jr.
Sen. Paul Hornback
Sen. Robby Mills
Sen. John Schickel
Sen. Reginald Thomas
Sen. Johnny Ray Turner
Sen. Robin L. Webb
Sen. Whitney Westerfield
Sen. Phillip Wheeler
Rep. John Blanton
Rep. Charles Booker
Rep. Adam Bowling
Rep. Terri Branham Clark

Rep. R. Travis Brenda
Rep. Randy Bridges
Rep. Myron Dossett
Rep. Jim DuPlessis
Rep. Daniel Elliott
Rep. Chris Fugate
Rep. Cluster Howard
Rep. Derek Lewis
Rep. Suzanne Miles
Rep. Melinda Gibbons Prunty
Rep. Josie Raymond
Rep. Cherlynn Stevenson
Rep. Jim Stewart III
Rep. Richard White
Rep. Rob Wiederstein

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

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Natural Resources And Energy

Jurisdiction: Matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas, and salt water wells; state and national parks; drainage districts; water pollution; noise pollution; air pollution; management of waste; protection of the environment; Energy and Environment Cabinet; privately owned public utilities; rates, permits, and certifications of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development; energy waste disposal; the Public Service Commission; solar and other renewable energy; hydroelectric and thermonuclear energy; gasohol and other alternative fuels.

Committee Activity

The Interim Joint Committee on Natural Resources and Energy held six meetings during the 2020 Interim. No subcommittees were authorized. The committee considered a wide range of topics, including the Energy and Environment Cabinet's (EEC's) regulatory and enforcement changes made during the COVID-19 pandemic, updates on water regulatory and permitting issues from the Division of Water and the US Army Corps of Engineers, the impact of COVID-19 on energy markets, current and planned solar and regenerative energy projects in the commonwealth, and proposed changes to the Underground Facility Damage Prevention Act. The committee approved the Low Income Home Energy Assistance Program block grant application for FY 2021.

Impacts Of COVID-19

Greater Regulatory Enforcement Flexibility At The Energy And Environment Cabinet.

The secretary of the Energy and Environment Cabinet stated that through June, the EEC had been operating under the Governor's Healthy at Home initiative, with many of the cabinet's staff working remotely, but they were able to accomplish approximately 80 percent of the cabinet's normal functions such as inspecting, investigating, responding to complaints, and responding to environmental disruptions. In June, the EEC began transitioning to the Healthy at Work initiative.

The deputy secretary of the EEC explained that the cabinet had adopted a temporary policy regarding compliance and enforcement of environmental obligations where noncompliance is caused by the COVID-19 pandemic. The policy was modeled on guidance from the US Environmental Protection Agency and allowed regulated entities to document and report temporary noncompliance with a regulatory requirement due to COVID-19 and to provide a plan on how to attain compliance when it was possible. There had been 61 requests for regulatory flexibility.

The commissioner of the Department of Natural Resources said that COVID-19 had contributed to a slight decrease in permitting actions in Kentucky's coal mining industry. The mining and

mineral extraction industries were deemed life-sustaining businesses, so they were not subject to shutdown orders.

Instability In The Energy Markets. The director of the Center for Applied Energy Research at the University of Kentucky discussed how COVID-19 had affected the demand and pricing for various energy sources as of April 2020. Overall energy demand had dropped significantly with the economic slowdown, and it had reached its lowest level since 1989. Petroleum consumption reached record lows, which, coupled with high worldwide production, actually caused the price of petroleum futures to briefly go negative. Natural gas consumption was stable compared to that of other fuels because of fuel switching in electricity production, and natural gas provided 39 percent of electricity generation. Overall electric power consumption decreased, but there was an 8 percent increase in residential use. The energy burden was shifted from commercial and industrial sectors to the residential sector because consumers were working from home. The record low number of passenger flights led to a 43 percent decrease in jet fuel consumption.

Coal demand has been at its lowest since tracking began in 1973 by the US Energy Information Administration. Consumption was 27 percent lower than in April 2019. Nearly all of the decline was due to reduced demand for coal in the power sector because of lower electricity demand, cheap natural gas, and fuel switching. Export markets for coal also remained soft; however, coal production has been forecast to increase 6 percent from last year due to higher natural gas prices. Coal plants were running at 50 percent capacity or less and were not being used for baseload generation as demand for electricity and prices shift.

Water Regulation And Permitting Updates

State Regulatory Update From The Division Of Water. The commissioner of the Department for Environmental Protection stated that the Governor had identified water and wastewater personnel and services, solid waste management, and emergency response as essential services during the COVID-19 pandemic. The water infrastructure branch manager of the Division of Water (DOW) provided an overview of the programs that the division administers, including drinking water, surface water permits, water quality, water and wastewater infrastructure, water resources, and watershed management. The primary focus of the DOW during the pandemic was the safety of the operating personnel while maintaining services. From April to June 2020, the DOW received 1,061 permit or certification applications for the programs it administers under the federal Clean Water Act and Safe Drinking Water Act, and 973 of those applications were approved. There has been a decrease in the amount of pending permits, as well as an ongoing effort to keep permit backlogs low.

There is a widely recognized need for improvements to water and wastewater infrastructure.

Federal Regulatory Update From The US Army Corps Of Engineers. Representatives of the Nashville district of the US Army Corps of Engineers (USACE) stated that its regulatory mission is to provide strong protection of aquatic resources and navigation capacity while allowing for reasonable development, enhancing the efficiency of the regulatory program, and ensuring fair and balanced decisions. The Nashville district boundaries are based on the Cumberland River Basin and the Tennessee River Basin.

USACE issues two types of permits. Standard permits are project-specific, and the approval process involves public notice, public comment, and hearings. The second type of permits is general permits that are nationwide or regional. The regulatory decision-making criteria to issue a permit are based on the following: The project is not contrary to the public interest, the project complies with the Clean Water Act, and the project complies with the Mitigation Rule. A permit is denied if there is a practicable alternative or if it would violate water quality standards, result in significant degradation, or impact aquatic resources. In 2020, USACE had taken final action on 107 permits in Kentucky. At the time, four general permits were pending and no standard permits were pending.

Renewable Energy Update

Current And Planned Solar Energy Projects. The chief executive officer and owner of Carolina Solar Energy (CSE) explained that the company is based in North Carolina and develops utility-scale solar projects. There are currently 40 projects that produce 500 megawatts in North Carolina, and there are five solar projects in Kentucky. CSE focuses on engaging landowners, applying for permits, and environmental and cultural reviews.

Each solar project will pay more than \$1 million in new county property taxes over the first 20 years of its operation. The solar projects bring jobs to local communities in rural areas and do not require any significant specialized training or education. All of the projects start with an individual landowner signing a 40-year lease. By investing in solar energy, the landowners make at least 3 times the profit they would get from leasing their land for farming uses.

Representatives from Recurrent Energy (RE) stated that the company is a leading utility-scale solar developer with projects across the United States. Since 2006, RE has completed development and construction of more than 70 projects, and it is currently in the early stages of development of a project in Kentucky.

When RE locates a potential site for a solar project, the company works with the local community to identify willing landowners. Projects typically range from 50 to 200 megawatts and require 1,000 to 2,000 acres of land. The land is leased from the landowner in return for annual payments for the life of the project. The projects are developed on farmland, pasture land, timber ground, and possibly reclaimed mine lands. When it is determined that the project will go forward, the plans are submitted to Kentucky's Electric Generation and Transmission Siting Board.

Regenerative Energy. A representative of Silicon Ranch stated that the company owns and operates more than 135 solar facilities in 15 states. Silicon Ranch views land and vegetation as valuable natural resources that can be harnessed to sequester carbon and restore biodiversity. Reducing carbon emissions by producing clean solar energy and keeping land in agricultural production will help meet the global food demands of the future.

The solar industry should design multifunctional properties on the vast amounts of land that operate solar farms. The colocation of agriculture and energy creates a unique symbiosis where the solar modules create protection for livestock.

Underground Facility Damage Prevention

Proposed Changes To Existing Call-Before-You-Dig Laws. Representatives of the Kentucky Association of Master Contractors and Duke Energy Corporation discussed proposed changes to the current call-before-you-dig laws in Kentucky. They proposed requiring an operator of an underground facility to positively respond to an excavator when they receive a request to locate one of their underground facilities, so that the excavator will know when or if the request had been fulfilled. They also suggested implementing uniform practices for call centers receiving locate requests for underground facilities, including requiring them to provide identification numbers for all locate requests that they receive, to maintain a list of the operators they serve and their contact information on their website or with their county clerks, and to keep records of the requests they receive for 5 years. Additionally, they agreed that excavators that comply with all of the requirements of the call-before-you-dig statutes should not be liable for any damages that occur to underground facilities that they encounter during the excavation.

The executive director of the Kentucky Telecom Association raised concerns about the proposed changes that would allow operators of underground facilities more time to locate facilities that were unmapped and unable to be located from the surface. Increasing these times could lead to delays in broadband deployment in rural areas and drive up project costs.

Reports Received

- Low Income Home Energy Assistance Program Block Grant Program Status Report, Jan–June 2020
- Report of the Audit of the Kentucky Heritage Land Conservation Nature License Plate Fund, FY 2020
- Kentucky Department of Fish and Wildlife Resources No Net Loss Report, FY 2020
- Kentucky Interagency Groundwater Monitoring Network Annual Report, 2020
- Report of the Audit of the Kentucky 911 Services Board, FY June 2018–June 2019
- Telecommunications Access Program Annual Report, FY 2019–2020
- Department of Fish and Wildlife Resources Annual Professional Standards Update, 2020
- Kentucky Reclamation Guaranty Fund, 2020 State Fiscal Year Annual Report
- Audit of the Kentucky Reclamation Guaranty Fund, 2020

Referred Block Grant Applications

- Low Income Home Energy Assistance Program Block Grant Application, Fiscal Year 2021

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee, as of November, had reviewed three administrative regulations upon referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

Report Of The 2020 Interim Joint Committee On State Government

Sen. Wil Schroder, Co-Chair
Rep. Kevin Bratcher, Co-Chair
Rep. Jerry Miller, Co-Chair

Sen. Ralph Alvarado
Sen. Denise Harper Angel
Sen. Stan Humphries
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Robby Mills
Sen. Michael J. Nemes
Sen. Albert Robinson
Sen. Damon Thayer
Sen. Johnny Ray Turner
Rep. John Blanton
Rep. Tom Burch
Rep. McKenzie Cantrell
Rep. Jeffery Donohue
Rep. Jim DuPlessis
Rep. Larry Elkins
Rep. Joseph M. Fischer
Rep. Kelly Flood
Rep. Jim Glenn
Rep. Derrick Graham
Rep. Joe Graviss

Rep. Richard Heath
Rep. Samara Heavrin
Rep. Jeff Hoover
Rep. Joni L. Jenkins
Rep. Matthew Koch
Rep. Derek Lewis
Rep. Scott Lewis
Rep. Mary Lou Marzian
Rep. Reginald Meeks
Rep. Patti Minter
Rep. Jason Nemes
Rep. Jason Petrie
Rep. Attica Scott
Rep. Steve Sheldon
Rep. James Tipton
Rep. Tommy Turner
Rep. Ken Upchurch
Rep. Russell Webber
Rep. Lisa Willner
Rep. Les Yates

LRC Staff: Alisha Miller, Michael Callan, Daniel Carter, Bo Cracraft, Kevin Devlin, Brad Gross, Jennifer Black Hans, Roberta Kiser, Karen Powell, Angela Rhodes, and Peggy Sciantarelli

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On State Government

Jurisdiction: Matters pertaining to the sovereignty and jurisdiction of the commonwealth; the General Assembly, its committees, officers, and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; state-federal relations; interstate compacts; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; constitutional offices; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths, and bonds; public information; disaster and emergency services; state and regional planning; the libraries; archives and records; public corporations; commonwealth's attorneys; circuit clerks; the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local, and school board positions; election commissioners, officers, and precincts; qualifications, registration, and purging of voters; conduct of primary and regular elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absentee ballots.

Committee Activity

The Interim Joint Committee on State Government held six meetings during the 2020 Interim, focusing on response to the COVID-19 pandemic; the Kentucky Registry of Election Finance's electronic reporting system; the 2020 primary election; issues of importance to the Kentucky County Clerk's Association; an update from the Kentucky State Board of Elections; 2020 Regular Session legislative ethics legislation; the fiscal note and fiscal statement process; the 2021 Kentucky Employees' Health Plan; prefiled legislation relating to state employee compensation and paid parental leave; and a report from the US Census Bureau.

Contact Tracing Activities And CARES Act Spending, Contracting, And Oversight

The committee received testimony from the deputy commissioner and the executive adviser of the Department of Public Health, Cabinet for Health and Family Services. They discussed their contact tracing efforts and the department's adherence to guidelines from the White House and the Centers for Disease Control and Prevention. As part of its contact tracing efforts, the department employs contact tracers and disease investigators who use a contact tracing and tracking (CTT) system in conjunction with a COVID-19 containment and mitigation strategy.

Kentucky's 61 local health departments have been contact tracing communicable diseases for decades and already had 431 disease investigators and contact tracers on staff prior to the COVID-19 pandemic. Since the advent of COVID-19, the Department of Public Health has used staffing agencies to hire temporary positions for regional teams of disease investigators and contact tracers. As of June 19, 2020, an additional 206 had been employed, for a total of 637. The executive adviser stated that the CTT system for COVID-19 is being funded by the Coronavirus Aid, Relief, and Economic Security (CARES) Act through the end of 2020 and will

also be applicable to other communicable diseases. He stated in the update that 60 of the 61 local health departments now use the Kentucky Contact Tracing and Tracking System. By mid-November, all 61 were to be using the system.

LRC Response To The COVID-19 Pandemic

LRC Director Jay Hartz discussed the Legislative Research Commission's response to the COVID-19 pandemic. In March, LRC moved to a minimal staffing plan in response to COVID-19, and beginning May 1, LRC began moving additional staff into the office—below the 50 percent level recommended by the Governor. This was made possible by allowing staff to telework.

The Director also discussed necessary unbudgeted expenditures to comply with protocols established at both the federal and state levels. The unbudgeted expenses are vital to protect LRC employees, legislators, state and county elected officials, employees of state agencies and local governments, and the general public. Those expenditures include retrofitting all the committee rooms for videoconferencing prior to the 2021 Session, including room 327 in the Capitol, and moving to a Voice over Internet Protocol phone system.

Personnel Cabinet's Response To The COVID-19 Pandemic

The secretary of the Personnel Cabinet presented the cabinet's response to the pandemic. With an estimated 29,237 executive branch employees in 850 state offices/facilities (including 159 employees in the Personnel Cabinet), the cabinet disseminated human resources protocols for COVID-19. Agencies were directed to reduce on-site staffing by up to 50 percent; telecommuting increased to 75 percent later that month. The Kentucky Employees' Health Plan (KEHP) also began expanded coverage to protect employees teleworking from home.

Kentucky Registry Of Election Finance— Update On The Electronic Reporting System

The executive director of the Kentucky Registry of Election Finance stated that the registry's electronic reporting system is a work in progress. He stated that the system improves daily, but it is taking longer than expected to complete.

Candidates are now able to file their reports electronically, and that function was available for the 30-day pre-primary report. Although second-quarter report filings encountered a few bugs, most filing was successful. Bringing old data from previous reports into the new system has caused some difficulty and is one of the main obstacles. The cellphone app is not developed yet but will be ready in the future.

Secretary Of State—Overview Of The 2020 Primary Election

The Secretary of State discussed the 2020 primary and the November 2020 general election. He testified that Kentucky's June 23 primary was a nationally recognized success and had the

highest turnout in many years. Even with 2 weeks of in-person early voting, there was no spike in COVID-19 cases.

The Secretary stated that conducting a primary during the pandemic prompted an upgrade of voting equipment in some counties where prior voting equipment had not allowed for a paper trail. The upgraded machines provided the speed of a quick count but also the security of a paper trail.

The Secretary also stated that efforts to keep voters safe and ensure that they are not disenfranchised by the coronavirus were possible only because of emergency powers granted by the legislature. As procedures were developed for November, he planned to modify existing election rules only to the extent necessary to keep Kentuckians safe and ensure a successful election.

Kentucky County Clerk's Association

The Kenton County clerk and the Spencer County clerk discussed the June primary, expectations for the November general election, and legislation that may be revisited during the 2021 Session, from the perspective of one of the smaller counties, Spencer, and the third largest county, Kenton. The mail-in process worked well in the primary. For the general election, they planned for more opportunities for in-person voting in all counties. County clerks studied how the administrative regulation applying to the general election would apply to their counties and how to make best use of staff. The clerks also stated that communication to the public would be important. The clerks then discussed legislation that they would like to see revisited during the 2021 Session, including some elements of HB 388, which failed to pass during the 2020 Session.

State Board Of Elections

The executive director of the State Board of Elections briefly discussed the success of the primary before testifying on the process for cleaning the voter rolls. Both federal and state statutes govern the process for cleaning the voter rolls. Every 4 years, after completion of two federal election cycles, the State Board of Elections examines the system to determine whether any voters did not vote—or touch the system in any way—during the two previous federal election cycles. According to federal statute, a mailer is to be sent to individuals who are identified as having not touched the system in 4 years. Voters who are flagged to receive the mailer are given 4 more years—or two more federal election cycles, for a total of 8 years—to touch the system again. If they vote, poll workers are to ask them to update their information in the system. If a person has not voted or touched the system during the 8-year period, he or she is then removed from the voter registration system. On a weekly basis the State Board of Elections removes people after receiving notice of death. If someone dies out of state, it is harder to track that information, and some deceased people are still listed on the rolls.

HB 168 (2020 RS), Relating To Legislative Ethics

Representative Kimberly Poore Moser and the executive director of the Kentucky Legislative Ethics Commission (LEC) discussed HB 168, which proposed changes to the legislative code of

ethics that were recommended by the LEC. Representative Moser and Representative Kelly Flood co-sponsored HB 168 during the 2020 Session, in conjunction with LRC staff input. That legislation passed the House but, because of timing and language issues, did not pass the Senate. Some of the recommendations included in HB 168, however, were enacted in SB 157.

Currently, the ethics code contains no specific ethical prohibitions against sexual harassment or discrimination by legislators or lobbyists and no specific language to guide legislators or legislative lobbyists or legislative staff in making a complaint. The LEC has been applying general provisions of the code to address sexual harassment. Representative Moser said she hopes to build on the provisions of HB 168 and input given during the 2020 Session in order to file legislation for the 2021 Session that would bring sexual harassment or discrimination by legislators or legislative agents against legislators, legislative agents, or legislative employees under the definition of *ethical misconduct*.

Overview Of The Fiscal Note And Fiscal Statement Process

A member of the LRC staff gave an overview of the fiscal note and fiscal statement process. Senate Rule 52 and House Rule 52 establish the system governing the process. The term *fiscal impact statement* can refer to a fiscal note, actuarial analysis, a local mandate, a corrections impact statement, and a health benefit mandate.

LRC staff testified that bill sponsors have the obligation to request fiscal notes. Bill drafters, at the time of drafting, identify whether a bill needs an actuarial analysis, corrections impact statement, health mandate, or local mandate. If the sponsor does not ask for a fiscal note, or if the bill drafter does not indicate that a bill needs a fiscal statement, the committee chair, a majority of the committee, or a majority of the chamber can ask for completion of a fiscal note or one of the other fiscal statements. Health mandate analyses are completed by the Department of Insurance, actuarial analyses for bills that affect the financial liability of the public retirement systems are completed by the systems' actuaries, and corrections impact statements are prepared by the Department of Corrections.

2021 Kentucky Employees' Health Plan And LivingWell Promise

The secretary of the Personnel Cabinet and the cabinet's commissioner of the Department of Employee Insurance discussed the Kentucky Employees' Health Plan for 2021. As of September 30, KEHP covered 292,703 members, of whom 180,165 are active employees and pre-65 retirees. School boards comprise 52 percent of the membership, early retirees 24 percent, state agencies 19 percent, and quasi groups 5 percent.

The KEHP annual plan spend is approximately \$1.9 billion. Plan expenses include 63 percent for medical claims; 27 percent for prescription claims; 5 percent for health reimbursement account (HRA) claims; 4 percent for medical administration; 0.5 percent for prescription administration expenses; and 0.5 percent for operating expenses. In 2021, the employer premium will increase 3 percent. Employee premiums will also increase 3 percent, with an average increase of \$6.02 per month. There will be no changes in deductibles and out-of-pocket maximums.

The 2021 LivingWell Promise must be completed by July 1 in order to earn a premium discount of up to \$40 per month for the next plan year. The 2020 deadline for completing the promise was extended to September 14 in order to qualify for discounts for the 2021 plan year. An extended runout period for carryover of flexible spending account and HRA balances will also be in effect for 2021.

21 RS BR 344 (J. Nemes)—AN ACT Relating To Paid Parental Leave

Representative Jason Nemes discussed 21 RS BR 344, which he prefiled for the 2021 Session. Representative Josie Raymond and a citizen testified in support of the bill. BR 344 would create a new section of KRS Chapter 18A to allow employees of the Commonwealth of Kentucky a paid leave of absence of 12 weeks for the birth or adoption of a child and establish requirements for the paid leave of absence.

21 RS BR 70 (Tipton, D. Lewis), Relating To State Employee Compensation

Representative James Tipton and Representative Derek Lewis discussed BR 70, which they have prefiled for the 2021 Session. The president of the Kentucky Transportation Employees' Association and the president of the Kentucky Association of Transportation Engineers testified in support of the legislation. The bill would provide for an annual cost-of-living adjustment for state employees, with the cost-of-living adjustment being the average of the Consumer Price Index for the 2 calendar years prior to the biennium and not less than zero.

US Census Report

The chief of the Redistricting and Voting Rights Data Office, US Census Bureau, gave a report on 2020 census operations and the Redistricting Data Program, which is governed by Public Law 94-171. Collection operations for the 2020 census concluded on October 15. The chief testified that with the exception of Louisiana, the total response rate for all the states was at or above 99.9 percent. The District of Columbia and Puerto Rico reached at least a 99 percent total response rate. The final self-response rate for the 2020 census was 67 percent, compared to 66.5 percent in 2010. The nonresponse follow-up rate accounted for 32.9 percent of total responses; 6 million addresses self-responded after enumerators left a notice of visit. Challenges affecting the census included repeated hurricanes for the Gulf Coast states, the global pandemic, wildfires and air quality issues, and civil unrest.

Currently, the bureau is working to provide the redistricting data as close as possible to the statutory deadline of April 1, 2021. The new planned date is not yet determined. The original plan for delivery of census data for redistricting was weekly delivery from mid-February to March 31, 2021. Instead, there will be a single maximum delivery date for all states. As soon as the date is determined, it will be communicated to official liaisons and stakeholders.

**Report Of The 2020
Interim Joint Committee On Tourism,
Small Business, And Information Technology**

**Sen. Danny Carroll, Co-Chair
Rep. Phillip Pratt, Co-Chair
Rep. Tommy Turner, Co-Chair**

Sen. Karen Berg
Sen. Perry Clark
Sen. Rick Girdler
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Alice Forgy Kerr
Sen. Wil Schroder
Sen. Reginald Thomas
Sen. Mike Wilson
Sen. Max Wise
Rep. Lynn Bechler
Rep. Tina Bojanowski
Rep. Terri Branham Clark
Rep. George Brown Jr.
Rep. Jeffery Donohue
Rep. Deanna Frazier
Rep. Chris Freeland
Rep. Chris Fugate
Rep. Robert Goforth
Rep. Jim Gooch Jr.

Rep. David Hale
Rep. Richard Heath
Rep. Cluster Howard
Rep. Kim King
Rep. Adam Koenig
Rep. Bobby McCool
Rep. Michael Meredith
Rep. Charles Miller
Rep. Ruth Ann Palumbo
Rep. Josie Raymond
Rep. Brandon Reed
Rep. Rachel Roberts
Rep. Bart Rowland
Rep. Steve Sheldon
Rep. Maria Sorolis
Rep. Cherlynn Stevenson
Rep. Ashley Tackett Laferty
Rep. Richard White
Rep. Rob Wiederstein
Rep. Les Yates

LRC Staff: Andrew Manno, Drew Baldwin, Audrey Ernstberger, Chip Smith, and Sasche Allen

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Tourism, Small Business, And Information Technology

Jurisdiction: Matters pertaining to commerce, industry, economic and industrial development, the workforce and the workplace, and tourism not specifically assigned to another committee; economic development planning, international trade, and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures; development and support of small businesses; job creation and job training programs; federal, state, and local regulations that impact small businesses and their employees; all other matters not specifically assigned to another committee relating to administrative, regulatory, or operating issues which, because of their smaller size, uniquely impact small business; information technology planning; statewide standards related to information technology; broadband internet; internet service providers; tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism, Arts, and Heritage Cabinet; hunting and fishing; boating; horseback riding; hiking; birdwatching; rock climbing; recreational use of all-terrain vehicles; mountain biking; cycling; kayaking; recreational land use.

Committee Activity

Cabinet Updates

Tourism, Arts, And Heritage Cabinet. Spending and visitation growth in the tourism industry across the commonwealth increased in 2019, with trips topping off at \$73.8 million and spending reaching \$7.9 billion. This growth created more than 95,800 jobs and generated \$823 million in state and local taxes. When the COVID-19 pandemic reached Kentucky in March 2020, weekly travel spending declined by 40 percent from the first week of March to the last week of April 2020. Overall, \$2.9 billion in travel spending and \$26 million in tax revenue has been lost. There have been gradual increases in spending since the end of April 2020. Outdoor activities, lodging at state parks, and travelers deciding to drive instead of fly to their destinations helped to increase spending. The Tourism, Arts, and Heritage Cabinet created campaigns to encourage in-state travel.

Cabinet For Economic Development. There was a drop in the total number of business announcements for the first 7 months of 2020 compared to previous years, but Kentucky has 8 percent foreign direct investment, while the nation is at 5 percent. A total of 61 expansions and new-location projects have been announced, with 3,314 new full-time jobs and \$1.18 billion in investment. The Cabinet for Economic Development announced new state programs, including the Regional Innovation for Startups and Entrepreneurs (RISE) program and the Kentucky Commercialization Ventures (KCV) program. The RISE program supports entrepreneurs and startups throughout the state by offering comprehensive services and connections to regional resources with six regional support offices and a \$2.6 million investment. The KCV program is a public-private partnership that creates products, services, and businesses from research and intellectual property developed at the state's public universities with a \$1.16 million investment.

Tourism Update

State Fair And Fairgrounds. The Kentucky Exposition Center and Fairgrounds in Louisville received updates that allow for more events to occur at the same time and included new signs, more lanes, and new pavement. Cardinal Stadium was torn down, providing space for additional parking, and the Transportation Building was demolished to add land for more outdoor activities. In response to the COVID-19 pandemic, Kentucky Venues hired a compliance officer and worked with Louisville Tourism to obtain a Good Housekeeping Approval, which is a star rating for the handling of infection and sanitation procedures and compliance with health measures. The 2020 Kentucky State Fair was closed to guests because of the pandemic, a decision made jointly by the State Fair Board, Kentucky Venues, and the Tourism, Arts, and Heritage Cabinet, highly influenced by the Governor's executive orders in place at the time. The Kentucky State Fair lost \$10.5 million to \$11 million in business.

Kentucky Association Of Convention And Visitors Bureau. The tourism industry is an important part of Kentucky's economy. Tourism is a key driver of business, sales, and employment, and it is a major contributor to tax revenue. In 2020, the industry supported more than 95,000 jobs, and visitor spending contributed \$11.8 billion to the state's economy, which equated to \$1.5 billion in tax revenue and \$825 million in benefit to state and local governments. The state tourism industry had expected 2020 to be a record-breaking year, but the COVID-19 pandemic caused industry employment, revenues, and spending to plummet. At one point during the pandemic, approximately 75 percent of the industry's workers were either laid off or furloughed. The travel industry across the United States will see a total estimated economic loss of \$1.2 trillion. Since February 2020, Kentucky has lost \$4 billion in visitor spending, \$300 million in federal tax revenue, \$132 million in state tax revenue, and \$46 million in local tax revenue. State hotel occupancy rates are down 35 percent compared to 2019 levels, and average daily rates are down 21 percent. Nationally, 71 percent of hotels will not be able to sustain another 6 months without additional relief from the federal government. Convention and visitors bureaus were unable to receive Coronavirus Aid, Relief, and Economic Security (CARES) Act funding through the Paycheck Protection Program. Therefore, it is vital to the tourism industry to maintain the existing statewide 1 percent transient room tax, local transient room tax, and local restaurant tax.

Louisville Convention And Visitors Bureau. The transient room tax in the city of Louisville is 16.07 percent, and the Louisville Convention and Visitors Bureau receives 4.5 percent of those revenues, which makes up 92 percent of the organization's funding in a typical year. As a result of the pandemic, 100 percent of the organization's funding is coming from its 4.5 percent of transient room tax revenue. The remainder of the city's transient room tax is divided among state sales tax, the Kentucky International Convention Center bond, state lodging tax, the Kentucky Center for the Arts, and incremental tax. The FY 2021 budget for the Louisville Convention and Visitors Bureau had been slated to be \$24.9 million, but after three cuts the revised budget is now \$10.9 million. The city of Louisville has approximately 60,000 hospitality workers, approximately 50 percent to 60 percent of whom have been furloughed or laid off. For the period of March 2020 to June 2021, the organization was notified that 353 groups had either postponed or canceled their scheduled events, a total economic loss of \$353 million and 408,378 hotel room nights. From March to June 2020, Louisville lost 2,132,006 attraction attendees based on the average attendance for the top 20 attractions and distilleries from the same period in 2019.

Paducah Convention And Visitors Bureau. The Paducah Convention and Visitors Bureau seeks to create new economic opportunities through destination marketing, destination management, and tourism development. The United Nations Educational, Scientific, and Cultural Organization has certified Paducah as a US Creative City for its craft and folk art. Although COVID-19 has affected tourism in the area, Paducah has seen international visitors throughout the pandemic. There has been an increase in relocation inquiries from those wanting a safe place to work remotely from and young adults seeking to return to their hometown. However, hotel occupancy for the first quarter of 2020 was down 18 percent compared to the first quarter of 2019. The bureau has followed the lead of the Kentucky Department of Tourism and embraced new platforms and technology to continue informing the public about the city of Paducah.

Technology Updates

Unemployment Insurance Technology Systems. The unemployment insurance system used by the Office of Unemployment Insurance is called Kentucky's Electronic Workplace for Employment Services (KEWES). It is supported by the Office of Technology Services Development Team, which has 10 full-time staff members. The system was built in the early 2000s and uses Seibel programs with Oracle databases, but the mainframe has COBOL programs with IBM Information Management System databases and was built in the 1970s. The mainframe is supported by the Commonwealth Office of Technology and is used internally by the Office of Unemployment Insurance. It is also used for all batch processing of claims and payments and is considered the system of record. Functional components of the unemployment insurance system include employer contributions, benefit claims, appeals, interactive voice response, and the voice response unit. Prior to the COVID-19 pandemic, two new software programs were implemented: LexisNexis for enhanced fraud protection and Olark Live Chat for claimant assistance in real time.

The COVID-19 pandemic created challenges for the system, which included a limited timeline for needed programming changes, limited availability of the KEWES system, self-certification of weeks paid and earnings verification, the volume of claimants simultaneously accessing the system, limited browser compatibility, and limited server and database capacity. New programs

were quickly created to process new unemployment insurance benefit programs such as Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, and Pandemic Unemployment Compensation. The Disaster Unemployment Assistance program that had been used in previous years was retooled. Server capacity was increased from 14 servers to 27. The claimant database was archived to allow for additional claim filing. Microsoft Forms was implemented for Pandemic Unemployment Assistance and to allow documents to be uploaded and emailed. These changes were put into place in a short amount of time to handle the influx of unemployment insurance claims caused by the COVID-19 pandemic, but ongoing improvements are still occurring to the system to enhance the Seibel program, upgrade citizen-facing webpages, replace the voice response programs, and modernize the imaging programs.

Expanding Broadband Services. Kenergy Corp., an electric distribution cooperative that serves approximately 44,615 members in 14 counties in the western part of the state, presented a detailed plan to expand broadband services in its service area. Kenergy is one of 19 electric cooperatives in the state that cannot provide broadband under current state statute. Kenergy has filed an application with the Public Service Commission for a waiver of KRS 278.2213(14). Current state law allows regulated entities to establish subsidiaries for the purpose of providing nonregulated services and does not allow cooperatives to provide funding for start-up costs. The project that Kenergy is proposing would be broken into six phases, and the total cost would be \$165,922,423. No funding would be requested from the state for the project, which would be completed over 6 years, average 250 jobs per year, and increase economic activity by \$140 million. Kenergy's service area virtually has no current option for broadband, and some areas do not have internet options at all.

Commonwealth Office Of Technology. The mission of the Commonwealth Office of Technology is to support partners in the fulfillment of their core mission by providing technology leadership, services, and solutions in a secure, transparent, and fiscally responsible manner. Offices within the Commonwealth Office of Technology are responsible for

- managing desktop computing devices from acquisition to disposal,
- ensuring that the physical hardware and software networks that run applications across state government are working optimally,
- developing policies and strategies to support and promote the effective applications of information technology with state government, and
- handling information technology security functions.

The Commonwealth Office of Technology began making adjustments in March 2020 to prepare and support remote working for state employees in response to the COVID-19 pandemic. Changes began to be implemented in June 2020 to accommodate the new fiscal year budget. There was an 11 percent cut in spending in the new budget, which resulted in the elimination of 40 staff positions. In addition, there are also 29 ongoing projects across nine executive branch cabinets with a total budget of \$818 million.

Cabinet For Health And Family Services Technology Initiatives. The Office of Application Technology Services (OATS) within the Cabinet for Health and Family Services is responsible for providing the cabinet's agencies with information technology support for cabinet information technology solutions such as design, development, maintenance, operations, technical support,

project management, and oversight of vendor-developed information technology solutions. OATS manages cabinet systems such as the Integrated Eligibility and Enrollment Solution, the Medicaid Management Information System, the Medicaid Waiver Management Application, the Kentucky Medicaid Provider Portal Application, the Kentucky Contact Tracing and Tracking system, the Kentucky Automated Support Enforcement System, and many more. In response to COVID-19, a number of enhancements have been made to some systems in rapid response to federal regulations and leadership direction. Most systems throughout receive regular updates to improve functionality and utilization.

Small Business Issues

Workers' Compensation And Independent Contractors. There may be misclassification of persons as employees or independent contractors. This misclassification can be intentional or unintentional and can greatly affect worker's compensation coverage. At the center of the Workers' Compensation Act, KRS Chapter 342, is the relationship between an employer and employee. Without that relationship, the Act does not apply and does not allow benefits to be provided for workplace injuries or occupational diseases. The use of independent contractors is estimated to have grown as much as 40 percent over the last few decades. Most workers qualify as employees rather than independent contractors, based on the extent to which the employer controls the work, the nature of the work as it relates to the work of the employer, the professional skill of the worker, and the true intentions of both parties. Although some state agencies use tests to determine whether a person is an employee or an independent contractor, a more consistent manner of determination may help employers, employees, independent contractors, and workers' compensation carriers.

Kentucky Small Business Development Center. The Kentucky Small Business Development Center (KSBDC) is funded in part through a cooperative agreement with the US Small Business Administration and is hosted by the University of Kentucky's College of Agriculture, Food, and Environment. The state's investment to the college, as the host for the state-mandated small business development center program, is vital for small business success throughout the state. KSBDC has secured multiple partnerships to expand the capacity of the organization and leverage all federal and state funds. Services provided by KSBDC include business coaching, assistance for small business owners seeking capital, market research, and connections to other small business resources. In the last 2 years, KSBDC has served more than 4,500 clients, hosted 8,704 training attendees, realized 472 new business start-ups, and supported a total of 9,283 jobs. KSBDC's clients generated \$166.8 million in loans and equity investments. During the COVID-19 pandemic, the organization provided guidance to its clients via phone, via email, and online on managing in times of financial difficulty, reopening a business after a disaster, and the availability of US Small Business Administration loans.

Effects Of COVID-19

Impact On Businesses. Over the course of the pandemic, businesses across the state have had to suspend operations, furlough employees, and lay off employees; they have shown significant losses in revenue. The Kentucky Chamber of Commerce partnered with the Kentucky Community and Technical College System to launch Restart Kentucky, and it has worked to

assist its members with procurement of personal protective equipment (PPE), webinars, Paycheck Protection Program loan education, and informational campaigns. Issues that the business community worked on in the early days of the pandemic included the reopening of schools, legal liability related to COVID-19, hospitality reopening plans, CARES Act funding for small businesses, child care, and opposition to unnecessary obstacles to reopening businesses.

Impact On Child Care Providers. Daycare facilities in Kentucky were ordered to close by executive order on March 18, 2020. Before the COVID-19 pandemic, the state’s child care capacity was more than 165,000, but because of the pandemic, 11 percent to 15 percent of child care providers may have to close permanently. Although licensed daycares were permitted to open on June 15, 2020, some remained closed because of staffing issues, lack of access to supplies, and employees who opted to continue collecting unemployment benefits. Some child care facilities struggled with strict guidelines and limitations on group sizes. The Child Care Council of Kentucky worked with 80 interested parties throughout the state—including child care providers, health care providers, postsecondary institutions, and the Kentucky Chamber of Commerce—to compile and submit reopening recommendations to the Governor’s Office.

Impact On The Retail And Restaurant Industries. The retail industry overall supports more than half a million jobs in the commonwealth, pays more than \$9 billion in wages annually, and collects the state’s sales and use taxes. When the state faced closures early in the pandemic, businesses were not prepared to manage health concerns, product shortages, executive orders, local orders, and recommendations from local health departments. The Kentucky Retail Federation (KRF), which represents businesses ranging from retailers to grocery stores, restaurants, and pharmacies, worked quickly with its members to adjust to providing protection for employees, designating hours for senior citizens, encouraging curbside service, learning new shopping practices, and implementing self-enforced capacity limits. The KRF also assisted in determining which businesses were to be deemed essential to remain operating, such as grocery stores, pharmacies, and farm supply stores.

The restaurant and food services sector has been extremely affected by the COVID-19 pandemic, seeing a loss of \$550 million in April 2020 alone and losing approximately 114,000 employees since the start of the pandemic through layoffs and furloughs. Approximately 71 percent of restaurant operators say it is unlikely that their restaurant will be profitable within the next 6 months, 68 percent of operators say their total operational costs are higher than they were prior to the COVID-19 outbreak, and 37 percent say it is unlikely their restaurant will still be in business in 6 months without additional relief from the federal government. At the end of the 2020 Regular Session, the General Assembly passed SB 150, which allowed restaurants to sell alcohol by the package, sell to-go alcohol by the drink, and sell raw foods and grocery items. Although the indoor dining limit capacities have fluctuated over the course of the pandemic, restaurants are able to provide curbside service, carryout, and delivery.

Impact On Manufacturers. In response to the COVID-19 pandemic, manufacturers in Kentucky responded when Centers for Disease Control and Prevention guidelines and various executive orders were proposed and issued. The Kentucky Association of Manufacturers (KAM) worked to engage with policymakers to transition into a fully functioning, yet safe, sector of the economy. There was also daily communication with KAM’s manufacturing members to solicit

feedback on various recommended changes to 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 jobs statewide, but by June 2020 the number had increased to 233,000. The rapid employment increase can likely be attributed to paycheck protection 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.

Impact On High-Speed Internet Rollout. Access to the internet has become increasingly important for Kentucky families as schools offer nontraditional instruction and a large number of individuals work from home. The telecom industry was deemed essential by one of the Governor's executive orders early during the pandemic. Charter Communications offered Spectrum Internet Assist, which makes it easier for qualified households to sign up for low-income internet access. HB 362 of the 2020 Session established a broadband grant program for underserved areas. Rural areas of the state are extremely underserved compared to the more urban and developed areas. Challenges to rural broadband expansion include difficulties with utility pole attachments and lengthy permitting and complaint resolution processes. 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 because it makes the cost of expansion to unserved homes exponentially higher.

Impact On Kentucky Hospitals. The pandemic has affected hospitals to the same extent as other industries in the state. Kentucky's hospitals are the front line in fighting the pandemic and are important economic drivers. The hospitals have been willing partners in working with the state and federal government through measures such as the shutdown of elective procedures—the very procedures from which hospitals derive their working capital. It is estimated that the hospital industry's total losses for 2020 will exceed \$2.6 billion because of the necessary pandemic response, and federal relief funds have covered less than half of that amount. Many hospitals requested advanced payments from Medicare to assist with cash flow when elective procedures were halted. Under the federal CARES Act, these payments are treated as loans and have to be repaid within 4 months of receipt. The law also requires that 100 percent of the Medicare payments be recouped until the advances are repaid in full. In addition, hospitals are facing ongoing losses due to the fear and anxiety of the public regarding any return to the hospital. Inpatient services have returned to approximately 80 percent to 90 percent of pre-COVID levels, but the use of emergency rooms has yet not risen to those levels.

**Report Of The 2020
Interim Joint Committee On Transportation**

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**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Transportation

Jurisdiction: Matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service, and operating regulations; motor carriers; construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the State Police; the Federal Highway Safety law; turnpike authority; state and federal highways; limited-access facilities; use of road bond money; automobile recyclers; highway beautification; bridges, tunnels, and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Committee Activity

The Interim Joint Committee on Transportation met six times during the 2020 Interim.

REAL ID And Operator's License Issuance Update

The REAL ID project manager of the Kentucky Transportation Cabinet (KYTC) and the acting commissioner of the Department of Vehicle Regulation, KYTC, gave overviews of the rollout of REAL ID, driver's license issuance, and testing procedures since the beginning of the COVID-19 pandemic. At the time of the closing of in-person services in mid-March, REAL ID offices were up and running in various stages in eight locations. As of mid-September, credentials were being issued by eight regional offices in Elizabethtown, Frankfort, Lexington, Madisonville, Morehead, Paducah, Prestonsburg, and Somerset, and five temporary field offices in Bowling Green, Catlettsburg, Florence, Louisville, and Owensboro. It was anticipated that more regional offices will be opening in Bowling Green, Burlington, Columbia, Jackson, and Richmond.

During the first month of the pandemic, the US Department of Homeland Security reset the enforcement deadline for REAL ID from October 1, 2020, to October 1, 2021. As of June 2020, the cabinet had issued just under 30,000 REAL ID-compliant licenses and IDs. Projections estimate that 30.5 percent of the state population (approximately 1.2 million people) will opt to get a REAL ID. This projection was based on how other states of Kentucky's size and urban/rural composition have fared in their transitions.

The commissioner of the Department of Vehicle Regulation stated that KYTC continues to evaluate new credential sites for areas that can best serve the commonwealth by continuing to review the needs of populations, as well as ensuring that offices are evenly spaced throughout the state. KYTC projects to have 16 or 17 locations up and running by the end of 2020, and 25 to 28 regional offices by the conclusion of the construction of all credential offices.

Mobile units will deploy to all counties that do not have a regional office, a provision of HB 463 of the 2020 Regular Session. KYTC will continue to use state- and national-level partners along with vendors to better understand these new options, and how the best versions of these opportunities can be brought to the commonwealth. The REAL ID project manager stated that

the goal is to have all the regional offices up and running and issuing REAL IDs by the time KYTC takes over the issuance of driver's licenses in 2022.

Vehicle Registration Renewal System And Vehicle Transfer Process

The acting commissioner, KYTC Department of Vehicle Regulation, briefed the committee on the effect of COVID-19 on the vehicle registration renewal system. The Division of Motor Vehicle Licensing has performed all its functions to include vehicle renewals and vehicle transfers during the COVID-19 pandemic and is pleased to report that there has been constant and consistent output of services. The division's program assistance section is responsible for answering all phone calls from county clerks, and the employees of the section are able to perform 100 percent of their functions from home using the cabinet's web-based technology. In the verification section, a 2- to 3-day turnaround has been able to be maintained on vehicle title applications upon receipt from the county clerks.

The commissioner stated that during the uneasy time of the COVID-19 pandemic, employees were allowed to take home their work stations, management continued to monitor employees' performance electronically, a program was developed whereby sheriffs were authorized to inspect vehicles using SKYPE or a remote video device, electronic signatures on title applications were accepted in compliance with the division standards, and all printed speed titles were and are mailed directly from the vendor to the applicant. A 90-day extension for renewals of vehicle registrations and handicap placards was put in place. The license plate shipment process to county clerks' offices remains the same. All rebuilt title applications are accepted from applicants by mail, or county clerks may email them. A drop box option has been added to the lobby of the Transportation Cabinet in Frankfort, improving turnaround times on rebuilt title applications during the pandemic. Most applications are approved within 24 hours. All approved applications with their accompanied authorization letters can be mailed to the applicants or county clerks.

Road Fund And Highway Construction

The KYTC secretary stated that the COVID-19 pandemic and subsequent closures have had a severe impact on the road fund. The road fund is based on user fees—mainly taxes on the sales of motor fuels and motor vehicles and fees on vehicle licensing and registration.

The secretary stated that even before the pandemic hit, it was known that there were going to be some cash management challenges. Since the onset of the COVID-19 pandemic, the cabinet suspended nearly 100 asphalt and pavement contracts totaling approximately \$58 million. Industry partners and trade associations have been instrumental in helping the cabinet plan how to get through this time while managing cash flow. Some contractors have allowed for payment of services to be made outside of the high-season months, allowing for payments to be delayed until the fall. The cabinet also reduced the scope of right-of-way mowing in an effort to reduce maintenance costs.

The KYTC budget director presented numbers on road fund revenue. April was the first month in which revenues and the financial impacts of COVID-19 to the road fund were seen. Overall,

April 2020 road fund receipts fell 30.1 percent (-\$43.9 million) from 2019. Year-to-date collections in April 2020 stood at -1.4 percent compared to FY 2019 numbers across all accounts, with motor fuels tax revenues falling 11.8 percent in April. Motor fuels tax revenues lag a month behind, so April motor fuels tax revenues reflected March activity. As a result, May's receipts reflected the full economic impact on motor fuels tax revenues. Motor vehicle usage tax receipts fell 60.1 percent in April as auto dealerships were limited to online sales. License and privilege receipts decreased 20.2 percent.

The KYTC secretary stated that the cabinet came into the year with a substantial backlog of uncompleted work, and almost \$1.5 billion worth of new construction was let by KYTC. Historically, \$800 million worth of construction would be let. The secretary stated that a substantial cash balance is needed in order to pay the contractors for completion of backlogged work. Lettings were suspended in May and June 2020 because of COVID-19 and were renewed in July with approximately \$35 million worth of new lettings.

The budget director stated that, fortunately, final FY 2020 revenues exceeded the May Consensus Forecasting Group estimates of a \$160 million shortfall but still were some \$60 million less than the original enacted number upon which the budget was based. This number included a \$31.6 million shortfall in motor fuels tax, and a \$19.3 million shortfall in motor vehicle usage tax. She added that due to reduced spending and statutory reduction in revenue sharing caused by the decline in motor fuel tax revenue, the road fund ended with a positive balance of \$140,000 for the year.

In FY 2020, total road fund revenues collected were \$1,491.5 million, compared to the FY 2019 figure of \$1,566.1 million, a difference of -\$74.6 million or -4.8 percent. In FY 2020, \$741.6 million was collected in motor fuels tax, compared to \$773.2 million collected in FY 2019, a difference of -\$31.6 million or -4.1 percent. In FY 2020, \$499.3 million was collected in motor vehicle usage tax, compared to \$514.5 million in FY 2019, a difference of -\$15.2 million or -3.0 percent. Other revenues collected in FY 2020 totaled \$250 million, compared to \$278.3 million in FY 2019, a difference of -\$27.7 million or -10 percent.

The official enacted road fund revenue estimate for FY 2021 is \$1.543 billion, including \$786.6 million in motor fuels tax revenue, \$494.8 million in motor vehicle usage tax revenue, \$118.8 million in motor vehicle license revenue, \$81.2 million in weight distance tax revenue, \$41.3 million to be collected in other revenue, \$18.3 million in motor vehicle operators revenue, and \$2.4 million to be collected in investment revenue.

Operator Licensing, Permit, And Road Testing

The commissioner of the Kentucky State Police (KSP), a major from KSP, and the commander of the KSP's driver testing branch briefed the committee on the impact of COVID-19 on permit and road testing. In mid-March, the entire driver testing process was forcibly closed to due to the COVID-19 pandemic.

The traditional driver testing function is very dependent on interaction with Circuit Court clerks' offices across the state; therefore, when they closed, driver testing was forced to close as well.

Approximately 50 civilian driver instructors found their workload lightened because of the pandemic; they helped save a significant amount of money by logging old paper fingerprint cards, approximately 1.3 million of which needed to be entered into the fingerprint system.

The commissioner said that he did not anticipate the return to testing to be a huge hindrance, but that time is needed to clean the kiosks used for the tests, and that driver testing examiners and each person coming in to take a test will be asked to wear a mask.

The commissioner said it was unlikely that driver's testing locations would extend their hours, because they are contingent upon the hours of Circuit Court clerks' offices. Kentucky State Police will be working in tandem with the Circuit Court clerks' offices to ensure that paperwork is received and processed in a timely manner.

Normally there are nine sites throughout the state administering tests for a commercial driver's license (CDL). Those sites were also shut down in mid-March. Special site opening and testing was performed for critical drivers for road deliveries. In June, five of the nine testing sites were open (Elizabethtown, Georgetown, Mount Sterling, Paintsville, and Prestonsburg).

Extra precautions will be taken for those administering the tests, who will be in full personal protective equipment and suits. Drivers taking the test are being asked to wear masks. That test involves going into an urban environment to perform functions and meet the guidelines in order to pass. In all, CDL testing has been running efficiently in most aspects, with almost 1,000 CDL applications processed between June and September.

The commander of the KSP driver testing branch also spoke about driver's license issuance and testing. Testing facilities were inadequate to test multiple persons at one time while also following guidelines of the Centers for Disease Control and Prevention (CDC) and keeping social distancing a priority. The testing centers were unable to quickly address a backlog that accumulated. The issue was addressed, and many locations now have a walk-in scheduling practice. In many counties, regional testing sites have been set up, with safe practices being applied so that the backlog can be addressed. As of August 31, 2020, a total of 33,400 knowledge tests have been administered across the state. Examiners have been conducting road tests at maximum capacity across the state.

Before testing resumed, the data indicated approximately 19,400 eligible permit holders in Kentucky as of January 2020. Since August, 17,891 eligible permit holders have been tested statewide. Approximately 5 ordinary months' worth of road tests were done over 2 and a half months to help eliminate the backlog.

There is still a significant need to administer knowledge testing and skills testing in some areas, such as Jefferson County. Options to address this need include adding personnel in the Circuit Court clerks' offices and doing weekend testing.

Permitting Of All-Terrain Vehicles For Limited Highway Use

Senator Phillip Wheeler, along with his guests, Pike County Trail Commission members and Pike County commissioners, gave a brief update on Bill Request (BR) 160 of the 2021 Session, which entails the permitting of all-terrain vehicles for limited highway use. BR 160 is identical to 2020 SB 75 GA version, also sponsored by Senator Wheeler.

Senator Wheeler provided an executive summary and a rundown of the economic impact of the Hatfield-McCoy Trail System on southern West Virginia, showing annual ridership of 60,000 and an annual economic impact of \$40 million. Southern West Virginia in many ways has shown economic trends similar to those of Eastern Kentucky because of the downturn of the coal industry.

BR 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, Representative Chris Fugate spearheaded the effort to establish the Kentucky Mountain Regional Trail Authority, which has made great strides toward bringing all-terrain vehicle (ATV) tourism to Eastern Kentucky. In Pike County, a separate local trail authority (the Pike Country Trail Commission) has taken further steps such as leasing, purchasing, and mapping properties for the intent of developing a trail system. Senator Wheeler stated that one of the impediments to utilizing this idea for economic development is that although the Trail Authority leases and purchases vast tracts of property, some use of county and state roads is necessary for travel from trail to trail.

The bill requires people who operate OHVs on the roadway to purchase minimum insurance. To make the insurance more affordable, the executive director of the Insurance Institute of Kentucky (IIK) recommended that the OHVs be insured like motorcycles, where personal injury protection is optional. Additionally, all passengers under the age of 18 would be required to wear helmets.

The IIK executive director spoke on BR 160. Some IIK members have serious concerns about highway safety with regard to allowing OHVs (which include ATVs with seatbelts and roll bars as specified in BR 160) on roadways. The concerns are that OHVs are not designed for highway use; therefore, they should be restricted as much as possible from being on the highways.

The acting commissioner of the KYTC Department of Vehicle Regulation spoke on BR 160. He understands the economic impact that BR 160 would have on Kentucky, and the cabinet is in favor of the trails because their use would highlight Kentucky's natural resources to out-of-state travelers. KYTC is in favor of the absence of the registration 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; the county clerk would make a copy of proof of insurance to keep on file. The cabinet is in favor of the current statute, KRS 189.515, which allows limited ATV travel on highways. The cabinet also is in favor of the current language in BR 160 that allows for an additional lane to be explored. The Cabinet has concerns with some of the language in BR 160 because some manufacturers of these vehicles have clearly stated that they are not safe for on-road use. Pursuant to 43 CFR 8340, off-road vehicle use is prohibited on highways. The Department of Vehicle Regulation receives more than \$700 million per year in federal funds

with continued compliance, and it wants to ensure that no action is taken that jeopardizes those funds.

Alternative Nonhighway Modes Of Transportation

The executive vice president of The Allen Company and the executive chair of Kentuckians for Better Transportation (KBT) spoke on alternative nonhighway modes of transportation. The lack of sustainable transportation funding was highlighted; increased investment in transportation is necessary if Kentucky is to recover from the pandemic and thrive in the years to come.

The director of development and facilities, Blue Grass Airport, spoke on aviation systems. There are 59 public-use airports in Kentucky, and over half are members of KBT. In addition to those, there are 203 registered heliports, private airstrips, and military fields. There are currently 2,517 registered aircraft in Kentucky.

Because of an international pilot shortage that occurred even before the COVID-19 pandemic, it is important to maintain flight schools and to have active and safe airfields for training of future pilots.

The major sources of funding for Kentucky's airports are the Federal Aviation Administration (FAA), the Kentucky Department of Aviation, and city and county governments. Federal matching dollars are also a key funding source.

The importance of pavement in aviation was stressed as runways, taxiways, and ramps all must be safely maintained, free of debris, and marked properly with lighting and signage. The director from Blue Grass Airport referred to the state's updated Airport Pavement Maintenance Program, which was made available to members. The program has a 7-year projection with an estimated \$120 million in maintenance needed. There are 12 general aviation airports alone that have projects with an estimated cost of \$3 million to \$13 million. In addition to the maintenance cost, an annual need of \$10 million is projected to prevent further decline. The "big three" airports in Louisville, Lexington, and Cincinnati are not part of this dollar figure, and other funding sources are typically used for them, such as the FAA, due to passenger and cargo traffic.

The director of government affairs of R.J. Corman Railroad Group briefed the committee on Kentucky's railway systems. Railroads are federally regulated. There are 12 freight railroads in Kentucky with 2,624 miles of track. There are 3,208 freight rail employees with average wages and benefits of \$120,480. There are 13,778 railroad retirement beneficiaries with approximately \$308 million in railroad retirement benefits paid out. Nationwide, in 2017, major US railroads supported approximately 1.1 million jobs (roughly eight jobs for every railroad job), nearly \$219.5 billion in annual economic activity, \$71 billion in wages, and almost \$26 billion in tax revenues. In 2017, America's railroads moved a ton of freight an average of 479 miles on 1 gallon of fuel. On average, railroads are 4 times as fuel efficient as trucks. Moving freight by rail instead of truck reduces greenhouse gas emissions by an average of 75 percent. One train can carry as much freight as several hundred trucks. It would have taken approximately 12.6 million additional trucks to handle the 227 million tons of freight that originated in, terminated in, or moved through Kentucky by rail in 2017.

The committee was briefed on the major rail companies in the commonwealth, including CSX, Norfolk Southern, Paducah and Louisville, and R.J. Corman. The briefing included operations and major customers of the rail companies.

Railroad funding programs in Mississippi, North Carolina, Ohio, Pennsylvania, and Virginia were also highlighted. It was emphasized that infrastructure investment is needed for Kentucky to stay competitive with other states. Safe, reliable, efficient transportation is needed to make Kentucky a logistical hub that allows business and industry to locate and expand in the commonwealth.

The director of the Henderson Riverport gave an overview of Kentucky public riverports. He said Kentucky public riverports are organized under Kentucky Revised Statutes by cities and counties as necessary or desirable to promote freight transportation via water, and to attract industrial or commercial operations to the property held as riverport industrial parks. The Kentucky Water Transportation Advisory Board recently met and reviewed a list of grant applicants from riverports across the state. The board recommended the funding of certain projects to the KYTC secretary.

In 2020, the Ohio and Illinois legislatures set aside \$11 million and \$40 million, respectively, to develop and expand their public riverports. Indiana has announced a plan to develop another Ohio River port in direct competition with Ohio and Kentucky for future business opportunities.

Motor Vehicle Commission Funding Needs

The chairman and executive director of the Kentucky Motor Vehicle Commission came before the committee to request a fee increase and make a presentation on the commission's operations. The commission operates exclusively from license fees. Through its direct oversight and inspection of dealerships, and often in conjunction with consumer or other business complaints, the commission assists KYTC and county clerks in enforcing compliance with Kentucky's vehicle registration and tax laws, thus contributing to the revenue collected in association with vehicle transfer and registration. In addition, the commission assists KSP, the Federal Bureau of Investigation, the Internal Revenue Service, the US Department of Homeland Security, and local law enforcement.

The Kentucky Motor Vehicle Commission desires to stabilize its budget for the long term. The current annual license fee of \$100 was last increased in 1982. The commission would like the General Assembly to change the funding mechanism for the agency from a flat fee on licensees spelled out in statute to a fee set by regulation and capped by the statute. The cap—which the commission suggested could be set as high as \$500—would allow the commission to immediately adjust fees to some point below that cap to raise funds necessary to carry out the commission's duties. The cap would also allow the commission to gradually adjust fees up or down to provide appropriate funding in the future without having to petition the General Assembly to change the fee structure.

Personnel costs with recent legislation involving the commonwealth's pension plan established an additional annual cost to the commission of \$176,000. The commission has used carry forward funds and two vacancies to stay within budget. A full-time position in Louisville is justified because of illegal activities, such as the sale of motor vehicles without a license. It is estimated that the commonwealth loses \$1.5 million to \$2 million annually from sales taxes that are not collected on illegal sales activities. It would take \$60,000 annually to fund this position.

Highway Funding Needs

The executive director of the Kentucky Association of Highway Contractors Inc. (KAHC) spoke on how the group's members have been affected by COVID-19 and persistent underfunding. There was \$74.6 million less state road funding in FY 2020 than in FY 2019. Of that \$74.6 million, \$32 million is accountable to the drop in motor fuels tax revenue.

Because the pandemic triggered a severe slowdown in KYTC's ability to fund transportation work, the projected letting total for calendar year 2020 was estimated to be \$600 million to \$700 million.

Even though overall road fund revenues returned to previous highs, motor fuels tax revenues are still \$144.5 million less than in 2014, leaving a \$37.6 million impact on county and city governments.

Because of insufficient funding to maintain and improve the current transportation system, KAHC members will see fewer business opportunities with state, county, and city governments, which puts at risk highway construction companies that employ thousands of Kentuckians. The highway contracting industry strongly encourages the Governor's administration and the legislature to work together to find a solution that will provide the increased funding needed for KYTC and county and city governments to provide a safer, more efficient transportation system for Kentucky's citizens and businesses.

The executive director of the Kentucky Association of Manufacturers stated that the manufacturing industry requires safe and well-maintained roads in order to deliver products to their destination. As the COVID-19 pandemic hit, there was a scramble to obtain products. The manufacturing industry helped refill empty shelves.

The executive director of the Kentucky League of Cities (KLC) said populations continue to grow in Kentucky cities, but transportation funding has remained stagnant. He said that more than 58 percent of the state's population currently live in cities.

During the last three sessions of the General Assembly, the Kentucky Association of Counties (KACo) and KLC looked toward the future in proposed legislation for highway financing. Regarding motor fuels tax revenue subject to revenue sharing, the two groups agreed to language that would take revenue that exceeds the historical high (\$825 million in FY 2014) and divide it equally at 13 percent to the County Road Aid and Municipal Road Aid programs. Revenue below that amount will be divided according to the current statute: 18.3 percent to counties and

7.79 percent to cities. The agreement does not impact the Rural Secondary Aid program, which would still receive 22 percent of motor fuels tax collected.

Modernizing the state's road funding formula is the top legislative priority for cities in the 2021 Session. The agreed-upon proposal holds counties harmless, produces more revenue, and ensures safer, better maintained roads throughout the commonwealth.

The legislative director of the Kentucky Association of Counties spoke on COVID-19's impact on KACo. She said KACo's membership consists of all 1,500 elected county officials in the state. Transportation investment is the number one issue that KACo members intend to pursue during the 2021 Session. Counties own half of all roads and one-third of all bridges in Kentucky. The legislative director added that transportation funding is critical to ensure safe, efficient access within and between counties. Many fiscal courts have had to delay road and bridge maintenance due to increased costs, decreased County Road Aid, and revenue shortfalls exacerbated by COVID-19.

Trucking Industry Update

The president of the Kentucky Trucking Association (KTA) spoke on how COVID-19 has affected the Kentucky trucking industry. At the onset of the pandemic, approximately 83 percent of normal commercial transportation activity was still taking place. Eventually, there was a sharp decline in those numbers. Parts of the trucking industry are doing well even though capacity is tight because some carriers are shutting down or running fewer trucks. E-commerce expectations are at an all-time high, and retailers are restocking.

Truck tonnage fell 8.9 percent in August compared to 2019 levels. This is the fifth consecutive year that levels have fallen. Heavier industrial loads are factored into tonnage, as not all freight is created equal. Fleets hauling for retailers are doing well, while those hauling industrial products are seeing lower freight volumes. Local and regional movement of essential consumer goods and medical supplies increased approximately 13 percent.

Companies supplying manufacturing facilities experienced a negative impact due to shutdowns. Companies hauling petroleum saw a decrease in business due to stay-at-home orders. According to a chief economist of the American Trucking Association, freight volumes are still expected to grow by 36 percent between 2020 and 2031.

Professional truck drivers needed personal protective equipment and sanitization products. Some states closed rest areas and truck stops, resulting in major challenges for some drivers. When facilities did stay open, some allowed for only a limited capacity of visitors. Another challenge faced by professional drivers was the closing of restaurants to walk-in customers. Semi-trucks exceed the height requirements of drive-through windows, and no walk-up customers are permissible in drive-throughs, so truckers could not use them at all.

KTA highlighted some issues it would like the General Assembly to consider in the 2021 Session:

- Vehicles of 44,001 pounds or greater pay an extra \$30 registration certificate fee to county clerks. Collection of this fee should be abolished or streamlined.
- When motor carriers take measures to improve safety, those measures should not be considered in determining a worker's status as an independent contractor or an employee.
- There should be legislation to prevent failure-to-equip claims.

Safety Measures In Highway Work Zones

The KYTC assistant state highway engineer updated the committee on safety measures in highway work zones. In 2019, there were eight work zone deaths in Kentucky—five more than in 2018. The number of documented crashes in work zones rose approximately 20 percent from 2018 to 2019. KYTC has recently engaged stakeholders from the cabinet and federal agencies and formed a committee to look at challenges and opportunities to better plan, design, administer, and perform work within work zones in Kentucky. The Work Zone Committee is evaluating ideas to improve worker safety, highway safety, traffic flow, and drivers' understanding of and compliance with work zone traffic control.

In an effort to improve work zone safety, KYTC secured approval from the Federal Highway Administration for the use of orange pavement markings on two projects to widen I-75 north of Corbin and London. The primary benefits of the markings are expected to be lower speeds due to a continuous warning that motorists are still within the limits of a work zone and less driver confusion due to improved demarcation of the intended travel path in transition areas.

KYTC was recently awarded a small innovation grant from the Federal Highway Administration focused on implementing an initiative called "Smarter Work Zones," which addresses technology needs and the opportunity to implement them through work zones.

Update On The Truck Collision And Fire On The Brent Spence Bridge

The KYTC secretary updated the committee on the investigation, analysis, and path forward related to the November 11, 2020, truck collision and fire on the Brent Spence Bridge. The deck conditions and the structural conditions were observed by using drones and pressure washing. At the time of the November meeting, the investigation and analysis of the bridge was still ongoing. In addition to damage analysis, redesigning options are being considered as well.

The secretary stated that a regional state of emergency was declared, and the Federal Highway Administration was notified of the intent to request emergency funding for required repairs.

Kentucky's Commercial Passenger Airports

The executive director of the Louisville Regional Airport Authority discussed the economic impacts of the Kentucky's largest airports: Cincinnati/Northern Kentucky International Airport (CVG), Blue Grass Airport (LEX), and Louisville International Airport (SDF). He said those three airports are self-sustaining tax generators and job creators that are the front door for

Kentucky to more than 14 million residents, visitors, and businesses per year. Collectively, the three airports support more than 134,000 jobs with a combined economic impact of \$18.27 billion per year. The Coronavirus Aid, Relief, and Economic Security (CARES) Act relief has been a lifeline, but the airports are multimillion-dollar businesses with persistent, growing operational and capital demands. He stated that CVG and SDF produce more than \$480 million in tax revenues per year.

Many sanitary and health measures are being taken throughout SDF, CVG, and LEX, including plexiglass barriers, more frequent CDC-compliant cleaning, and the use of autonomous robot floor cleaners. The number of automated hand sanitizer stations, touchless hand towel dispensers, and touchless soap dispensers has increased as well. “Healthy Travel Tips” signs have been placed in key points, and some information booths are now being staffed by virtual airport ambassadors.

The executive director stated this level of continued investment is not sustainable without some version of a second CARES Act.

SDF serves as the home of UPS Worldport and the base of UPS Airlines. CVG is home to one of three DHL global super hubs, and more than 80 percent of DHL’s Americas volume passes through CVG every day. A surge in e-commerce has benefited all three airports.

The executive director of Blue Grass Airport focused on infrastructure and the Taxiway Safety Enhancement Program at LEX. The program has been a consistent investment project in the facility that has been federally funded, and those funds have been matched with local funds. Several projects have been initiated under the Taxiway Safety Enhancement Program, starting with snow removal and equipment maintenance in 2014, site work for taxiways, and a new aircraft rescue and firefighting facility in 2015.

Additional upcoming investments for LEX include the rehabilitation of the primary commercial service runway in 2021, costing approximately \$15 million; the installation of an engineered material arresting system at the south end in 2022, costing approximately \$12 million; and the installation of an engineered material arresting system at the north end in 2023, costing approximately \$7 million. The total for additional upcoming investments is approximately \$34 million.

The chief executive officer of CVG said that, during the pandemic, CVG is open and operational since the airport is classified as essential infrastructure. She stated that, at the worst of quarantine in April, passenger processing volumes were reduced by 90 percent to 95 percent. Routes were suspended but are now returning based on travel demand. There have been temporary cancellations of routes, flight frequencies, and certain carrier operations.

Atlas Air Worldwide flies for many companies, including DHL and Amazon. Atlas is building a new \$34 million operations center in Erlanger—located near CVG to support its sizable presence at the airport. The CEO of CVG added that work on Amazon’s \$1.5 billion North American Air Hub is on track for a late 2021 opening.

Federal CARES Act funds have been critical, but Kentucky's largest airports are still running out of cash. The funds on hand primarily cover operational expenses and debt service payments. The CEO of CVG stated that SDF and LEX have almost exhausted CARES Act funds.

The 2020 enacted budget for SDF was \$66.8 million. The SDF budget was reduced by \$19 million, and it received \$21 million in CARES Act funds. SDF's anticipated revenue losses for 2020 and 2021 are \$20 million and \$17 million, respectively. Cost saving measures at SDF include layoffs, a reduction in force, and contract freezes.

The 2020 enacted budget for CVG was \$120 million. The budget was reduced by \$20 million, and the airport received \$43 million in CARES Act funds. The anticipated loss for CVG is \$45 million for 2020, and \$40 million for 2021. Cost saving measures at CVG include a hiring freeze and a pause of nonessential capital projects.

The 2020 enacted budget for LEX was \$20 million. The budget was reduced by \$7 million, and the airport received \$9.5 million in CARES Act funds. The anticipated loss for LEX for 2020 and 2021 is \$10 million each year. Cost saving measures at LEX include layoffs, a hiring freeze, and a pause of nonessential capital projects.

Billboard Regulation

The administrator for KYTC's Outdoor Advertising Program gave a brief presentation on how KYTC assumed the role of administering regulative oversight on outdoor advertising.

In December 1971, a federal state agreement was amended and entered into between the director of the Federal Highway Administration and the state secretary of transportation. This agreement further defined the terms and provisions of agreed oversight that are applicable today. As such, Kentucky's statutory provisions were developed to fulfill these regulatory obligations and were structured to somewhat mirror the regulatory language provided in Title XXIII of the federal regulations.

On December 31, 2018, an action was filed with the US District Court for the western district of Kentucky. This action was *L.D. Management Company et al. v. Greg Thomas in his official capacity as Secretary of the Kentucky Transportation Cabinet*. The plaintiff in that action reported a violation of his rights under the 1st Amendment and the 14th Amendment to the US Constitution, based on a violation notice issued to him by KYTC for unpermitted outdoor advertising activities. The court ruling found both Kentucky statutes and regulations to be unconstitutional. This decision has been appealed, and that litigation is ongoing.

The primary issue found by the court was the manner in which current statutory provisions require a distinction between on- and off-premise advertising devices to be made, and the manner in which that distinction is derived. Several states are currently either proactively developing or initiating strategies to address what is perceived to be an issue that will inevitably require some form of corrective action.

In Kentucky, the impact of the ruling has resulted in much uncertainty, opening the door for some in the advertising industry who have chosen to take a gamble and erect advertising devices without state consent while disregarding the fact that the appeals court has not issued a final ruling.

In light of the current court ruling, KYTC has initiated an interim moratorium on the issuance of new permits for outdoor advertising devices. Applications for permits are continuing to be received and are being held in a queue pending resolution of the issue. KYTC personnel are continuing to monitor and log all advertising device activity occurring within this time frame. In order to ensure continued compliance, the adoption of this interim strategy was first provided to the Federal Highway Administration for approval.

The Highway Beautification Act established a penalty of withholding up to 10 percent of a state's annual highway federal fund should the state be found noncompliant. This would equal approximately \$70 million in federal funds should Kentucky be found noncompliant.

**Report Of The 2020
Interim Joint Committee On Veterans,
Military Affairs, And Public Protection**

**Sen. Albert Robinson, Co-Chair
Rep. Walker Thomas, Co-Chair
Sen. C.B. Embry Jr., Co-Chair Designate**

Sen. Karen Berg
Sen. Julian M. Carroll
Sen. Perry B. Clark
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Stan Humphries
Sen. Dennis Parrett
Sen. Wil Schroder
Sen. Brandon Smith
Sen. Whitney Westerfield
Sen. Mike Wilson
Sen. Max Wise
Rep. John Blanton
Rep. Myron Dossett
Rep. Jim DuPlessis

Rep. Chris Fugate
Rep. Al Gentry
Rep. Mark Hart
Rep. Samara Heavrin
Rep. Kathy Hinkle
Rep. Matthew Koch
Rep. Scott Lewis
Rep. C. Ed Massey
Rep. Patti Minter
Rep. Dean Schamore
Rep. Attica Scott
Rep. Buddy Wheatley
Rep. Lisa Willner
Rep. Les Yates

LRC Staff: Jessica Zeh, Andrew Salman, and Kelsey Lockhart

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Interim Joint Committee On Veterans, Military Affairs, And Public Protection

Jurisdiction: Matters pertaining to military affairs and civil defense; the National Guard; veterans; retention of military bases; veterans' rights, benefits, and education; veterans' nursing homes; military memorials and cemeteries; safety of citizens and security of public buildings and property; fire prevention and protection; foods, drugs, and poisons; pure foods and drugs; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; garbage and refuse disposal.

Committee Activity

Senator C.B. Embry Jr. was appointed as co-chair designate.

Distinguished Military Personnel

During the Interim, the committee honored Command Sergeant Major Jesse S. Withers, retired Colonel Bobby H. Freeman, and Specialist Dakota Michel for their military service.

Committee Resolution

The committee approved a resolution honoring Co-Chair Senator Albert Robinson upon his retirement and applauded his years of dedication and service to the committee and the General Assembly.

COVID-19 And Churches

The executive director of the Commonwealth Policy Center spoke regarding the Governor's request for churches to refrain from holding in-person services through the quarantine period because they were not deemed an essential service. A professor from the University of Kentucky Rosenberg College of Law stated that the Freedom Restoration Act of 2013, which prohibits the government from interfering with religious practices, may have been violated when notices were placed on vehicles of people who attended in-person church services. The placement of law enforcement vehicles parked at the entrances of places of worship could also be seen as a violation of this Act.

The commissioner of the Kentucky State Police (KSP) testified that no churches were closed at any time and that no enforcement action was taken. KSP is aware of only two churches that received the informational handout warning against the dangers of COVID-19, but KSP visited more than 800 retail sites for not following health guidelines.

COVID-19: Preparedness And Response

The executive director of the Kentucky Association of Chiefs of Police testified about its dire need for reliable and accurate COVID-19 testing. The personal protective equipment (PPE)

available at the beginning of the pandemic was not satisfactory, and the executive director urged the state to better prepare for outbreaks.

The legislative director of Kentucky National Firefighters stated that many fire departments were well prepared for the outbreak, largely due to their double roles in emergency medical services. The primary concern is that if one member of a fire station tests positive, the entire crew has to quarantine. Many departments have limited crews to fill in for those quarantined, making accurate testing and following guidelines incredibly important.

The president of the Kentucky Emergency Management Association testified that preparedness for emergencies is endless and that many Kentucky communities had insufficient PPE at the onset of the pandemic. Emergency management still responded to flooding and severe weather, search and rescue missions, car accidents, and civil unrest throughout quarantine. Emergency responders depend on emergency declarations.

Kentucky Department Of Military Affairs

On behalf of the Kentucky Department of Military Affairs (KDMA), a brigadier general stated that the Kentucky National Guard (KYNG) was deployed to Louisville in response to civil unrest, with roughly 500 soldiers and airmen on site within 48 hours. Regarding COVID-19, collaborative efforts were set up in March to combat the effects of the virus between the Kentucky Department of Veterans Affairs (KDVA) and emergency management, an emergency operations center, a joint operations center, and the State Health Operations Center. The number of hospital beds, amount of PPE, and medical transportation in rural areas is a concern. The KYNG also assisted in the primary election, making Kentucky one of three states to use the National Guard for an election.

The KDMA presented its legislative goals for the 2021 Regular Session:

- Move the Kentucky Community Crisis Response Board under the Division of Emergency Management in the Department of Military Affairs.
- Establish the Uniform Deployed Parents Custody and Visitation Act and Kentucky National Guard Adoption Assistance Program.
- Implement the Armed Services Vocational Aptitude Battery (ASVAB) test.
- Change the Kentucky Educational Excellence Scholarship base amount for military transfer students.
- Pass the state-sponsored group life insurance program for National Guard members.
- Prohibit motor vehicle insurance issuers from penalizing deployed service members.

Joint Executive Council Of Veterans Organizations

The chair of the Joint Executive Council of Veterans Organizations presented its two main legislative priorities for the 2021 Regular Session. The first priority is to support the 1-year budget for KDVA, which provides adequate funding for veteran nursing homes, cemeteries, burial honors, and other vital programs. The second priority is to support the legislative effort to exempt qualified veteran service organizations from property tax when their annual charitable

contributions qualify them as “purely public charities.” BR 153, which has been prefiled, addresses this issue.

Kentucky Commission On Military Affairs

The executive director of the Kentucky Commission on Military Affairs (KCMA) testified that there were many accomplishments in 2020 for KCMA: It established the new V Corps Headquarters at Fort Knox, applied for US Space Command Headquarters, obtained a \$2 million Department of Defense grant, and assisted with constituent services on the Governor’s COVID-19 hotline for 5 months. The KCMA presented its legislative priorities, which included strong support for KDMA’s budget, and expressed its support of BR 153. Additional legislative goals include

- Occupational licensing reciprocity
- Addition of military personnel and families to driver’s license exemption
- Authorization and funding for Bluegrass Station airfield
- Establishment of the Uniform Deployed Parents Custody and Visitation Act
- Inclusion of the ASVAB test in school
- Prohibition of the “Patriot Penalty” for deployed personnel
- Consideration of full military retirement income tax reduction

Kentucky Department Of Veterans Affairs

The commissioner of the Kentucky Department of Veterans Affairs testified that through July, KDVA had successfully avoided any COVID-19 outbreaks in its four state veterans homes. All four have followed recommendations from the Centers for Disease Control and Prevention for the duration of the pandemic, with daily screenings of residents and employees. In-person visitation was greatly restricted, and virtual options were encouraged with families. Staffing remained relatively stable throughout the pandemic. The number of VA claims presented each month decreased to one-third of its regular amount because many people worked from home to reduce on-site staffing. The federal government provided KDVA with \$2,910,955 from the Provider Relief Fund of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and KDVA had used \$1,480,400 thus far, which helped alleviate financial stress from the pandemic. KDVA hired only personnel that assisted its COVID-19 response, and it stopped overtime that did not directly relate to COVID-19.

KDVA presented its legislative priorities:

- Amend existing sections of KRS Chapter 40 to create more effective management of KDVA.
- Amend KRS 164.507 and 164.515 to more closely align Kentucky’s education benefits with the those of the US Department of Veterans Affairs (VA).
- Create a new section of KRS Chapter 40 to establish a Veteran Suicide Prevention Program within KDVA.
- Create a new section of KRS Chapter 2 to designate June 12 as Women Veterans’ Appreciation Day in the commonwealth.

Issues Facing Veterans

An assistant professor of social work at Morehead State University testified that veteran treatment courts (VTCs) are statistically proven to make a positive difference in veterans' lives. Veterans who participate are less likely to recidivate. A Circuit judge from Jefferson County stated that VTCs are in need of funding. The program has no independent funding stream and requires social workers and counselors involved to work when they can to assist the veterans in the program. Five Kentucky counties have a VTC, but the program needs to be expanded.

The Kentucky director of the US Department of Labor's Veterans' Employment and Training Service stated that its vision is to enable all veterans to reach their full potential in the workplace. The office promotes the hiring of veterans through active outreach to employers, ensuring the safety of veterans in their places of employment after service, and recognizing and rewarding employers that are veteran friendly. COVID-19 caused an increase in unemployment among veterans. The Homeless Veterans' Reintegration Program is the only federal program that focuses exclusively on employment of veterans who are experiencing homelessness. The veteran program coordinator of the Career Development Office and the Jobs for Veterans State Grant stated that they allocate federal funding to state workforce agencies to assist in hiring veteran staff.

The director of the Office of Homelessness Prevention and Intervention for the Lexington-Fayette Urban County Government stated that the office provides assistance in finding housing to any person who served at least 1 day of active duty in the armed forces. The goal of the office is to end homelessness among veterans. The agency advocates on behalf of veterans to landlords and agencies for different types of housing. The senior director of veterans services for Volunteers of America Mid-States testified that the Supportive Services for Veteran Families, an extensive VA grant, is an essential component in the movement to have all veterans in permanent housing. The agency's cornerstones include promoting housing stability, providing case management services, working to identify veterans experiencing homelessness, and assisting veterans into a program that can work toward permanent housing. The Volunteers of America Mid-States have been awarded some CARES funding, which allowed the agency to provide more supportive services to veterans and their families.

A staff member of the National Conference of State Legislators (NCSL) explained that NCSL works to examine military community relations at the state level to assist veterans and their families with their health and well-being. A survey was completed by Blue Star Families, and access to military and VA health care, understanding of military and veteran issues, and military benefits were veterans' three biggest concerns.

Public Protection

The associate dean of diversity, equity and inclusion at the University of Louisville (UofL) College of Arts and Sciences (who is also an associate professor of criminal justice and the director of social change of UofL's Department of Criminal Justice) testified that "defunding the police" is not about abolishing police departments; it is about changing law enforcement. Many situations do not require the response of a police officer: domestic violence, homelessness,

prostitution, school security, drug dealers, drug possession, gang violence, theft, and unexpected crises.

The policy strategist for the American Civil Liberties Union of Kentucky stated that five pillars of public safety (education and community, housing and physical environment, physical and mental health, stability and personal safety, and economic and food security) have to work together to make communities safe. When these pillars are in place, there is decreased crime, violence, substance abuse, homelessness, and high school dropout rates; when they are not, people are forced to compete for resources. The policy strategist supported

- an increase in community-led initiatives;
- trained counselors and restorative justice programs, rather than police, in schools;
- trauma-informed responders for domestic violence and mental health calls when someone needs help;
- an increase in the minimum wage;
- substance abuse resources in communities;
- non-carceral response to behaviors caused by poverty, mental health, or substance use; and
- the end of qualified immunity for police officers.

A police social worker (PSW) from the Alexandria Police Department testified that PSWs do not act as first responders. Instead, they follow up with citizens when needed and are in no way meant to replace the police. PSWs help reduce recidivism and recurring calls, enhance victim cooperation, and help people cope with events. They work as advocates for their clients by assessing their needs and providing intervention and referrals. They are liaisons to the community and increase satisfaction among community members.

The president of the Kentucky Chiefs of Police stated that Kentucky law enforcement has room to improve, but it needs help. The hiring process needs to be strengthened so that only the best candidates are hired, with funding dedicated to increasing and enhancing training. To help renew trust among citizens, there should be verbal de-escalation training, crisis intervention training, technology to provide simulated training situations, and online training. In addition, funding needs to be allocated toward supporting police officers' mental health and toward exploring the use of social workers to assist law enforcement.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 017 KAR 001:030, Proposed Nurse Loan Repayment Program, upon referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

**Report Of The 2020
Administrative Regulation Review Subcommittee**

**Sen. Stephen West, Co-Chair
Rep. David Hale, Co-Chair**

Sen. Julie Raque Adams
Sen. Alice Forgy Kerr
Sen. Reginald Thomas

Rep. Deanna Frazier
Rep. Mary Lou Marzian
Rep. Tommy Turner

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

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Administrative Regulation Review Subcommittee

Jurisdiction: Review and comment upon effective regulations and proposed regulations filed with the commission; make nonbinding determinations about a regulation’s need or sufficiency; recommend the amendment, repeal, or enactment of statutes relating to regulations; conduct a continuous study of the regulations process and the needs of administrative bodies; make legislative recommendations.

Subcommittee Activity

The Administrative Regulation Review Subcommittee (ARRS) is a statutory committee of the Legislative Research Commission and is required to meet monthly. This report covers subcommittee activity between January 2020 and December 2020.

Subcommittee Statistics

Within the last year, ARRS reviewed 427 regulations and found 2 of them deficient:

- 803 KAR 2:180, “Recordkeeping, reporting, statistics,” was promulgated by the Labor Cabinet. The Governor determined that the regulation would become effective notwithstanding the finding of deficiency.
- 922 KAR 2:400E, “Enhanced requirements for certified and licensed child care as a result of a declared state of emergency,” was promulgated by the Cabinet for Health and Family Services. This emergency regulation went into effect upon filing, and the Governor determined that the regulation would remain in effect notwithstanding the finding of deficiency. The agency subsequently withdrew the regulation.

Baseline 10-Year Averages Of Regulations Reviewed By ARRS

	Additional Amendments Made At An ARRS Meeting	No Additional Amendments Made At An ARRS Meeting	Companion Emergencies To Ordinary Regulations	Withdrawn Prior To ARRS Review	Total Reviewed
Baseline average	301	129	52	23	459

Regulations Reviewed By ARRS December 2019 To November 2020

Month	Additional Amendments Made At An ARRS Meeting	No Additional Amendments Made At An ARRS Meeting	Companion Emergencies To Ordinary Regulations	Withdrawn Prior To ARRS Review	Total Reviewed
December	29	11	2	0	42
January	38	17	1	4	56
February	28	11	1	1	40
March	38	6	0	1	44
April*	0	4	2	0	6
May	30	5	0	1	35
June	25	15	3	1	43
July	17	5	2	3	24
August	10	6	2	7	18
September	22	15	1	1	38
October	30	13	1	2	44
November	18	16	3	0	37
Total	285	121	18	21	427

*ARRS did not meet in April. The regulations scheduled for the April meeting were referred to the interim joint committees on May 6, 2020.

Certifications

Of 951 certification letters filed between January 1 and November 1, 2020, agencies indicated that 314 regulations will be amended and 637 will remain in effect without amendment. During this period, 186 regulations expired as a result of the sunset legislation established in HB 4 enacted during the 2019 Regular Session.

Review Topics—Regulations Relating To COVID-19

During 2020, ARRS reviewed the following topics related to COVID-19. The executive branch filed emergency regulations in response to the novel coronavirus pandemic. Below are some of those regulations.

Elections

Procedures For The November 3, 2020, Elections (31 KAR 4:194E). The Statement of Emergency indicated that this regulation would allow the commonwealth to conduct general, special, and local-option elections on November 3, 2020, in a manner that reduces the amount of exposure of voters, poll workers, and administrators to the novel coronavirus. ARRS is scheduled to review this emergency regulation at its January 2021 meeting.

Schools

District Employee Emergency Leave (702 KAR 1:190E). The Statement of Emergency indicated that this regulation would allow school districts to provide additional emergency leave

for school district employees to use for leave related to COVID-19. ARRS is scheduled to review this emergency regulation at its January 2021 meeting.

SEEK Funding Formula (702 KAR 3:270E) And Pupil Attendance (702 KAR 7:125E). The Statements of Emergency indicated that these regulations would allow school districts to provide and receive funding for a variety of instructional delivery models to meet the needs of their students and communities in light of continued COVID-19 risks and necessary prevention measures. These models included traditional in-person instruction days, periods of complete virtual learning through nontraditional instruction (NTI), and days of blended in-person and NTI delivery. ARRS reviewed these emergency regulations at its October meeting.

School Calendar (702 KAR 7:140E). The Statement of Emergency indicated that this regulation would allow an additional maximum of 30 minutes to be counted toward the required 1,062 instructional hours each year for activities conducted by local school districts related to COVID-19, such as additional cleaning and sanitizing, instructing students on the use of masks and social distancing, hand washing, temperature taking, and other activities that require additional time to more safely move students and staff within their facilities. ARRS reviewed this emergency regulation at its November meeting.

Unemployment Insurance

Short-Time Compensation (787 KAR 1:350E). The Statement of Emergency indicated that this regulation would establish a short-time unemployment compensation program. The agency stated that this was necessary to help reduce mass layoffs related to the COVID-19 pandemic. This emergency regulation was withdrawn July 22, 2020.

Public Protection

Team Kentucky Fund (800 KAR 1:010E). The Statement of Emergency indicated that this regulation established the process for allocation of funds from the Team Kentucky Fund for emergency relief from the coronavirus pandemic. ARRS reviewed this emergency regulation at its August meeting. During the meeting, a representative of the Public Protection Cabinet stated that this regulation established four criteria for receiving relief from the fund:

- Kentucky residency
- Employment as of March 6, 2020
- COVID-19-related unemployment or salary reduction of at least 50 percent of gross salary
- 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. The fund's partner, Community Action Kentucky, distributed vouchers from the fund for housing, food, and related daily living needs.

Raffles (820 KAR 1:050 & E). The Statement of Emergency indicated that this regulation would allow charitable organizations to conduct raffle drawings using a web-based, publicly accessible random number generator instead of having to print paper tickets and draw the winner from a physical receptacle. The ordinary administrative regulation differed from this emergency regulation by including technical specifications for electronic raffle systems and online raffle

systems and by requiring that these systems be tested and certified by an independent testing laboratory. ARRS reviewed this regulation at its November meeting.

Health And Family Services

Reportable Disease Surveillance (902 KAR 2:020 & E). The Statement of Emergency indicated that this regulation amended disease reporting requirements to include both positive and negative results for severe acute respiratory syndrome coronavirus 2, the virus that causes COVID-19. The ordinary and emergency regulations were identical. ARRS reviewed this regulation at its November meeting.

Covering The Face In Response To Declared National Or State Public Health Emergency (902 KAR 2:190E).¹ The Statement of Emergency indicated that this regulation would enhance prevention of the spread of COVID-19 by requiring the wearing of a face covering in public, subject to certain exceptions. The secretary of the Cabinet for Health and Family Services (CHFS) testified that this regulation was intended to accomplish three goals: saving lives, opening schools, and opening the economy. ARRS reviewed this emergency regulation at its July meeting. Some of the concerns raised during the meeting related to statutory authority, due process, and clarity of provisions. Supportive comments included that this regulation constituted a simple safety measure and reflected Kentucky's leadership in responding to the pandemic. A representative of CHFS stated that it would continue to work with local health departments to improve the implementation of the provisions.

School Notification Standards Related To COVID-19 (902 KAR 2:220 & E). The Statement of Emergency indicated that this regulation amended provisions to

- ensure that parents, legal guardians, or other persons or agencies responsible for a student are aware of the requirement to notify the student's school of a diagnosed medical condition that might threaten the safety of others; and
- establish requirements for school notification to the Department for Public Health of students or school personnel who test positive for coronavirus (COVID-19).

Additionally, this regulation was needed for

- a local school district superintendent or private school official to make an informed decision regarding the exclusion of a student or school personnel member who had reported a diagnosis of COVID-19 that had a reasonable probability for transmission in the school setting, and
- a local board of education to determine the presence of a dangerous epidemic in the district.

The ordinary and emergency regulations were identical. This regulation is scheduled to be reviewed by ARRS at its December meeting.

¹ This regulation was later withdrawn and replaced with a similar emergency regulation, 902 KAR 2:210E. ARRS reviewed this regulation at its September meeting. A CHFS representative testified that it was substantively the same as the previous version, except that it established an exception for the deaf, the hard of hearing, and those actively communicating with the deaf or hard of hearing. Several concerns were expressed, including that the regulation was being arbitrarily enforced, the safety measures taken during the pandemic were having a greater negative impact than the coronavirus itself, the regulation was especially burdensome on those with special mental or physical health needs, the mask mandate was based on insufficient scientific data, the requirement worsened Kentucky's economic downturn, and the requirement limited individual choice.

Local Health Department Operations Requirements (902 KAR 8:160 & E). The Statement of Emergency indicated that this regulation established the process for a local health department to conduct an assessment of local public health priorities, including an assessment of the prevailing health of the local community served by the local health department; a description of the data used in the local needs assessment, including the identification of health inequities; and the evaluation of the evidence-based and promising practice measures implemented to address local health needs. This regulation was amended pursuant to HB 129 from the 2020 Regular Session. The ordinary and emergency regulations were identical. This regulation is scheduled to be reviewed by ARRS at its December meeting.

Local Health Department Financial Management Requirements (902 KAR 8:170 & E). The Statement of Emergency indicated that this regulation established the budgeting process for a local health department, including an attestation from the local health department that core and foundational public health programs will be implemented, maintained, or assured by a local health department; and a description of the local public health priorities that will be funded through local tax dollars or unrestricted funds. This regulation was amended pursuant to HB 129 from the 2020 Regular Session. The ordinary and emergency regulations were identical. This regulation is scheduled to be reviewed by ARRS at its December meeting.

Technical Requirements (921 KAR 3:025 & E—DEFICIENT). The Statement of Emergency indicated that this regulation eliminated the Supplemental Nutrition Assistance Program (SNAP) eligibility requirement for the disqualification of noncustodial parents who were delinquent in court-ordered child support payments. The ordinary and emergency regulations were identical. ARRS reviewed this regulation at its July meeting. A representative of the Division of Family Support in the CHFS Department for Community Based Services testified that that the amendment was necessary because of food insecurity during the COVID-19 pandemic. The Interim Joint Committee on Health, Welfare, and Family Services conducted a second-level review of this regulation in September 2020 and found the ordinary and emergency regulations deficient. The Governor determined that the ordinary regulation would become effective notwithstanding the finding of deficiency, in accordance with KRS 13A.330.

Certification Process (SNAP) (921 KAR 3:035 & E). The Statement of Emergency indicated that this regulation immediately implemented new SNAP certification periods to assist with caseload management and to eliminate reference to a program disqualification that is no longer in place. The amendment reduced the risk of applicant or system errors in the SNAP program that could jeopardize the food security of Kentucky residents who participated in the program. The ordinary and emergency regulations were identical. This regulation is scheduled to be reviewed by ARRS at its January 2021 meeting.

Low Income Home Energy Assistance Program Or “LIHEAP” (921 KAR 4:116 & E) And Standards For Community Action Agencies (922 KAR 6:010 & E). The Statement of Emergency for 921 KAR 4:116E indicated that this regulation was amended to use federal Coronavirus Aid, Relief, and Economic Security Act funding to expand eligibility for services and programs funded by the Low Income Home Energy Assistance Program (LIHEAP) block grant, which authorized states to raise the eligibility income limit for LIHEAP services furnished during FY 2020 and FY 2021. The amendment also expanded LIHEAP to offer more assistance

in paying for summer cooling utilities. The ordinary and emergency regulations were identical. ARRS reviewed this regulation at its September meeting. The Statement of Emergency for 922 KAR 6:010E indicated that this regulation was amended to allow CHFS to waive the required local matching funds for supplemental state or federal funding. The ordinary and emergency regulations were identical. ARRS reviewed this regulation at its September meeting.

Enhanced Requirements For Certified And Licensed Child Care As A Result Of A Declared State Of Emergency (922 KAR 2:400E—DEFICIENT). The Statement of Emergency indicated that this regulation established requirements for child care centers and certified family child care homes to prevent the spread of coronavirus (COVID-19). ARRS reviewed this emergency regulation at its July meeting and found the regulation deficient. The Interim Joint Committee on Health, Welfare, and Family Services also reviewed this regulation in July and found it deficient. The Governor determined that this emergency regulation would remain in effect notwithstanding the finding of deficiency, in accordance with KRS 13A.330. This regulation was subsequently withdrawn and was replaced by 922 KAR 2:405E on September 1, 2020.

Background Checks

Several boards amended regulations through emergency filings to create a temporary work permit for the licensees applying for reinstatement because the FBI temporarily suspended criminal background checks due to the COVID-19 pandemic (for example, Nursing, 201 KAR 20:225E, and Dialysis technicians, 201 KAR 20:470E).

Similarly, several agencies amended regulations to waive fingerprint-based criminal record check requirements for specific applicants because in-person fingerprint-based checks were deemed unsafe during the COVID-19 pandemic (for example, CHFS—Department for Public Health, 922 KAR 1:490E).

In addition, several regulations were amended to include telehealth services (for example, Marriage and Family Therapists, 201 KAR 32:110 & E, and CHFS—Department for Public Health, 902 KAR 30:010E).

Review Topics—Other

During 2020, ARRS reviewed the following topics not related to COVID-19.

Notary Public Applications And Electronic And Online Registrations (30 KAR 8:005 & E). The Statement of Emergency indicated that this regulation established electronic and remote (online) registration of notaries public. Additionally, this regulation included definitions and standards for the performance of notarial acts with respect to electronic records, remotely located individuals using communication technology, or other online notarial acts, in accordance with SB 114 from the 2019 Regular Session. This regulation also prescribed the process for granting, renewing, conditioning, or denying a notary commission. The ordinary and emergency regulations were identical. ARRS reviewed this regulation at its June meeting.

During the meeting, a representative of the Secretary of State's Office stated that *electronic notarization* meant notarizations for electronic records, while *remote online notarization* was a more general category, which included notarizations performed for a remotely located individual. This regulation clarified these two distinct categories.

Inmate Medical Testing And Solitary Confinement (501 KAR 6:020). This regulation amended procedures for inmate medical testing and solitary confinement as part of an annual policy review by the Department of Corrections (DOC). ARRS reviewed this regulation at its May meeting.

Kentucky Protection and Advocacy (P&A) opposed this regulation, expressing the following concerns:

- The proposed changes would allow medical testing on inmates, which was not currently permitted.
- Safeguards were needed to protect those with diminished decision-making capacity, mental illness, or traumatic brain injury.
- Solitary confinement should be prohibited for inmates with serious mental illness, or supports should be provided for those inmates.

A representative of DOC testified that it used mental health staff and multidisciplinary teams to manage inmates with mental health issues, that the medical testing procedures were being revised at the request of clinical trial partners, that federal prohibitions had changed, that all studies were voluntary, and that consent issues had been addressed. The representative further testified that solitary confinement was sometimes necessary because of the age of Kentucky's facilities, staffing limits, and budgetary restraints. DOC will continue working with P&A regarding these policies.

Recordkeeping, Reporting, And Statistics (803 KAR 2:180—DEFICIENT). This regulation was amended to require an employer to report to the Division of Occupational Safety and Health of the Labor Cabinet any incident that resulted in an employee hospitalization, including hospital admission for diagnostics or observation. ARRS reviewed this regulation at its June meeting. The division provided testimony that it needed this data for statistical and tracking purposes and to determine trends.

Concerns expressed included that the requirements were more stringent than federal law, that they did not advance the health and safety of Kentucky's workforce, that they violated the Occupational Safety and Health Administration requirement that restricts an agency's jurisdiction to "work-related" injuries or illnesses, and that there was not a duty to report an in-patient hospitalization that involves only observation or diagnostic testing.

A committee member noted that prior to this amendment, employers were required to report work-related employee hospitalizations and that the employer decided which incidents were related to work. The proposed amendment was giving this determination to the division. In response, a representative of the division stated that the requirement was amended because a formal hospitalization would sometimes occur as a result of diagnostics or observation. There

was currently no reporting requirement for that situation, which affected the division's ability to track trends that could affect worker safety.

At the June ARRS meeting, the subcommittee found this regulation deficient. The Governor determined that this regulation would become effective notwithstanding the finding of deficiency, in accordance with KRS 13A.330.

Direct Shipper License (804 KAR 4:415). This regulation established the requirements, privileges, and responsibilities of a direct shipper license, in compliance with HB 415 from the 2020 Regular Session. ARRS reviewed this regulation at its November meeting.

A representative of the Department of Alcoholic Beverage Control (ABC) testified that this regulation included wine shippers and importers, who would be able to ship in and out of Kentucky if they met the criteria. However, in-state importers would not be able to get direct shipper licenses, because of statutory constraints. Representative Koenig and the senior director of government and external affairs of the Kentucky Distillers' Association appeared before the subcommittee in support of this regulation.

A representative of the Distilled Spirits Council of the United States stated that the council generally approved of this regulation, but that there were some specific outstanding areas of concern, including fulfillment center provisions, tied-house requirements, and the 600-gallon limitation. The council wished for this regulation to proceed but hoped to work further with ABC to make changes.

Harness Racing (810 KAR 5:060, 5:070, 7:040, and 811 KAR 1:250). These regulations were amended to recognize the Kentucky Harness Association (KHA) as a second racing association in Kentucky. ARRS reviewed these regulations at its June meeting.

A representative of the Kentucky Horse Racing Commission (KHRC) testified that KHA would serve on the Sire Stakes Panel and would have authority to enter into contracts with racing associations. This change would provide consistency among various commission regulations and would foster improvements to the Standardbred industry. Stakeholder testimony in favor of these regulations stated that the Standardbred industry had suffered in the past with only one association to represent the various interests.

The Kentucky Harness Horsemen's Association opposed these regulations. A representative stated that the existing association worked well to fulfill Kentucky's Standardbred needs, and that a second association would be detrimental, concentrating too much power in a small group.

Medication Use In Horse Racing (810 KAR 8:010, 020, and 030). These regulations established requirements for medication in horse racing. ARRS reviewed these regulations at its July meeting.

The equine medical director of KHRC testified that these regulations established a phase-down approach regarding furosemide to improve horse safety and align Kentucky requirements with those of other horse racing districts worldwide. He said that studies demonstrated possible safety

improvements by prohibiting furosemide use on race day. Representatives of the Kentucky Thoroughbred Association and Keeneland appeared in support of these regulations and stated that the changes were a step toward modernizing horse racing, improving safety standards, and finding compromise on a highly contentious issue.

The Kentucky Horsemen's Benevolent and Protective Association opposed the changes. The association's president stated that using furosemide was beneficial because it mitigated pulmonary bleeding, that furosemide had been safely used for years, that furosemide was not performance enhancing, and that a race day ban would be detrimental to the racing industry. The KHRC equine medical director responded that published studies had questioned the efficacy of furosemide, that the use of furosemide would not be prohibited in training, and that the requirement would ban the drug's administration only within 24 hours of racing.

Ambulance Providers (900 KAR 6:075 & E). The Statement of Emergency indicated that this regulation removed Class I ambulance providers from nonsubstantive certificate of need review because its previous amendment resulted in specialty legislation benefiting a single provider and county. An immediate change was needed to save the cost of ongoing litigation related to that version of the regulation. The ordinary and emergency regulations were identical. ARRS reviewed this regulation at its June meeting.

The executive vice president of Medical Center Health appeared in support of this regulation, stating that there was not a need for an additional provider in the affected county, that the center had provided high-quality emergency care in that county for more than 40 years, that patient choice was honored, and that there was no demonstrable public health emergency.

Representatives of TriStar Greenview Hospital and Pikeville Medical Center opposed this regulation, stating that removing Class I ambulance providers from nonsubstantive review status would exacerbate Kentucky's lack of access to emergency medical services and create long wait times that could result in death or long-lasting effects. Also, additional providers would allow patient choice and improve patient care, especially in light of the coronavirus pandemic. A motion to find this regulation deficient did not pass.

Immunization Requirements For Long-Term Care Facilities (902 KAR 2:065). This regulation amended requirements for planning for illnesses, reporting outbreak data, and offering influenza and pneumococcal immunizations to residents and staff. A representative of the Department of Public Health testified that it did not mandate the vaccinations but required them to be available and offered. This regulation was filed prior to the coronavirus outbreak. ARRS reviewed this regulation at its May meeting.

Child Protective Services (922 KAR 1:330). This regulation was amended to add female genital mutilation and human trafficking to its child protection requirements, pursuant to SB 72 from the 2020 Regular Session. ARRS reviewed this regulation at its October meeting.

Deficient Regulations As Of November 2020

By Administrative Regulation Review Subcommittee

- 803 KAR 2:180. Recordkeeping, reporting, statistics. (Labor Cabinet, Occupational Safety and Health)
- 922 KAR 2:400E. Enhanced requirements for certified and licensed child care as a result of a declared state of emergency. (Cabinet for Health and Family Services, Department for Community Based Services, Protection and Permanency, Day Care)

By The Interim Joint Committee On Health, Welfare, And Family Services

- 921 KAR 3:025 & E. Technical requirements. (Cabinet for Health and Family Services, Department for Community Based Services, Division of Family Support, Supplemental Nutrition Assistance Program)
- 922 KAR 2:400E. Enhanced requirements for certified and licensed child care as a result of a declared state of emergency. (Cabinet for Health and Family Services, Department for Community Based Services, Protection and Permanency, Day Care)

Tentative ARRS Agenda For December 2020

Although December's meeting agenda has not been finalized, ARRS could review as many as 115 regulations. There are several reasons that a regulation might be removed, including the time needed to complete the public comment process or an agency request to defer the regulation to the next ARRS meeting. Potential topics include requirements for milk and milk products; the 2021 Kentucky Public Employee Health Insurance Program; the Kentucky Retirement Systems; various boards (including those for pharmacy, optometric examiners, barbering, nursing, chiropractic examiners, and pastoral counselors); the Kentucky Ignition Interlock Program; tax appeal procedures; the workers' compensation hospital fee schedule; insurance; pari-mutuel and exotic wagering for horse races; licensing for horse racing participants; vital statistics reporting; school notification standards related to COVID-19; local health departments; registered environmental health specialists and sanitarians; food and cosmetics; substance use and misuse prevention; SNAP; the tuition waiver for foster and adopted children; the "high risk" supplement and the "parenting youth" supplement for foster home reimbursement; and enhanced child care requirements related to a declared state of emergency.

**Report Of The 2020
Capital Planning Advisory Board**

**Sen. Stan Humphries, Co-Chair
Rep. John Blanton, Co-Chair**

Sen. Whitney Westerfield
Rep. Derek Lewis
Rocky Adkins
J. Michael Brown
Charles Byers
Jacqueline Coleman
Laurie Dudgeon

Carole Henderson
John Hodgson
Patsy Jackson
Holly McCoy Johnson
Ryan Neff
Mark Overstreet
Katie Shepherd

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

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Capital Planning Advisory Board

Jurisdiction: The 1990 General Assembly established the Capital Planning Advisory Board of the Kentucky General Assembly, composed of members representing the executive, judicial, and legislative branches of government. Pursuant to KRS 7A.120, the board is charged with creating a 6-year comprehensive statewide capital improvements plan encompassing state agencies and universities. The plan is to be submitted to the heads of the three branches of government by November 1 of each odd-numbered year. This schedule enables the comprehensive capital plan to be used in the subsequent budget process and legislative session.

Board Activity

Since adjournment of the 2020 Regular Session, the Capital Planning Advisory Board held two meetings in July and September. The meetings convened in the Capitol Annex building, with members attending on site and virtually. At both meetings, the members received testimony regarding planned and ongoing capital projects previously submitted in their agency capital plans.

New Board Members

During the 2020 Interim, six new members were appointed to the board: Rocky Adkins, senior adviser to the Governor; J. Michael Brown, secretary of the Governor's Executive Cabinet; Jacqueline Coleman, Lieutenant Governor and Education and Workforce Development Cabinet secretary; Holly McCoy Johnson, secretary of the Finance and Administration Cabinet; and Ryan Neff, vice president of The Citizens Bank in Morehead.

Capitol Campus Upgrade Project

The secretary of the Finance and Administration Cabinet, and the commissioner of the Department for Facilities and Support Services provided an update on the Capitol Campus Upgrade Project at the July meeting. This project was included in the Finance and Administration Cabinet's 2020–2026 capital plan at a scope of \$43 million in general funds, and it is authorized in the current budget for \$22 million in general fund bonds. The current \$22 million authorization is insufficient to address the \$43 million project, and an additional budget appropriation may be requested.

The campus includes the State Capitol, the Capitol Annex, the parking garage, and the Governor's Mansion. This project is divided into three subprojects to address infrastructure-related improvements in the Capitol: 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 and general maintenance of 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 building as a two-phase project. Phase I projects will encompass the basement and will take

approximately 1 year to complete. Phase II projects will encompass four floors and will take approximately 3 years to complete. The total cost of both phases is approximately \$27 million.

Low-voltage and medium-voltage upgrades will bring outdated building systems up to code. The low-voltage upgrade is budgeted to cost \$2 million; the medium-voltage upgrade is in the design phase, and a cost estimate is not yet available.

Advancing Energy Efficiency In State Facilities During The COVID-19 Pandemic

At the board's September meeting, members received a presentation regarding energy efficiency in state buildings during the COVID-19 pandemic, and they discussed the 2022–2028 capital planning period.

Finance and Administration Cabinet staff discussed the COVID-19 pandemic and Kentucky's response to the virus from the standpoint of facilities and energy. Cabinet officials reported energy and utility data in state-owned buildings, as well as plans for reducing infection in the workplace as more state buildings reopen.

Energy and utility data is collected by using a software platform known as the Commonwealth Energy Management and Control System (CEMCS). The CEMCS project was included in the Finance and Administration Cabinet's 2020–2026 capital plan at a scope of \$6 million (\$2 million per biennium.) There are four major components to CEMCS: utility monitoring and analysis; building automation integration and diagnostics; centralized, automated utility bill paying; and work order generation and tracking. The current implementation includes 860 state buildings in excess of 16 million square feet. The annual energy spending last year was \$32 million, and the yearly cost savings (avoidance) was \$9.5 million. The overall energy savings is approximately 9.5 percent for state agencies, 19.5 percent for the Finance and Administration Cabinet, and more than 20 percent for the Kentucky Community and Technical College System.

2022–2028 Capital Planning Period

No later than November 1, 2021, the board must publish the 2022–2028 Statewide Capital Improvements Plan. To accomplish this goal, the board will hold a series of monthly meetings from May until September. The meetings will include the review of agency capital plans, discussion of capital-related issues, and testimony from agencies that prepare specialized reports for the board. The last meeting, planned for September, will include approval of the draft capital plan.

**Report Of The 2020
Capital Projects And Bond Oversight Committee**

**Sen. Rick Girdler, Co-Chair
Rep. Walker Thomas, Co-Chair**

Sen. Julian M. Carroll
Sen. Christian McDaniel
Sen. Robby Mills

Rep. Phillip Pratt
Rep. Steven Rudy
Rep. Maria Sorolis

LRC Staff: Katherine Halloran, Julia Wang, and Jenny Wells Lathrem

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Capital Projects And Bond Oversight Committee

Jurisdiction: The committee is a permanent subcommittee of the Legislative Research Commission and is charged with overseeing the expenditure of funds for state capital projects; the allotment of funds from the emergency repair, maintenance, and replacement account and the capital construction and equipment purchase contingency account; the state's acquisition of capital assets, including the lease of real property; the issuance of bonds by the commonwealth and related statutory entities; and the issuance of bonds by local school districts.

Committee Activity

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly. This report covers committee activity between January 1 and November 30, 2020, as well as transactions projected to be submitted in December 2020. The committee approved all proposed transactions except one; the entity head modified that one pursuant to KRS 45.800(3)(a).

In addition to the committee's oversight of the commonwealth's capital construction (including public-private partnership agreements under KRS 45A.077), debt issuance, and real property leases, the committee approves Kentucky Infrastructure Authority (KIA) loans and Cabinet for Economic Development (CED) Kentucky Economic Development Finance Authority (KEDFA) economic development fund (EDF) program grants pursuant to KRS 224A.100 and KRS 154.12-100(5). For this reporting period, only executive branch agencies (primarily through the Finance and Administration Cabinet) and postsecondary institutions submitted transactions requiring committee approval.

Approval Items Submitted From January 2020 To December 2020

Projects And Associated Agreements, 2020

Month	P3 Project Authorizations, KRS 45.763(3)	P3 Contracts, KRS 45A.077(6) And 45A.077(10)(a)	Interim Project Authorizations, KRS 45.760(7) And 164A.575(15)	Interim Project Appropriation Increases, KRS 45.760(6)	Transfers*	Total
Jan	0	0	3	0	0	3
Feb	0	0	0	0	0	0
Mar	0	0	0	0	0	0
Apr	0	0	1	0	0	1
May	0	0	0	0	0	0
Jun	0	0	6	0	0	6
Jul	0	0	1	0	0	1
Aug	0	1	3	0	0	4
Sep	0	0	0	0	0	0
Oct	0	0	1	0	0	1
Nov	0	0	2	0	0	2
Dec**	0	0	1	0	0	1
Total	0	1	18	0	0	19

Note: P3 = public-private partnership.

* Capital Construction And Equipment Purchase Contingency Fund, KRS 45.770(7) And 164A.600(1)/Park Capital Maintenance And Renovation Fund, KRS 148.810.

** Projected numbers.

Lease Arrangements, 2020

Month	Tenant Improvement Fund Requests/300 And Mayo-Underwood Buildings, KRS 56.823(12)(d)	Lease Auth., KRS 48.111(6)(e) And 56.832(7)	New Leases And Renewals, KRS 56.823(2)(4) And 164A.575(7)(c)	Lease-Purchases, KRS 56.823 (3)(7)(9)	Built-To-Suit Leases, KRS 56.823 (6)	Lease Mod. Of At Least \$50,000, KRS 56.823 (11)(a)	Total
Jan	0	0	3	0	0	0	3
Feb	0	0	0	0	0	0	0
Mar	0	0	0	0	0	0	0
Apr	0	0	0	0	0	1	1
May	0	0	3	0	0	0	3
Jun	0	0	2	0	0	0	2
Jul	0	0	0	0	0	0	0
Aug	0	0	0	0	0	0	0
Sep	1	0	4	0	0	1	6
Oct	1	0	7	0	0	0	8
Nov	1	0	6	1	0	0	8
Dec*	0	0	3	0	0	0	3
Total	3	0	28	1	0	2	34

Note: Auth. = authorizations; Mod. = modifications.

* Projected numbers.

Transactions Submitted Through The Office Of Financial Management, 2020

Month	KIA Assistance Agreements*, KRS 224A.100	EDF Projects, KRS 154.12-100(5)	Approp.-Supported Debt Excludes SFCC, KRS 45.810(1)	Non-Approp.-Supported Debt Issues, KRS 45.810(1)	Conduit Debt Issues, KRS 45.810(1)	School District Debt Issues With SFCC Debt Service Participation, KRS 45.810(1)	Bond Counsel Or Underwriter Innovation Agreement, KRS 45A.870(5)	Total
Jan	5	0	0	0	0	3	0	8
Feb	4	0	1	0	0	11	0	16
Mar	3	0	0	1	1	3	0	8
Apr	4	0	3	0	1	2	0	10
May	0	2	2	0	0	4	0	8
Jun	13	2	0	0	0	0	0	15
Jul	0	2	0	0	1	1	0	4
Aug	2	2	0	0	2	6	0	12
Sep	7	1	1	0	0	15	0	24
Oct	3	1	1	0	0	4	0	9
Nov	3	0	2	0	1	1	0	7
Dec**	2	0	0	0	1	9	0	12
Total	46	10	10	1	7	59	0	133

Note: KIA = Kentucky Infrastructure Authority; EDF = economic development fund; Approp. = appropriation; SFCC = School Facilities Construction Commission.

* Loans, loan assumptions, and loan increases.

** Projected numbers.

Projects And Associated Agreements

The Finance and Administration Cabinet, through the Office of State Budget Director (OSBD), submits and reports projects and associated agreements for executive branch agencies, the Kentucky Community and Technical College System, and Kentucky State University. The other postsecondary institutions submit and report individually.

The committee approved the second public-private partnership development agreement submitted under KRS 45A.077(6), another University of Kentucky project: Construct Research/Incubator Facility (Coldstream High-Tech Building), a \$14 million, 40,000-square-foot facility with wet laboratories, offices, and flex space for early-stage high-tech companies. The majority of the interim project authorizations were Department of Military Affairs (DMA) projects with at least 75 percent federal funding. There were five interim postsecondary projects, and there were two projects using Coronavirus Relief Funds from the Coronavirus Aid, Relief, and Economic Security Act: the UI System Citizen Improvements and the DMA Kentucky Emergency Management Conditioned Storage/Multi-Purpose Building projects. A couple of interim projects were initially approved/authorized for lower amounts and were submitted under the interim project authorization statutes with the revised amounts.

In addition to the above, the committee reviewed the following, reported for informational purposes only: KRS 26A.168(1), 45.793, and 45.818 quarterly and KRS 45.760(9) annual capital projects status reports; capital project allocations from specific program areas as allowed by Part II (4) of the executive branch appropriations bill, with the majority of postsecondary institutions reporting those allocations through the quarterly capital projects status reports; KRS 45.760(5) medical and research equipment purchases (typically only postsecondary institutions report, although OSBD reported the Finance and Administration Cabinet's approval of the two Department for Public Health Division of Laboratory Services research equipment purchases with Epidemiology and Laboratory Capacity for Testing grants from Paycheck Protection Program and Health Care Enhancement Act funds); several KRS 45.760(6) postsecondary funding source revisions; a KRS 45.780 Emergency Repair, Maintenance, or Replacement project; and KRS 45A.077(6) and 45A.180(2) notices of intent to use public-private partnership and alternative construction project delivery methods.

Lease Arrangements

The Finance and Administration Cabinet, through the Department for Facilities and Support Services, Division of Real Properties (DRP), submits and reports lease arrangements for executive branch agencies. All postsecondary institutions submit and report lease arrangements individually. The majority of lease submittals were Division of Real Properties lease renewals under the same terms and conditions and UK HealthCare leases, often for facilities with existing University of Kentucky leases. In contrast to 2019, in which there were no tenant improvement fund requests, DRP submitted one for the 300 Building and two for the Mayo-Underwood Building. In January, DRP reported, with no committee action necessary, the emergency lease with CoreCivic for the Southeast State Correctional Complex in Floyd County. In November, the committee approved the University of Louisville's (UofL's) master lease for the Southeast Corridor Residence Hall construction, a 128-bed facility for student athletes from the men's and

women's basketball and women's lacrosse teams as well as a living/learning community for UofL sports administration program majors.

In addition to the above, the committee reviewed the following, reported for informational purposes only: KRS 43.050(2)(e) and Auditor of Public Accounts Model Audit Program Checklist for Postsecondary Institutions lease law compliance reports; KRS 45A.800(4) renegotiation of a lease modification; quarterly KRS 56.813(2)(a)3.b. and 56.823(11)(a) leasehold improvements under \$10,000 and square footage lease modifications under \$50,000; another KRS 56.823(5) emergency lease; and a KRS 56.823(11)(a) leasehold improvement under \$50,000.

Transactions Submitted Through The Office Of Financial Management

KIA Loans, Loan Assumptions, And Loan Increases. The committee approved KIA loans, loan assumptions, and loan increases to utilities for sewer and water projects (or planning and design loans for such projects) from the Fund A (federally assisted wastewater/clean water state revolving loan fund [CWSRF]), Fund B (infrastructure revolving fund), Fund C (governmental agencies program loan fund), and Fund F (federally assisted drinking water/drinking water state revolving loan fund [DWSRF]) programs. The state match for the CWSRF and DWSRF programs is funded from general-fund-supported State Properties and Buildings Commission bond proceeds. Many of the CWSRF and DWSRF loans incorporated a percentage, up to 50 percent, of principal forgiveness based upon the utility service population's median household income and affordability index, utility's rate increase history, and KIA's funding availability. Projects may also receive supplemental funds, from localities or other sources such as Community Development Block Grants, US Department of Agriculture Rural Development grants or loans, and grants from the Appalachian Regional Commission, Delta Regional Authority, and Economic Development Administration.

In addition to standard sewer and water planning and design loans and plant, collection/distribution, and tank projects (either new or upgrades); the loans included financing of sewer and water projects (one of which is the second phase of a project that received an Environmental Protection Agency award 2 years ago) addressing federal and/or state enforcement action, creating redundancy, and/or extending service to unserved customers. Projects also included sewer capacity expansion in two industrial parks, zone meter installation to address water loss, and an emergency water storage tank replacement. With the passage of 2018 RS HB 513, allowing sewer districts to acquire assets outside of their jurisdictional boundaries, the Louisville and Jefferson County Metropolitan Sewer District in 2019 assumed the debt of the City of Crestwood and of the Oldham County Environmental Authority, including KIA Fund A loans; it plans in 2021 to also assume the debt of the Bullitt County Sanitation District, including KIA Fund B loans. Loan increases were due either to increases in project scope or to increased bids caused by unavailability of contractors.

KEDFA EDF Program. KEDFA's EDF Program, along with its High-Tech Construction/Investment and Loan Pools, is funded as needed from general-fund-supported State Property and Buildings Commission (SPBC) bond proceeds. The Cabinet for Economic Development may allocate EDF grant funds either up front (all or a portion to be repaid to the grantee if the

beneficiary does not meet annual compliance benchmarks) or as the beneficiary meets annual compliance benchmarks. To avoid providing collateral, most beneficiaries opt for the latter. In 2020, in addition to two standard EDF grants (for the benefit of Phoenix Paper in Wickliffe and Crown Holdings in Bowling Green), CED submitted eight under the Kentucky Product Development Initiative program for industrial site upgrades, administered in conjunction with the Kentucky Association for Economic Development. Disbursements of those grant funds will occur on a reimbursement basis after CED reviews the required supporting documentation.

Debt Issues. KRS 45.810 requires submittal of the commonwealth's debt-issuing entities' proposed debt issues. The commonwealth's debt-issuing entities are SPBC, the Kentucky Asset/Liability Commission (ALCo), the Turnpike Authority of Kentucky (TAK), the School Facilities Construction Commission (SFCC) (local school districts issue the debt, and SFCC pays a portion of the debt service), public postsecondary institutions, KIA, the Kentucky Higher Education Student Loan Corporation (KHESLC), the Kentucky Public Transportation Infrastructure Authority (KPTIA), the Kentucky Housing Corporation (KHC), and KEDFA.

Appropriation-Supported And Non-Appropriation-Supported Debt Issues. SPBC, ALCo, TAK, SFCC, and postsecondary institutions (postsecondary revenues and debt, irrespective of KRS 164A.608 state intercept provisions, are excluded from rating agencies' net tax-supported debt statistics) issue appropriation-supported debt. KIA, KHC (in addition to acting as a conduit issuer), KHESLC, and KPTIA issue non-appropriation-supported debt. Debt issued by KIA, leveraging Fund A and Fund F loan repayments, requires General Assembly authorization even though it does not count against the state's debt capacity because the pledged loans were partially funded with SPBC bond proceeds used for the state match. KHC's non-appropriation/non-conduit debt is moral obligation debt. However, KHC no longer issues non-appropriation/non-conduit debt as it redirected its bond volume under the annual private activity bond volume cap from tax-exempt debt for single-family loan originations toward tax-exempt conduit multifamily housing debt.

KRS 45.810(1) and 56.866(3) are the respective statutes that exempt TAK debt and ALCo tax and revenue anticipation notes from committee approval. KRS 175B.020 has separate provisions for KPTIA debt submittal.

SPBC, ALCo, and the majority of postsecondary institutions issued debt to finance new projects and/or to refinance existing debt. Additionally, in April, the committee approved an ALCo issuance, not yet executed, to allow termination of the state's three outstanding swap agreements. Debt to finance new projects included SPBC issues for the \$35 million KEDFA loan to UofL Health and for \$150 million of the \$491.3 million remaining projects, authorized with general-fund-supported debt, in the 2010 through 2020 appropriations bills; a UofL issue for the first, \$41.3 million, of two residence halls on its Belknap Campus; and a Northern Kentucky University (NKU) issue for a \$3.6 million Norse Hall renovations project (separate from the nearly completed \$1.1 million exterior repairs project), with any residual funds to be applied toward Commonwealth Hall renovations. ALCo, Eastern Kentucky University (EKU), Morehead State University, Murray State University, NKU, and UofL issued, or were approved by the committee to issue, refunding debt, with the ALCo issue current (within 90 days of the prior debt's earliest redemption date) refunding \$61.215 million of outstanding Grant Anticipation

Revenue Vehicles (GARVEEs). GARVEEs are financing instruments for which federal-aid highway funds, generated from the federal fuel tax, are used to reimburse states for debt service payments. EKV elected to receive its savings up front, placing the cash in a university housing capital reserve fund for improvements and maintenance, with EKV making the same debt service payments as before.

SFCC's debt issuance was also a combination of new projects and refinancings. Pursuant to KRS 157.622(6) and 750 KAR 1:010(10), school districts realize the savings from refinancing of debt with SFCC debt service participation. Because of historically low rates and lower tax exempt to taxable interest rate differential, it is advantageous for many school districts to issue taxable advance (more than 90 days before the prior debt's earliest redemption date) refundings. SFCC has a 5 percent net present value savings threshold and, for advance refundings, at least a 70 percent efficiency ratio requirement. The efficiency ratio is the gross undiscounted savings less negative arbitrage (the loss on the debt proceeds escrowed until the prior debt is callable), then divided by gross undiscounted savings. The efficiency ratio is set to minimize losses on escrow accounts, which would not be needed if school districts waited (involving the risk that interest rates could increase) to do a current refunding.

KHESLC executed the only non-appropriation-supported debt issue. In March, the committee approved up to \$815 million: \$722 million to finance, or retire interim financing for, Federal Family Education Loan Program (FFELP) federally guaranteed loan acquisitions as well as restructure some of its London Interbank Offered Rate based floating rate debt, consolidating up to four FFELP trust indentures (FFELP was eliminated in 2010 for new originations and most acquired FFELP loans are rehabilitation loans; KHESLC routinely acquires Kentucky Higher Education Assistance Authority and Vermont Student Assistance Corporation FFELP loans) and \$93 million to finance, or retire interim financing for, Advantage loan originations. In November, KHESLC issued \$422.64 million, primarily to purchase/restructure the KHESLC 2010-1, 2013-1, and 2013-2 FFELP floating rate notes and the FFELP loans under the PNC trust.

Conduit Debt Issues (KEDFA And KHC). KEDFA acts as a conduit for hospital and industrial revenue debt issuance, as well as debt for approved companies and economic development projects, and it has no legal or moral obligation for the repayment of the debt. Two debt issues are outstanding in which the debt is supported by appropriated contractual payments from the commonwealth and/or the borrower is an entity to whose governing body the governor appoints a majority of the members, and there have not been any such debt issues in this reporting period.

In this reporting period, Christian Care Communities Obligated Group was the only conduit borrower, seeking approval to current refund its 2016 variable rate debt (tax-exempt direct purchase bond issue approved by the committee in November 2015 and taxable term loans) held by two commercial banks which will involve termination of the associated swap agreement and finance its Nicholasville Ashgrove Woods facility acquisition, which it currently leases and operates. The transaction has not been executed yet.

KHC sought approval for the remaining six conduit issues. KHC issues multifamily tax-exempt conduit debt, with no legal or moral obligation for the repayment of the debt, on behalf of housing developers who will then receive a 4 percent credit, which does not count against the

state's annual oversubscribed low-income housing tax credit allocation, under certain thresholds. Multifamily tax-exempt conduit debt is best for projects of at least 100 units, some of which will have up to 500 units. In rural areas, developers often combine small projects to make the debt issuance financially feasible.

In addition to the above, the Office of Financial Management (OFM) gave an overview of the Municipal Liquidity Facility (MLF), the Federal Reserve's mechanism to provide cash flow to municipalities in response to delayed revenues, often to the next fiscal year, with the COVID-19 income tax filing deadline extensions. Given the MLF's relatively high pricing structure, it is more cost effective for most states, including Kentucky, to issue notes directly through the capital markets or borrow from local banks. Kentucky can borrow internally between its investment pools as well.

Also, the committee reviewed the following reports, submitted for informational purposes only: OFM's KRS 45.810(6) annual report of debt principal outstanding transmitted on behalf of the commonwealth's debt-issuing entities; KRS 45.812(1) school district debt issues (submitted through the districts' financial advisers); KRS 45.816 previous debt issue reports; quarterly previous school district debt issues with SFCC debt service participation; the Office of the Auditor of Public Accounts' KRS 45A.860(3) reports certifying procedural compliance with KRS 45A.840 to 45A.879 in the procurement of underwriter and bond counsel services (KRS 45A.840(7) includes financial advisers in its definition of *underwriter*); ALCo's KRS 56.863(11) semiannual reports; and the annual Louisville Arena Authority (LAA) report (required by KRS 65.4931(3) and Section 8.22 of the Loan Agreement for the Series 2017 bond issue) detailing operations, financial condition, and compliance with KRS 65.4931(2), which requires LAA either to apply all excess revenues to redeem a portion of its outstanding bonds or to present an alternative payment plan.

**Report Of The 2020
Child Welfare Oversight And Advisory Committee**

**Sen. Tom Buford, Co-Chair
Rep. David Meade, Co-Chair**

Sen. Julie Raque Adams
Sen. Denise Harper Angel
Sen. Reginald Thomas
Sen. Whitney Westerfield

Rep. Lynn Bechler
Rep. Angie Hatton
Rep. Joni Jenkins
Rep. Nancy Tate

LRC Staff: Ben Payne, Samir Nasir, and Becky Lancaster

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Child Welfare Oversight And Advisory Committee

Jurisdiction: The Child Welfare Oversight and Advisory Committee was created to review, analyze, and provide oversight on child welfare, including but not limited to foster care; adoption; child abuse, neglect, and dependency.

Committee Activity

The Child Welfare Oversight and Advisory Committee met three times during 2020. The committee heard testimony on a wide range of topics related to child welfare in the commonwealth.

2020 Foster Care System Executive Branch Update And Foster Parent Testimonials

The secretary of the Cabinet for Health and Family Services and the new commissioner of the cabinet's Department for Community Based Services (DCBS) presented to the committee. Due to COVID-19, DCBS put in new systems that are more accessible and flexible for employees and foster families. Although 80 percent of the DCBS workforce is working remotely, the department has maintained face-to-face interaction with children and families in crisis.

DCBS has expanded in-home services to prevent entry into care and has improved the relative service array. In July 2015, there were 7,856 children in care; as of July 2020, there were 9,797 children in care. During the pandemic state of emergency, while courts were closed, the number of children in care did go above 10,000. DCBS staff stated that there are 5,466 foster homes, of which 2,432 are DCBS-approved foster homes. DCBS continues to approve foster homes, focus on recruitment and retention of qualified staff, and continue the exploration of performance-based contracting with providers. In Kentucky in 2020, the average Child Protective Services (CPS) caseload per social worker is 27.

Kentucky is in the 75th percentile of states where children in out-of-home care have two or fewer placements. For state fiscal year (SFY) 2020, the DCBS average time frame for reunification of children to birth families is 10.3 months, an increase from 9.4 months in 2019. For SFY 2020, the DCBS average time frame for children in care to be adopted is 35.6 months. In SFY 2020, there have been 1,293 adoptions through DCBS in the state.

The department reported 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. The reopening of courts and the increased use of virtual hearings has increased the achievement of permanency for children. The commonwealth requested and received a federal waiver for fingerprinting in order to continue approval of foster families. Foster parent training was conducted via videoconferencing platforms. The number of reports with an allegation of child abuse or neglect

was reduced beginning in March 2020, coinciding with statewide closure of schools due to COVID-19.

Individual Kentucky citizens who are or have been licensed foster parents in the commonwealth gave personal accounts of their foster care experiences to the committee. The citizens told the committee about positive experiences and also shared details related to some challenging negative experiences they encountered with private child-placing agencies and with DCBS. The presenters explained what they believed to be inaccurate charges of child abuse and neglect brought against them personally by DCBS or by a private child-placing agency. In response to the allegations, the citizens had made claims that DCBS or a private child-placing agency failed to act in the best interest of a child placed in foster care.

COVID-19 Process And Procedures Related To Child Abuse Reports, Investigations, And Casework

DCBS representatives reported that the state has one of the nation's highest rates of child abuse. Representatives of family resource and youth services centers (FRYSCs) told the committee about COVID-19 responses that have included assistance with food and basic needs, nontraditional instruction and online assistance, family welfare assistance, COVID-19 prevention information, and unemployment information. FRYSCs offered referrals to mental health providers and wellness information. Several FRYSCs worked with local banks, business owners, and community members on the community need for better internet access by purchasing hot spots.

DCBS and private-agency staff are primarily using videoconferencing platforms to conduct contacts in open DCBS cases and visits with birth parents, with children in the home, and with children in out-of-home care (OOHC). DCBS staff members do assessments for safety, risk, family needs, and progress on the family's case plan. Face-to-face visits are required if safety concerns are identified. Most families and children are also receiving services via telehealth.

The number of children in OOHC started rising in April and May of 2020 and reached the highest point ever: 10,047. There were delays with some court proceedings when courts went to remote meetings. As of October 4, 2020, there are 9,383 children in OOHC, the lowest number since May 2018.

DCBS staff and stakeholders were surveyed, with an overwhelmingly positive response from both groups regarding the use of virtual platforms and electronic means for all types of needs. The commissioner stated that COVID-19, racial inequity and trauma, and the opioid crisis have created an opportunity for meaningful agency change. To re-create a 21st-century DCBS, there will be three phases; stabilization, innovation, and thriving. Stabilization is planned to take 6 months to complete, innovation will be a redesign of DCBS programs that are not working or are not well received, and thriving will entail a decrease in barriers and an increase in access and efficiencies. The phases will be led by 25 DCBS staff members, trusted advisers, and community partners.

A Kentucky family court judge and a family court liaison of the Administrative Office of the Courts (AOC) discussed how COVID-19 has impacted the court system in relation to child abuse reports, investigations, and casework. Supreme Court Order 2020-63 states that court proceedings shall be held remotely, but judges had the discretion to hold in-person hearings. For such hearings, attendees were limited to people who were allowed by statute, by order, or by the judge, and safety precautions were required. Judicial proceedings involving child safety were not halted. The AOC-1026 contact information form was created to ensure that all parties and essential persons had information to join hearings online. Courts are using Zoom, Teams, and Skype to conduct remote hearings. AOC released emergency guidance allowing remote verification, created a foster parent and caregiver's fact sheet, and collaborated with DCBS, the Kentucky Coalition Against Domestic Violence, and foster parent advocates to help all parties access the courts. In March and April of 2020, the number of dependency, neglect, and abuse cases filed was much lower than in March and April of 2019.

Child Welfare—State And National Perspectives

The Prevent Child Abuse Kentucky (PCAK) organization presented information on current child abuse statistics and prevention strategies. 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, each year from 2013 to 2018, an average of 47.5 children died under circumstances of maltreatment. An average of 87.75 children are involved in near-fatal incidents. The prevalence of child sexual abuse is believed to be higher than the rate of substantiations.

Representatives of PCAK gave examples of primary child abuse and neglect prevention resources. PCAK has 14 educational programs in the state that serve approximately 15,000 people. A recent report estimates that children who have substantiated cases for child abuse and neglect in 2018 will incur costs of more than \$19 trillion over their lifetime. PCAK is working with DCBS on a recidivism project for people who enter the parent education program to help them avoid having a recurrence.

The state policy specialist of Prevent Child Abuse America (PCAA) stated that PCAA aims to prevent abuse and neglect by strengthening families and supporting communities. PCAA is advocating 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 it develops programs to help parents raise happy, healthy children. On an annual basis, child maltreatment is more costly than patients who have a stroke or type 2 diabetes. PCAA listed several prevention strategies including expanding the Health Access Nurturing Development Services program, promoting positive fatherhood engagement, and increasing economic supports for families.

Representatives of Casey Family Programs (CFP) discussed the status of child welfare programs in the commonwealth. This organization is the nation's largest operating foundation focused on safely reducing the need for foster care and building Communities of Hope for children and families. The CFP representatives stated that Kentucky was one of the first states to gain federal approval of a Family First Prevention Services Plan.

National statistics show that more than one-quarter (28.7 percent in 2018) of children who experience maltreatment are younger than 3 years old. In Kentucky, 42 percent of children in foster care in 2018 were 5 years of age or younger. A call to a CPS hotline is the best predictor of a later fatality due to child abuse or neglect. Many children can be better served by remaining safely at home while their parents receive community services and support that prevent the removal of children.

The CFP representatives said that Kentucky and other states should be aware of new types of partnerships between birth parents and foster parents, in five sectors: government, business, nonprofit and faith-based, philanthropic, and community members. A public health approach to child well-being should be undertaken.

Kentucky Grandparent And Relative Caregiver Handbook And Resources

The president of Kinship Families Coalition of Kentucky stated that the Kentucky Grandparent And Relative Caregiver Handbook is needed, because kinship or fictive kin families are in extreme duress when called for a child placement. The handbook is written from the perspective of families who have children in the custody of DCBS or families who are not formally in the system. The handbook discusses court hearings, home visits by personnel from DCBS and court-appointed special advocates, acronyms and terminology, home assessment details, and the chain of command for issues. The handbook gives families links to forms to review, as well as information on clothes closets, food banks, and other services available to kinship families. The handbook is free and can be downloaded from the website of the Kinship Families Coalition of Kentucky.

The senior policy and advocacy director of Kentucky Youth Advocates stated that approximately 81,000 children in Kentucky are being cared for by kin, both formally and informally; the majority of those children are with grandparents. Kentucky has the nation's highest rate of children being raised by relatives. For every 6 children who go into foster care, approximately 10 others will end up in kinship care. Approximately 1,222 relatives—an increasing number—are participating in the relative foster care program. The service array by DCBS for relative or fictive kin caregivers consists of the following: Relative Caregiver Program, Relative Placement Support Benefit, Child Care Assistance Program, and Kentucky Children's Health Insurance Program. Depending on the region of residence, an informal caregiver could have access to the National Family Caregiver Support Program or the Kentucky Family Caregiver Program, which is specific to grandparents with specific income requirements and is a one-time benefit for financial support.

**Report Of The 2020
Education Assessment And Accountability Review Subcommittee**

**Sen. Max Wise, Co-Chair
Rep. Brandon Reed, Co-Chair**

Sen. Alice Forgy Kerr
Sen. Gerald Neal
Sen. Mike Wilson

Rep. Tina Bojanowski
Rep. Regina Huff
Rep. Steve Riley

LRC Staff: Joshua Collins, Chris White, and Maurya Allen

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Education Assessment And Accountability Review Subcommittee

Jurisdiction: To review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability and to provide oversight and direction to the Office of Education Accountability (OEA).

Subcommittee Activity

The Education Assessment and Accountability Review Subcommittee met three times during the Interim.

Review Of Administrative Regulations

The committee is charged with reviewing all referred administrative regulations related to Kentucky's assessment and accountability system. The following administrative regulations were referred to the subcommittee during the Interim and were presented by Kentucky Department of Education staff:

- 703 KAR 5:140, "Requirements for school and district report cards"
- 703 KAR 5:270, "Kentucky's accountability system"

Oversight Of The Office Of Education Accountability

As part of its duties to provide oversight and direction to OEA, the subcommittee received and accepted OEA's *2019 Annual Report*, required by KRS 7.410(2)(c)8. The report is a summary of the status and results of the current year's research agenda and a summary of completed investigative activity conducted during 2018.

In 2019, OEA received 414 written complaints. From these complaints, 27 cases were opened: 20 investigative cases and 7 school-based decision-making council cases. OEA closed 47 cases in 2019, and 45 cases remain pending. These numbers and the complaint subjects involved reflect the impact of the novel coronavirus pandemic.

The subcommittee received and accepted two OEA study reports. The first report, *Kentucky District Data Profiles, School Year 2019*, is an annual compilation of data collected from various sources on all school districts, with an individual profile for the entire state. It includes data on student demographics and performance, staffing data and related information, and data on district expenditures and revenue.

An Overview Of Facilities Needs And Funding In Kentucky includes an examination of the process for completing facilities upgrades in Kentucky's public schools. The report describes the process that districts use to develop district facility plans and provides an overview of the Kentucky Facilities Inventory and Classification System (KFICS) and other software used by the Kentucky Department of Education to track school facilities projects. The report also explains

how school districts' facilities upgrade projects are prioritized and funded, with reviews of state and local funding and comparisons with neighboring states. Lastly, it includes an in-depth examination of districts' approved facilities plans by comparing recent and past district facility plans, reviewing BG-5 construction closure forms, comparing district need to district wealth, and reviewing the KFICS system.

The subcommittee approved the proposed 2021 OEA Study Agenda.

**Report Of The 2020
Government Contract Review Committee**

**Sen. Stephen Meredith, Co-Chair
Rep. Stan Lee, Co-Chair**

Sen. Julian Carroll
Sen. Paul Hornback
Sen. Phillip Wheeler

Rep. Charles Booker
Rep. Chris Fugate
Rep. Mark Hart

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

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Government Contract Review Committee

Jurisdiction: Review of all nonexempt memoranda of agreement by and between state agencies, and review of all nonexempt personal service contracts by state agencies and by off-budget agencies, that include, but are not limited to, the Kentucky Lottery Corporation, the Kentucky Housing Corporation, state universities within the commonwealth, the Kentucky Employers' Mutual Insurance Corporation, the Kentucky Higher Education Assistance Authority, the Kentucky Student Loan Corporation, and the Kentucky Retirement Systems to examine the stated need for the service, whether the service could or should be performed by state personnel, the amount and duration of the contract or agreement, and the appropriateness of any exchange of resources or responsibilities; review of all qualifying motion picture or entertainment production tax incentives.

Memoranda of agreement review exemptions include agreements between the Transportation Cabinet and political subdivisions of the commonwealth for road and road-related projects; agreements between the auditor of public accounts and other government agencies for auditing services; agreements of a state agency as required by federal or state law; agreements between state agencies and state universities or colleges, and agreements between state universities and colleges and employers of students in the Commonwealth Work Study Program; agreements involving child support collections and enforcement; agreements with public utilities, providers of certain direct Medicaid health care to individuals, and transit authorities; nonfinancial agreements; any obligation or payment for reimbursement of the cost of corrective action made pursuant to the Petroleum Storage Tank Environmental Assurance Fund; exchanges of confidential personal information between agencies; agreements between state agencies and rural concentrated employment programs; and any other agreement that the committee deems inappropriate for consideration.

Personal service contract review exemptions include agreements between the Department of Parks and a performing artist or artists for less than \$5,000 per fiscal year, per artist or artists; agreements with public utilities, foster care parents, providers of certain direct Medicaid health care to individuals, individuals performing homemaker services, and transit authorities; agreements between state universities or colleges and employers of students in the Commonwealth Work Study Program; agreements between state agencies and rural concentrated employment programs; agreements between the State Fair Board and judges, officials, or entertainers contracted for events promoted by the State Fair Board; and any other contract that the committee deems inappropriate for consideration.

Committee Activity

The Government Contract Review Committee is a statutory committee of the Legislative Research Commission and is required to meet monthly. During fiscal year 2020 beginning July 1, 2019, and ending June 30, 2020, the committee reviewed 1,079 personal service contracts and 576 amendments to personal service contracts. The committee also reviewed 222 personal service contracts for \$10,000 and less, which are submitted to the committee for informational purposes only.

During FY 2020, the committee reviewed 1,070 memoranda of agreement and 537 memoranda of agreement amendments. The committee also reviewed 835 memoranda of agreement for \$50,000 and less, which are submitted to the committee for informational purposes only.

During FY 2020, the committee reviewed 1,877 personal service contract items, 2,442 memoranda of agreement items, and 20 film tax incentive agreements for a total of 4,339 items.

From the start of FY 2021 through November 9, 2020, the committee reviewed 745 personal service contracts and 253 amendments to personal service contracts. The committee also reviewed 110 personal service contracts for \$10,000 and less, which are submitted to the committee for informational purposes only.

From the start of FY 2021 through November 9, 2020, the committee reviewed 1,240 memoranda of agreement and 242 memoranda of agreement amendments. The committee also reviewed 568 memoranda of agreement for \$50,000 and less, which are submitted to the committee for informational purposes only. In addition, the committee reviewed one film tax incentive agreement.

Note: The totals reflect all personal service contracts, memoranda of agreements, and film tax incentive agreements entered into eMars procurement system, by Government Contract Review Committee staff or other agencies, and captured by the LRC Contract Reporting Database.

**Report Of The 2020
Medicaid Oversight And Advisory Committee**

**Sen. Stephen Meredith, Co-Chair
Rep. Daniel Elliott, Co-Chair**

Sen. Ralph Alvarado
Sen. Danny Carroll
Sen. Jimmy Higdon
Sen. Morgan McGarvey

Rep. Jim Gooch
Rep. Melinda Gibbons Prunty
Rep. Steve Sheldon
Rep. Lisa Willner

LRC Staff: Chris Joffrion and Hillary Abbott

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Medicaid Oversight And Advisory Committee

Jurisdiction: The Medicaid Oversight and Advisory Committee is required to meet at least four times annually and provide oversight on the implementation of Medicaid within the commonwealth, including access to services, utilization of services, quality of services, and cost containment.

Committee Activity

The Medicaid Oversight and Advisory Committee met five times during the 2020 Interim.

Effects Of COVID-19 On Medicaid Enrollment And Expenditures And Administrative Regulation Changes

The commissioner of the Department for Medicaid Services (DMS) discussed the effects of the COVID-19 public health emergency on Medicaid enrollment and expenditures. She informed the committee that the department had submitted an 1135 waiver and received approval from the federal Centers for Medicare and Medicaid Services (CMS) to suspend prior authorizations and preapprovals, to streamline the approval process for providers in telehealth and other alternative settings, to grant access to out-of-state Medicaid providers to be covered in the event of a shortage of Medicaid providers in Kentucky, and to authorize the Cabinet for Health and Family Services (CHFS) to extend presumed eligibility to Medicaid applicants. The commissioner discussed other changes resulting from COVID-19, including approving a \$200 per day add-on bonus for long-term care facilities to assist in covering the additional cost of personal protective equipment and other pandemic-related costs. She reported that the federal government had increased the federal Medicaid match by 6.2 percent, which was passed along to consumers in the form of a reimbursement rate increase.

The commissioner testified that between March and June 2020, Medicaid enrollment had increased by 164,274. Presumed eligibility accounted for approximately 77,000 of the new Medicaid enrollees.

The commissioner reported that for FY 2020, DMS would remain on budget but that the status of the 2021 budget was not yet known.

A DMS policy adviser discussed administrative regulations changes that had been made as part of the department's response to the public health emergency. The adviser testified that DMS promulgated two new administrative regulations. The first, 907 KAR 3:300, was promulgated to allow the department to quickly respond to local, state, and federal emergencies. The second, 907 KAR 1:604, was promulgated to eliminate copayment requirements for Medicaid fee-for-service beneficiaries during a state of emergency and to allow the department to waive copayments for all beneficiaries during a declared state of emergency.

Medicaid Managed Care

The DMS commissioner presented an update on Medicaid managed care organization (MCO) contracts. She noted that the current contracts were originally set to expire on June 30, 2020, but had been extended to December 31, 2020. She testified that the department has awarded new MCO contracts with an anticipated effective date of January 1, 2021. The commissioner discussed updates in the new contracts, including

- removing language referring to the Kentucky HEALTH 1115 waiver,
- requiring compliance with 2020 RS SB 50, and
- amending telehealth requirements to ensure compliance with KRS 205.5591.

Representatives from two MCOs newly contracted for the delivery of Medicaid services in the state, UnitedHealthcare and Molina Healthcare, introduced themselves and their legislative liaisons.

Reestablishment Of The Kentucky Health Benefit Exchange

The secretary of the Cabinet for Health and Family Services discussed the Governor's decision to transition the state from the federal health insurance exchange to a state-based health insurance exchange. He reported that a declaration letter of intent to transition was sent to the federal Centers for Medicare and Medicaid Services on June 16, 2020 and that the transition would begin in January 2022. The secretary testified that savings would be achieved by eliminating the federal exchange user fee, which was \$15.2 million in FY 2019.

A senior policy adviser for CHFS testified that the transition would incur a one-time cost of \$5 million to update software coding, with ongoing operational costs of \$1 million to \$2 million per year. The transition to a state-based health insurance exchange would reduce premiums and improve administrative efficiencies. Nevada, New Jersey, New Mexico, and Pennsylvania are also transitioning from the federal exchange to state-based exchanges.

Medicaid 1915(c) Waivers

A DMS policy adviser provided an overview of Kentucky's six 1915(c) home and community-based services (HCBS) Medicaid waivers. The policy adviser testified that total waiver expenditures for FY 2019 were \$940,561,437, of which approximately 70 percent was paid by federal cost-sharing funds and approximately 30 percent was paid by state funds. There is currently no waiting list for the Acquired Brain Injury (ABI) waiver, the Home and Community Based waiver, or the Model II waiver. The following numbers of people are on waiting lists:

- For the ABI Long-Term Care waiver, 38
- For the Michelle P. waiver, 7,305
- For the Supports for Community Living waiver, 2,891

The policy adviser also testified that under the Kentucky Transitions program, 735 people have transitioned out of an institutionalized care setting since 2008 and that federal funds for the program have been extended through September 2021 with a possible further extension through 2024 at least.

The DMS commissioner testified that a waiver redesign was necessary to address federal compliance risks, overutilization and underutilization rates, waiting lists, expenditure levels, a lack of reportable outcomes, and inconsistent policy and oversight. The commissioner provided an update on efforts to redesign and update the state's six 1915(c) HCBS waivers. DMS issued a request for proposals (RFP) to assess the waivers in February 2017; in August 2017, the department contracted with Navigant to conduct the assessment; and in August 2018, Navigant delivered its assessment including recommendations. The commissioner discussed redesign activities undertaken by the department since August 2018 but informed the committee that all redesign activities were paused in January 2020. No date has been set to resume redesign activities. The commissioner discussed the projected cost of a waiver redesign and expressed the department's desire to work with the General Assembly on efforts to improve and redesign the six 1915(c) HCBS waivers.

Medicaid Reimbursement To Federally Qualified Health Centers And Rural Health Clinics

The chief policy officer of the Kentucky Primary Care Association (KCPA) discussed federal requirements for state Medicaid agencies to ensure that federally qualified health centers (FQHC) and rural health clinics are reimbursed 100 percent of their reasonable cost associated with treating Medicaid beneficiaries, and the Prospective Payment System (PPS).

KCPA's director of government affairs testified that under the PPS, MCOs are required to pay FQHCs and RHCs no less than they would pay any other provider for the same services on the fee schedule. The state Medicaid agency is required to make wrap-around or supplemental payments to the clinic if the MCO fee schedule is less than the clinic's PPS rate. Federal law requires state Medicaid agencies to make wrap-around payments at least every 4 months.

The chief policy officer explained the process by which MCOs submit claims to DMS for wrap-around payments. Under the current system, many claims submitted to DMS are rejected and returned to MCOs for editing, but there is no incentive for MCOs to edit and resubmit such claims. KCPA research shows approximately \$6 million in unpaid claims dating back to 2014.

The director of government affairs discussed the various methods used by other states to ensure compliance with federal law and to ensure that FQHCs and RHCs are made whole.

The Legend Drug Repository Program

The executive director of the Kentucky Board of Pharmacy discussed efforts to implement the legend drug repository program. The board had held meetings with DMS, had evaluated the success of similar programs in other states, and had drafted administrative regulations, which were sent to DMS for review.

The DMS pharmacy director testified that the department sought guidance from CMS on establishing a legend drug repository program. CMS has informed the DMS that because prescription drugs in the Medicaid program are purchased with federal funds, they cannot be

repurposed for use outside of the Medicaid program and that Medicaid beneficiaries would need to be excluded from a legend drug repository program.

2020 RS SB 50 Implementation

The DMS commissioner discussed the requirements of 2020 RS SB 50. The department developed an RFP for the state pharmacy benefit manager and released it on August 14, 2020, and the department expects to award a contract by December 31, 2020. The commissioner noted that implementation of 2020 RS SB 50 requires approval by the federal Centers for Medicare and Medicaid Services.

The DMS commissioner testified that the department will ensure proper communication with all MCOs, Medicaid providers, and beneficiaries during the transition to a single state pharmacy benefit manager.

The DMS pharmacy director discussed the use of the Medicaid fee-for-service preferred drug list by all MCOs beginning on January 1, 2021.

2020 RS HB 8 Implementation

The DMS commissioner testified that the department holds biweekly meetings to discuss implementation of 2020 RS HB 8. The department has finalized a provider revenue survey and has a target implementation date of January 1, 2021, but the commissioner noted that implementation of HB 8 requires approval of a Medicaid State Plan amendment by the CMS.

2018 RS HB 69 Implementation

The DMS commissioner testified that the department had developed and released an RFP for a single credentialing and verification organization for all Medicaid providers. A contract was awarded on June 30, 2020, but the contract is currently under protest.

**Report Of The 2020
Program Review And Investigations Committee**

**Sen. Danny Carroll, Co-Chair
Rep. Lynn Bechler, Co-Chair**

Sen. Karen Berg
Sen. Tom Buford
Sen. Michael J. Nemes
Sen. Reginald Thomas
Sen. Stephen West
Sen. Whitney Westerfield
Sen. Phillip Wheeler
Rep. Chris Fugate

Rep. Al Gentry
Rep. Kim King
Rep. Adam Koenig
Rep. Ruth Ann Palumbo
Rep. Steve Riley
Rep. Rob Rothenburger
Rep. Walker Thomas

LRC Staff: Gerald W. Hoppmann, Greg Hager, Greg Daly, Christopher T. Hall, Van Knowles, Catherine Moran, Jean Ann Myatt, Jeremy Skinner, William Spears, Shane Stevens, Joel Thomas, and Elizabeth Hardy

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Program Review And Investigations Committee

Jurisdiction: The Program Review and Investigations Committee is a 16-member bipartisan committee authorized under KRS Chapter 6. The committee is empowered to review the operations of state agencies and programs, determine whether funds are being spent for the purposes for which they were appropriated, evaluate the efficiency of program operations, and evaluate the impact of state government reorganizations. State agencies are obligated to correct operational problems identified by the committee and must implement the committee's recommendations or propose suitable alternatives.

Any official in the executive, judicial, or legislative branch of government may request a study. A majority vote of the committee is required to initiate research studies and to approve final reports. Reports are based on staff research but represent the official opinion of the committee once approved. The committee issues a final report for a study after public deliberations that include the responses of officials of relevant agencies.

Committee Activity

The committee held six meetings in 2020 and elected the Senate and House co-chairs. The committee heard outside testimony on a previously assigned study topic, as well as on four topics unrelated to staff reports or ongoing studies. It also approved three study topics for 2021.

COVID-19 And Child Care Facilities

The committee heard testimony on child care in Kentucky during the COVID-19 pandemic. Officials from the Cabinet for Health and Family Services addressed pandemic-related issues and their impact on child care facilities. Facility owners also testified on staffing issues, child-to-staff ratios, lack of revenue, and temporary assistance from the Child Care Assistance Program and the Coronavirus Aid, Relief, and Economic Security Act. Facility owners also discussed other states' requirements to allow centers to operate during the COVID-19 pandemic with various safety measures.

COVID-19 And Unemployment

The committee heard testimony on unemployment insurance and the unprecedented level of unemployment in Kentucky as a result of the pandemic. Labor Cabinet officials testified that the pandemic has resulted in a number of changes to the system—more specifically, in the expansion of benefits to self-quarantined employees, self-employed individuals, and underemployed individuals. According to Labor Cabinet officials, the high number of claims, the complicated application process, a limited budget, and limited staff are overwhelming the system and creating challenges to timely provision of benefits. Cabinet officials stated that, during the first months of the pandemic, 1.1 million new unemployment claims were filed and \$3.2 billion was distributed to claimants.

COVID-19 Testing And Statistics

The committee heard testimony on COVID-19 testing and statistics from Department for Public Health officials. Officials summarized the testing and reporting process for COVID-19 in Kentucky and identified challenges related to the use of existing tests, as well as the use of reporting and incidence dates. In addition to these challenges, cabinet officials stated that not all providers and labs are currently using the Kentucky Health Information Exchange. Other ways to report include the federal system, fax, or electronic spreadsheet. Officials also addressed committee concerns related to reporting overall positivity rates, as opposed to simply reporting positive cases. The department is taking steps to more fully explain in public information how the positivity rates are calculated and to explain related data limitations.

Inmate Telephone Systems

The committee heard testimony on inmate telephone systems (ITS) at the state and local levels. Department of Corrections employees presented information and answered questions related to the statewide contract used to provide ITS at 14 state prisons. The contract currently generates \$3.24 million of revenue per year for the department that offsets some of the need for general funds to help pay for operational costs. Local jails are permitted to participate in the current statewide contract pursuant to KRS 45A.050(3) but choose not to do so. Rather, jails typically contract with ITS providers to provide telephone services to inmates. One of these providers is Combined Public Communications (CPC).

Officials from CPC testified that it provides not only outside phone service to inmates, but also texting devices, tablets for entertainment and education, and video visitation within the jail and off-site. CPC officials answered members' questions related to inmate restrictions, recording of phone calls, blocking inmate calls, and artificial intelligence software to aid in law enforcement investigations. CPC currently operates in 52 county jails.

Child Fatality And Near Fatality External Review Panel

The committee heard testimony from staff and members of the Child Fatality and Near Fatality External Review Panel, which reviews child fatalities and near fatalities resulting from abuse and neglect. The committee is required by statute to monitor annually the operations, procedures, and recommendations of the panel. Panel members discussed the panel's history since 2014, its composition, and its case review philosophy. Panel members also answered committee members' questions related to case examples dealing with overdose and ingestion. Finally, panel members discussed challenges related to the use of case data in order to make and implement meaningful recommendations.

**Report Of The 2020
Public Pension Oversight Board**

**Sen. Jimmy Higdon, Co-Chair
Rep. Jim DuPlessis, Co-Chair**

Sen. Christian McDaniel
Sen. Gerald A. Neal
Sen. Dennis Parrett
Sen. Wil Schroder
Sen. Mike Wilson
Rep. Joe Graviss
Rep. Jerry T. Miller
Rep. Phillip Pratt
Rep. Steven Rudy

Rep. Russell Webber
Rep. Buddy Wheatley
John Chilton
Joseph Fawns
Mike Harmon
John Hicks
James M. “Mac” Jefferson
Sharon Mattingly

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

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Kentucky Retirement Systems Administrative Subcommittee

Sen. Wil Schroder, Co-Chair
Rep. Russell Webber, Co-Chair

Sen. Jimmy Higdon
Sen. Dennis Parrett
Rep. Jim DuPlessis

Rep. Phillip Pratt
John Chilton
James M. “Mac” Jefferson

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

Public Pension Oversight Board

Jurisdiction: Assists the General Assembly with its review, analysis, and oversight of the administration, benefits, investments, funding, laws and administrative regulations, and legislation pertaining to the state-administered retirement systems.

Committee Activity

The Public Pension Oversight Board (PPOB) held six meetings from January through November 2020 and heard testimony on a wide range of topics relating to the public pension systems.

Quarterly/Annual Investment Updates

The PPOB conducted meetings in February, June, August, and November for discussion and review of quarterly and annual investment performance and cash flows.

Other Research Topics Or System Updates

The PPOB conducted meetings throughout the Interim for discussion of HB 484 compliance, unfunded accrued liability financing methods, allocation of health premium subsidy costs for retirees with service in multiple retirement systems, legislative proposals, asset allocations, actuarial stress testing, and actuarial/financial updates from the retirement systems.

Deferred Compensation Authority

The PPOB invited the Kentucky Public Employees' Deferred Compensation Authority to give updated testimony regarding auto enrollment for all state employees hired after July 1, 2019.

See the Public Pension Oversight Board's annual report at legislature.ky.gov/LRC/Publications/Pages/Research-Memoranda.aspx for more details regarding research topics, discussions, and recommendations from the 2020 PPOB meetings.

**Report Of The 2020
Tobacco Settlement Agreement Fund Oversight Committee**

**Sen. C.B. Embry Jr., Co-Chair
Rep. Myron Dossett, Co-Chair**

Sen. Matt Castlen
Sen. Paul Hornback
Sen. Dennis Parrett
Sen. Robin L. Webb
Sen. Whitney Westerfield

Rep. Kim King
Rep. Phillip Pratt
Rep. Brandon Reed
Rep. Rachel Roberts
Rep. Dean Schamore

LRC Staff: Stefan Kasacavage, Kelly Ludwig, Tanya Monsanto, Nathaniel Smith, Rachel Hartley, and Susan Spoonamore

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Tobacco Settlement Agreement Fund Oversight Committee

Jurisdiction: Matters pertaining to the Kentucky Agricultural Development Board, including requests to the board for grants and loans; planning by the board to establish short-term and long-term goals, to devise strategies, and to make investments that will assist farmers, and the administrative, financial, and programmatic activities of the board; expenditures under the Early Childhood Development Fund and the Kentucky Health Care Improvement Fund; efforts of agencies and educational institutions to assist in the revitalization and diversification of tobacco farms; efforts of institutions of public postsecondary research in conducting alternative crop development research; review of county agricultural development council plans; review of the use of Tobacco Master Settlement Agreement funds.

Committee Activity

The Tobacco Settlement Agreement Fund Oversight Committee met six times during 2020. A seventh meeting was scheduled for December.

In accordance with statutory requirements, the committee members received regular updates from the Governor's Office of Agricultural Policy (GOAP) regarding Kentucky Agricultural Development Board (KADB) funding decisions on project applications. Also, the committee received reports and testimony from executive branch agencies receiving tobacco settlement appropriations and from various organizations that benefited from the availability of tobacco settlement funds.

Staff from the GOAP reviewed projects for single counties, regions, and the commonwealth as a whole. KADB programs for which applicants may receive funding include the County Agriculture Investment Program, the Next Generation Farmer Program, the Shared-Use Equipment Program, the Youth Agriculture Incentive Program, and the Deceased Farm Animal Program. In addition to these programs, KADB introduced the Meat Processing Investment Program to provide financial incentives for Kentucky meat processors to expand their operations to process more Kentucky beef, dairy, pork, lamb, sheep, goat, and poultry products. This new program, which was developed in response to COVID-19, comprises three investment areas: Kentucky Meat Processor Incentives, Simplified Processor Capacity Expansion, and Large-Scale Processing Expansion. The program aims to help grow an area of the food chain that has been overwhelmed because of the pandemic.

At each meeting, committee members asked for additional information on projects, sought clarification on funding decisions made, and probed the rationale for reaching those decisions. Committee members posed questions about why some project applicants received particular amounts of funding or were denied funding, and made inquiries regarding project monitoring, compliance, and reporting.

During several meetings, officials from the state agencies that administer early childhood development programs, environmental conservation programs, and tobacco cessation programs provided testimony on how Master Settlement Agreement (MSA) funds were spent and

explained the value of those dollars to achieving program objectives. Additionally, the committee received testimony from representatives of Kentucky's cattle and beef industry regarding multiple MSA-funded projects. In December, the committee is to receive an update from the cancer centers at the University of Kentucky and University of Louisville on new and ongoing initiatives aimed at improving treatments for patients with cancer.

One recurring topic was the impact of COVID-19 on Kentucky agriculture as it related to the statewide and nationwide food supply chain. In addition to the new Meat Processing Investment Program, multiple MSA-funded projects were approved that facilitated the expansion of local farmer-to-consumer markets as a response to pandemic-related food shortages in grocery stores. Such farmers market projects included construction of new permanent buildings and pavilions, as well as expansions and improvements to existing structures and parking lots. Additionally, emergency funds were distributed to 25 farmers markets to help develop and implement new market protocols in response to the pandemic.

Another topic of interest to the committee was food insecurity. The committee received testimony from representatives of Feeding Kentucky and the Community Farm Alliance on its MSA-funded initiatives to fight hunger. Prior to the COVID-19 outbreak, one in seven Kentuckians was considered to be food insecure, and 33 percent of those did not qualify for federal nutrition programs. As of July 2020, an additional 270,000 Kentuckians were food insecure due to COVID-19, and food banks across the commonwealth have experienced at least a 40 percent increase in demand as a result of the pandemic.

Reports Received

- 2019 Kentucky Office of Drug Control Policy Annual Report
- 2019 Kentucky Agency for Substance Abuse Policy Annual Report

**Report Of The 2020
Classification Of Workers In The Construction Industry Task Force**

**Sen. Matt Castlen, Co-Chair
Rep. Jason Nemes, Co-Chair**

Sen. Karen Berg
Sen. Jared Carpenter
Rep. Terri Branham Clark
Rep. Sal Santoro
Jason Clark
Spencer Coates
Billy Doelker
Tommy Gumm
Marty Hammons

Jude Hehman
Patrick Jennings
Ken Lyons
Gary Morris
Anthony Russell
Kevin Sell
Allyson Smith
Robert Swisher

LRC Staff: Andrew Manno, Drew Baldwin, Audrey Ernstberger, Chip Smith, and
Sasche Allen

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Classification Of Workers In The Construction Industry Task Force

Jurisdiction: The duties of the task force shall include but are not limited to the following issues: studying the cooperation and sharing of information between relevant state and federal agencies as it relates to the classification of workers in the construction industry; studying the existing methods, both in Kentucky and in other jurisdictions, of preventing, investigating, receiving complaints, and taking enforcement action against employers that incorrectly classify employees, studying ways to prevent the incorrect classification of workers, such as through education of employers, employees, and the general public or changes to statutes or regulations, and developing a comprehensive plan with measurable goals to reduce the practice of incorrectly classifying employees in the commonwealth.

Task Force Activity

The Classification of Workers in the Construction Industry Task Force met four times during the 2020 Interim. The task force received testimony from many of the groups whose constituencies are represented in the task force membership.

Labor Cabinet Perspective

The commissioner of the Department of Workers' Claims (DWC) indicated that the department is statutorily tasked with administering workers' compensation claims and ensuring compliance of employers and employees with workers' compensation laws. According to KRS Chapter 342, every employer having one or more employees must obtain a workers' compensation policy on the voluntary market or must be certified by the commissioner of the DWC to be self-insured. As a result, the DWC is affected by the misclassification of workers from a claims standpoint and a compliance standpoint. An independent contractor is anyone who performs labor or service for compensation who is not directly employed by a statutory employer.

From the claims standpoint, the issue of misclassification of employees is determined by the employer and employee relationship. In workers' compensation, *employer* is defined as "[a]ny person, other than one engaged solely in agriculture, that has in this state one (1) or more employees" (KRS 342.630). *Employee* is defined as any person "in the service of an employer under any contract of hire" either expressed or implied and also any person "performing service in the course of the trade, business, profession, or occupation of an employer at the time of the injury" (KRS 342.640). Each year the DWC adjudicates between 3,500 and 4,500 claims in which the employer and employee cannot come to an agreement for a settlement. Claims in which the employer alleges the injured worker was not an employee but instead an independent contractor total an estimated 35 to 50 yearly. These cases are spread across all industries and are not exclusive to the construction industry. To resolve these types of claims, the DWC uses a nine-part test to evaluate four major sections. The factors include the extent to which the employer controlled the work, the nature of the work as it relates to the work of the employer, the professional skill of the alleged employee, and the true intentions of both parties. This test is not universal among state agencies, and the commissioner of the DWC said it would be best to have a unified test for determining employment status. If an employee is deemed as such and the

employer does not have workers' compensation insurance, then the Uninsured Employers' Fund (UEF) pays for those benefits. The actuary assessment for the UEF for 2019 showed a liability of \$145 million, and annually the Workers' Compensation Funding Commission transfers approximately \$7.5 million to the UEF to pay administrative expenses and current claims. Having uniform definitions of *employer* and *employee* would provide clarity for all those tasked with making determinations of employment status. Most construction-related employer investigations do find that workers' compensation coverage is carried, but the issue comes in when the policy covers only part of the employer's workforce.

The director of the Division of Security and Compliance within the DWC testified that there are 11 field investigators who are each responsible for 10 to 12 counties and are required to perform 96 to 100 investigations a month. Investigations are performed as a result of complaints made to the division and employer-reported information obtained from the Department of Revenue. Investigations can also be opened to verify "Affidavit of Exemption from the Kentucky Workers' Compensation Act" forms that local fiscal courts have submitted. In most cases, determinations of independent contractors are made by administrative law judges. Citations for noncompliance are issued for those that do not have workers' compensation insurance, and the DWC either issues a fine or files an action against the company or business. The Division of Security and Compliance performed 553 investigations in 2019 to determine whether employees were independent contractors relating to construction-related employers.

According to the director of the Division of Wages and Hours in the Labor Cabinet, very little statistical data is available relating to the topic of classification of workers from the perspective of wages and hours. The statutory definitions of *employer* and *employee* as they pertain to wages and hours differ from the workers' compensation statutory definitions. As a result, the test to determine the employer/employee relationship differs from the test that the DWC uses. One factor that is consistent among the DWC and the Division of Wages and Hours is the control in the manner in which the daily work is to be performed. The Division of Wages and Hours carries 400 to 500 cases a month with 16 investigators who cover the entirety of the commonwealth. Most cases are driven by employee complaints, injuries, or a situation of imminent danger. Inspections and investigations are not usually performed solely based on classification of employees. Those issues may be uncovered during a more typical investigation involving wages and hours or occupational safety. More than 90 percent of wages and hours cases are in the general industry area or in private industry establishments. Since the repeal of the prevailing wage law, fewer investigations are performed in public sector construction work. Although most misclassification happens in the construction industry, the issue does arise in all industries. Under the occupational safety and health laws, there are specific regulatory and procedural allowances for those with a history of good faith and those that are repeat violators. Even with a uniform standard, there would still need to be some differences pertaining to federal law. At one time the Division of Wages and Hours would share information with other divisions, departments and agencies, but it currently does not, in an effort to not be overly punitive.

Department Of Revenue Perspective

The executive director of the Office of Tax Policy and Regulation with the Department of Revenue gave an overview of how the Department of Revenue handles misclassification from the perspective of broad oversight. Construction contractors doing business in the state are required to withhold Kentucky individual income tax from their employees performing work within the state. The contractor must submit the tax and related forms to the Department of Revenue, and employees must file a Kentucky individual income tax return. The department has long realized that some construction contractors claim that they hire independent contractors, not employees, to perform work within the state. Determining whether it is an independent contractor or an employee who is performing work at a Kentucky construction job site can be very challenging. When the department receives information that indicates the need for determining whether someone is an independent contractor or an employee, the department will attempt to contact the contractor. If a dispute with the contractor arises, then staff relies on Internal Revenue Service (IRS) guidelines for determining whether a worker is an employee or an independent contractor. In some cases the department has requested that the contractor obtain an IRS SS-8 determination, which can take several months. If it is determined that a contractor has employees, the department issues an estimated assessment of tax, interest, and penalties. The department uses definitions of *employer* and *employee* found in the state income tax laws that refer to the Internal Revenue Code. The Department of Revenue does not have dedicated staff to work on issues related to misclassified workers, but tips from the public or other government agencies that are related to the issues are investigated to the extent that departmental resource levels allow. The department is willing to share information with other state agencies, and an information-sharing disclosure agreement is in place with the Labor Cabinet.

KEMI Perspective

The associate general counsel for Kentucky Employers' Mutual Insurance (KEMI) presented KEMI's perspective on misclassification of workers and proposed a solution that could offer clarity, consistency, and simplification to the process from a carrier's standpoint. Misclassification occurs in all industries, but KEMI sees it almost entirely in the private residential arena and in both the public and private sectors. In other states, employee status has to be provided to the state by employees and independent contractors. State agencies use different multifactor subjective tests to determine whether a worker is an employee or an independent contractor, often yielding varying results depending on the agency making the determination. The inconsistency causes issues for employers, workers, and workers' compensation insurance carriers. The associate general counsel presented a two-factor process that could be used in both the public and private sectors and in all industries. The process has been considered by the US Department of Labor and has been implemented in several other states. KEMI's proposed solution is an independent contractor certification process. A worker who is an independent contractor would file an affidavit alleging or declaring his or her independent contractor status with the assigned state agency. The certification approved by the assigned state agency could be used by the worker's employer, an insurance carrier, or any other applicable body, system, or agency, and would be given presumptive weight. Specific to workers' compensation, the insurance carrier would not charge a premium for the independent contractor's wages, and the worker would not be covered by the workers' compensation system in the event of an injury.

The proposed independent contractor certification process would change the dynamics of the worker status determination process. Currently, employers and insurance carriers determine whether a worker is an employee or an independent contractor, but under the proposed solution workers would determine their own status. KEMI goes through the process of determining employees and independent contractors for approximately 7,000 of its policies. The proposed certification process would eliminate a large portion of the administrative back-and-forth that is involved in the current determination process. KEMI in no way wants to make the process difficult for anyone to obtain independent contractor status. States with the certification process in place have a form downloadable online. Evidence suggests that the certification process adopted in Montana reduced litigation pertaining to the determination of whether a worker is an employee or an independent contractor. Each state using the certification process has structured it under the authority of different state agencies. Some states have housed the program in the revenue department, and others have housed it with the labor department.

Labor Perspectives

The president and the political director of the Indiana/Kentucky/Ohio Regional Council of Carpenters (IKORCC) presented a video showing a worker who has been consistently misclassified. The interviewee shown was treated as both an employee and an independent contractor at different times during his work on public projects. In addition, he was paid in cash and check and, at various times, did not have taxes taken out of his pay. The president of IKORCC explained that worker misclassification is the norm and, to combat the issue, IKORCC proposed language for future legislation. Misclassification is more common than people may realize, and legislators have been taken on tours where misclassified workers are present. The issue began when employers started hiring undocumented workers for cost-saving purposes. It is now very prevalent throughout the industry.

The managing partner at Commonwealth Alliances presented components of proposed legislation drafted in conjunction with IKORCC. The proposal requires any contractors bidding on a taxpayer-incentivized project to list all subcontractors, and any subcontractor to the primary subcontractor, with their bids. All contractors bidding on a taxpayer-incentivized project shall certify that they are not misclassifying employees, and all Kentucky agencies shall use IRS standards to determine classification, simplifying the process and limiting confusion for contractors. For taxpayer-incentivized projects, the Department of Labor may investigate a job site to determine proper classification only when it receives a complaint. The complaint can come from the entity receiving the work product, from local or state officials, from an employee, from a law enforcement agency, or from a labor/management cooperative committee. If it is determined that employees are misclassified on a taxpayer-incentivized project, work shall cease until all back taxes, penalties, and interest are paid. The state or local entity reserves the right to withhold any tax incentive or state or local payment to the contractor until all appropriate taxes are paid. If a contractor repeatedly violates this section of law, the state or local government reserves the right to prohibit that contractor from bidding on state- or locally funded or incentivized projects for a period of time.

Contractors' Perspectives

The president of the Home Builders Association of Kentucky (HBAK) noted that all contractors rely on subcontractors to complete projects. When builders hire a contractor, they have a checklist of information that is required, including proof of workers' compensation insurance. The system works well, and most contractors do things the correct way. The president noted that it was not common for someone to be without workers' compensation insurance. From the HBAK perspective, classification of workers is not a big topic or an issue of concern. The misclassification issue applies to more than just the construction industry. There are laws on the books to address misclassification issues. Most in the industry are following the rules.

A representative from Associated General Contractors of Kentucky (AGC) indicated that independent contractors perform a valuable function in Kentucky's economy and provide specialized skill to job sites. There are advantages to the independent contractor system, such as flexible schedules. Independent contractors are small businesses. Contractors may be using independent contractors on many jobs at the same time. It would be frightening to have different standards on different jobs. Any changes should be universal and apply across all industries. The AGC is opposed to employers who misclassify employees or pay cash to workers. The public construction industry is already highly regulated with emphasis on workers' compensation, taxes, and bonding. The pandemic has hampered enforcement. The current authority within governmental agencies is sufficient. What is needed is information sharing between agencies and full funding of enforcement.

A representative of the Indiana/Kentucky chapter of Associated Builders and Contractors (ABC) noted that ABC supports free enterprise and open competition, fair compensation with wages based on individual or collective bargaining, and responsible stewardship by the government. Use of 1099 forms applies to more than just the construction industry. There is no real data to support any legislative action at this time. The stories presented to the task force are anecdotal. For action to be taken, much more information is needed. At this point, there is no data regarding the prevalence of the problem or how any solution would be funded. Data mining and sharing must occur. A common definition of *employee* may be a starting point. ABC does not recommend any legislation at this point and asks that none go forward at this time.

Task Force Actions

Upon completion of the task force meetings, a final report was completed and presented to the Legislative Research Commission. The report comprised information provided by task force members.

**Report Of The 2020
Task Force On Electronic Recording Of Official Documents
By County Clerks**

**Sen. Julie Raque Adams, Co-Chair
Rep. Joseph M. Fischer, Co-Chair**

Sen. Morgan McGarvey
Sen. Stephen West
Rep. Angie Hatton
Rep. Brandon Reed
Don Blevins
Debbie Donnelly
Brent Eisele
Russell Ford
Branden Gross
Mark Ladd

Darcy Mayer
John McGarvey
Stephanie Schumacher
Debra Stamper
Gabrielle Summe
Pam Thompson
Barry Tuemler
Tim Vaughan
Michael Wilson

LRC Staff: Randall Roof, Dale Hardy, and Yvonne Beghtol

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Task Force On Electronic Recording Of Official Documents By County Clerks

Jurisdiction: Investigate the electronic recording process; review studies and legislative actions by other states; identify policy options to improve the recording and notarization process; study issues relating to the implementation of electronic recording, fees, or functions of the county clerk involved in the recording of documents; issues concerning notaries public; possible further legislation required in any of the aforementioned areas.

Task Force Activity

The Task Force on Electronic Recording of Official Documents by County Clerks met three times during the 2020 Interim. The task force received testimony from many of the groups whose constituencies are represented in the task force membership.

Administrative Regulations On Notaries Public

An overview of the regulation promulgated to implement the changes made by SB 114 in 2019 was provided by the assistant secretary of state, who also outlined the provisions of 30 KAR 8:005, which establishes the notary public application, requirements for notarial acts performed with respect to electronic records and remotely located individuals, and notary public discipline. Additionally, representatives made suggestions for legislative changes regarding electronic notarization and notaries public.

County Clerk Operations

The Fayette and Hardin county clerks outlined the steps county clerks need to take to become compliant with current eRecording standards. The Fayette County clerk emphasized the need for clerks to build up capital reserves to afford the technology upgrades necessary to allow for electronic recording in all counties. The Fayette and Hardin county clerks suggested legislative changes that could assist county clerks in updating their current technology to allow the public to electronically record official documents.

Nationwide Survey Of eRecording

Representatives from Rock Central and Simplifile provided an overview of the states that have adopted eRecording standards and the progress they have made in implementing electronic recording. They also highlighted the importance of a database that allows the public to electronically access recorded documents. Also, the representatives indicated how lack of funding can be a hindrance to the ability of a county to offer electronic filing.

Possible Future Legislation

The Kentucky Land Title Association presented suggestions for legislative changes to allow the public more access to official documents held by county clerks and a timeline for electronic filing of official documents.

**Report Of The 2020
Exceptional Support Waiver Services Task Force**

**Sen. Julie Raque Adams, Co-Chair
Rep. Steve Riley, Co-Chair**

Sen. Dennis Parrett
Rep. Tina Bojanowski
David Allgood
LeeAnn Creech
Thomas Laurino
Lisa Lee
Wendy Morris

Robert Napolilli
Brad Schneider
Steve Shannon
Amy Staed
Brenda Wylie
Bonnie Thorson Young

LRC Staff: Chris Joffrion and Hillary Abbott

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Exceptional Support Waiver Services Task Force

Jurisdiction: The Legislative Research Commission established the Exceptional Support Waiver Services Task Force in a memorandum dated June 5, 2020. The task force was established to study and make recommendations for

- new exceptional support service and payment models that will allow waiver service providers to provide the level of care necessary to support high-intensity individuals through examining cost data from direct service providers when evaluating payment models;
- creating efficiencies within the Cabinet for Health and Family Services to ensure that participants receive high-quality exceptional supports when they are needed, without delay or interruption;
- creating efficiencies within the Cabinet for Health and Family Services that support quality care and outcomes;
- which critical outcomes can be measured and used to improve the exceptional support service model; and
- how federal, state, and local resources are being used to optimize these outcomes and identifying where resources can be better coordinated or redirected to meet the needs of high-intensity waiver participants in the state.

Committee Activity

The Exceptional Support Waiver Services Task Force met five times during the 2020 Interim.

Analysis Of The Exceptional Support Waiver Services Program

The president and the vice president of the Kentucky Self-Empowerment Network and the executive director of No Boundaries Case Management appeared before the task force to discuss opportunities for improving the provision of exceptional support waiver services from the consumer perspective. The president of the Self-Empowerment Network testified that the length of prior authorizations did not meet the needs of frequent service users. The network's vice president explained the need for transportation, especially in rural communities. The executive director of No Boundaries Case Management discussed concerns related to the waiver application process.

The executive director of the Kentucky Association of Regional Programs provided recommendations for improving the provision of exceptional support waiver services. He recommended streamlining the application and approval process, adopting a team approach to the approval process, extending the prior authorization period from 6 months to 12 months, and adopting a universal, standardized assessment tool.

The executive director of the Kentucky Association of Private Providers discussed weaknesses in the current exceptional support waiver services program. She testified that regulations and the potential for payment recoupment deter providers from agreeing to support individuals with intense support needs. She also testified that the application process is overly complicated and that access to long-term care supports after stabilization is limited. She identified other

weaknesses, including an ongoing workforce shortage, limited access to consultative clinical and therapeutic (CCT) services, and concerns with the exceptional supports rate structure. She also presented two recommendations for improving the exceptional support waiver services program:

- Establish a higher level of care while retaining exceptional supports for short-term crisis mitigation and crisis stabilization.
- Overhaul the current system by streamlining the application process, adjusting timelines, allowing for backdating of claims, adjusting the rate methodology, simplifying bill procedures, improving the referral process, increasing CCT service unit limits, and establishing an exceptional support rate for case managers.

The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities testified that the department agrees with recommendations to extend prior authorization for nonclinical supports and to backdate approvals to the date on which an application was submitted.

A Department for Medicaid Services (DMS) policy adviser discussed the process by which recommended changes could be made. She explained that some recommended changes would require amendments to existing administrative regulations, which typically take 5 to 10 months. Other recommended changes would require amendments to Support for Community Living (SCL) waiver, which would have to be approved by the federal Centers for Medicare and Medicaid Services (CMS). Changes that require CMS approval could take 9 to 12 months to implement.

Crisis Transitioning

The executive director and the director of human resources for InterCare Incorporated, a crisis transition services provider, presented on the corporation's mission and operations. The executive director testified that in 2017 the state of Indiana saved \$1.3 million by using InterCare's crisis transition services. The director of human resources explained that crisis transition services provide an opportunity to build provider capacity.

Cost Neutrality

A DMS policy adviser testified that CMS regulations require that all 1915(c) home and community-based services (HCBS) waivers must be budget-neutral, meaning that the waivers demonstrate that the cost of care in the community is less than or equal to the cost of care in an institutionalized setting. The policy adviser stated that the aggregate cost per capita per month for providing institutionalized care is \$29,306 and that the aggregate cost per capita per month for providing supports through the SCL waiver is \$6,785.

Findings And Recommendations

In a memorandum dated November 23, 2020, the Exceptional Support Waiver Services Task Force submitted the following findings and recommendations to the Legislative Research Commission:

Findings

- The Supports for Community Living exceptional support services program fails to adequately support individuals with high-intensity needs and fails to adequately compensate providers who care for these individuals. The SCL exceptional support services program instead prioritizes cost savings over meeting the needs of qualified individuals and fairly compensating providers.
- The exceptional supports application process is overly burdensome and unnecessarily complicated, which may deter individuals who might qualify for services from seeking the supports they need.
- Under the current SCL waiver, many waiver participants lack access to adequate consultative clinical and therapeutic services. The availability of CCT services was significantly reduced as part of Kentucky's transition from the SCL 1 to the SCL 2 waiver. This has left participants who require intense, long-term supports after stabilization with few options for care in their communities, and it has resulted in a significant increase in applications for exceptional support services for increased CCT units.
- The ongoing COVID-19 pandemic and ensuing state of emergency have delayed the Cabinet for Health and Family Services' Medicaid waiver redesign efforts. In February 2017, the cabinet initiated efforts to modify and redesign Kentucky's six 1915(c) HCBS waivers. The goals of the waiver redesign efforts include enhancing quality of care, implementing consistent definitions across all waivers, identifying and selecting a universal assessment tool, implementing cost containment, implementing individualized budgeting, and optimizing case management to support person-centered planning and to ensure conflict-free case management as required by federal regulations. In April 2017, the cabinet contracted with Navigant to conduct an assessment of the state's various waiver programs. Navigant submitted its report, including numerous recommendations, to the cabinet in August 2018. However, due to the change in administrations and the ongoing COVID-19 pandemic, the cabinet has halted work on the redesign and has not set a date to resume work on this project.
- Kentucky could significantly increase SCL waiver and exceptional support service expenditures without violating the federal Centers for Medicare and Medicaid Services budget neutrality requirements for 1915 (c) HCBS waivers. CMS guidelines require that 1915(c) HCBS waivers demonstrate that the cost of care in the community is equal to or less than the cost of institutionalized care. In Kentucky, the current aggregate cost per capita per month for providing services in an institution is \$29,306. The current aggregate cost per capita per month for providing services in the community through the SCL waiver is \$6,785, or less than one-quarter of the cost of institutionalized care.

Recommendations

- Through the adoption of a concurrent resolution, establish a task force to study the redesign of all 1915(c) HCBS waivers during the 2021 Interim and to encourage the Cabinet for Health and Family Services and the Department of Medicaid Services to postpone any waiver services rate changes until at least 2022.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to study the potential impacts of implementing or contracting for long-term crisis transition services.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to study alternatives to institutionalization, including the possible development of a high-intensity group home model for adults with intellectual or developmental disabilities and complex medical needs through a pilot program to serve at least 12 individuals in four- or six-person group homes with a staff-to-resident ratio of at least one-to-one.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to explore strategies for reducing the number of individuals currently residing in intermediate care facilities.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to develop strategies to better utilize Kentucky's Medicaid State Plan services to meet the needs of individuals with an intellectual or developmental disability and complex medical needs.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to reform the provision of exceptional support services to SCL waiver participants. Reform efforts should include the following:
 - Adopting a single, standardized assessment tool with demonstrated reliability and validity
 - Streamlining the SCL exceptional supports application process by reducing administrative burdens, adjusting application timelines, and allowing for the backdating of exceptional support approvals to the date of application submission
 - Extending the SCL exceptional support prior authorization period for nonclinical support services from 6 months to 12 months
 - Improving the SCL referral system to ensure that providers are not deterred from accepting high-intensity referrals
 - Simplifying the SCL exceptional supports billing procedures
 - Reforming the current SCL exceptional supports rate methodology to ensure that it is truly cost-based, with a particular focus on one-to-one and two-to-one residential staffing arrangements
 - Researching the implementation of a tiered rate structure for case management based on acuity and needs of the individual
 - Restoring SCL consultative clinical and therapeutic services unit limits to SCL 1 waiver levels
 - Permitting the use of SCL exceptional supports for nonmedical transportation
 - Establishing a new SCL level of care for waiver participants whose needs cannot be met in an SCL Residential Level 1 or Level 2 setting

- Enact legislation to provide targeted funding to SCL waiver service providers to incrementally increase direct service provider wages to at least \$15 per hour.

**Report Of The 2020
Jail And Corrections Reform Task Force**

**Sen. Whitney Westerfield, Co-Chair
Rep. Michael Meredith, Co-Chair**

Sen. Michael J. Nemes
Sen. John Schickel
Sen. Robin Webb
Rep. Jason Petrie
Rep. Ashley Tackett Laferty

Brad Boyd
Commissioner Cookie Crews
Secretary Mary C. Noble
Steve Shannon

LRC Staff: Katie Comstock and Yvonne Beghtol

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Jail And Corrections Reform Task Force

The duties of the Jail and Corrections Reform Task Force shall include the study of

- existing jail and correctional facilities;
- possible realignment and closure of jail and correctional facilities;
- adequacy of existing jail and correctional facilities;
- management of Kentucky's incarcerated population;
- personnel and other costs associated with jail and correctional facilities;
- pretrial and postconviction incarceration data from the Administrative Office of the Courts, the Department of Corrections, and jails;
- pretrial defendants, including a breakdown by jurisdiction of the financial conditions of release and charged offenses for those defendants; and
- the number of supervised individuals incarcerated on new charges versus those incarcerated due to revocation.

Committee Activity

The Jail and Corrections Reform Task Force held five meetings during the 2020 Interim.

COVID-19: Fiscal And Policy Implications For Jails

Representatives of the Vera Institute of Justice highlighted the decrease in jail costs due to COVID-19, compared the top expenses for counties with and without jails, reviewed jail revenue streams, and made suggestions on how to redirect the savings.

Fiscal Impact Of Jails On Counties

The judges/executive of Cumberland and Harlan Counties explained the need for increased funding due to housing more inmates, the increase in costs, the lack of increase in the per diem for state inmates, and the drop in prisoner payments due to COVID-19.

Halfway Houses And Private Prisons

The deputy commissioner of the Department of Corrections testified that Kentucky has 1 private prison and 22 reentry service centers. The centers are multiuse facilities that provide housing for community custody inmates, transitional housing for parolees, and treatment. She highlighted the impact of COVID-19 on the correctional system.

Jail Phone Services

The Grayson County jailer provided an overview of jail phone services, the commission received by jails for those services, and the benefits of video visitation. Representatives from Securus Technologies Inc. and Combined Public Communications (CPC) reviewed the costs for and services provided by their companies. Both explained the process for ensuring that attorney calls

are not recorded. CPC's chief executive officer explained the bidding process, including the process for determining the cost to inmates and the commission for jails.

Jail Ratings Systems

A representative of the National Conference of State Legislatures provided an overview of states that house state inmates in local jails, states with correctional oversight bodies, and states with unified correction systems. In addition, she highlighted Ohio's process for evaluating state prisons.

Judicial Discretion

The Department of Public Advocacy's public advocate and deputy public advocate provided an overview of judicial discretion, including examples of, limitations on, and standards of review for such discretion.

Kentucky Local Correctional Facilities Construction Authority

The division director of local facilities of the Kentucky Local Correctional Facilities Construction Authority highlighted legislative changes made in 2011 to require the authority to approve construction of a new jail or expansion of an existing jail. She also provided a status update of projects approved by the authority since 2011.

Life Learning Center

A representative of the Life Learning Center explained the 12-week education and care continuum program that her center offers to individuals who are unable to earn a living wage, and she provided statistics on success rates, demographics, and funding.

Mental Health And Incarceration

The executive director of the Kentucky Association of Regional Programs highlighted community mental health centers, crisis intervention training, jail triage, heroin expedited addiction recovery treatment, and prerelease programs. He suggested offering severe mental illness waivers and gave data on the percentage of the jail and prison population with mental illnesses or substance use disorders. In addition, he noted the difficulty of transporting individuals who are being involuntarily committed.

The commissioner and the medical director of the Department for Behavioral Health, Developmental and Intellectual Disabilities provided an overview of Kentucky's public behavioral health facilities and highlighted the differences between acute care psychiatric inpatient services for those involuntarily hospitalized and forensic psychiatric services for those found incompetent to stand trial.

A staff attorney for the Department of Public Advocacy's Division of Protection and Advocacy reviewed the policies to protect and promote the rights of individuals with mental disabilities who are incarcerated and to eliminate placing them in solitary confinement.

Performance-Based Funding For Jails

The Marion County jailer provided an overview of evidence-based programs offered at the Marion County Jail and the need for additional funding. The division director of local facilities for the Department of Corrections reviewed the cost benefits of evidence-based programming and also emphasized the need for funding.

Reentry Services

Representatives of Dismas Charities, Volunteers of America, and Opportunity for Work and Learning (OWL) provided an overview of services to help inmates transition back into their communities, as well as an overview of the effects of COVID-19. Dismas Charities offers the Fresh Start System and a biometric resident accountability module. Volunteers of America oversees the Halfway Back Men's Program and the Freedom House Program. OWL established the Lexington Manufacturing Center, offering the Advancing Capabilities Enhancing Skills program, and it collaborates with the Office of Vocational Rehabilitation, Workforce Reentry, and Supplemental Nutrition Assistance Program Employment Training.

Transportation And Mental Holds For Prisoners

Representatives of the Kenton County Sheriff's Office and the Boone County Sheriff's Office highlighted the challenges of transporting prisoners from one county jail to another, including the expense, the drastic drop in inmates due to COVID-19, and the liability associated with transporting inmates with mental illness.

**Report Of The 2020
Property Valuation Administrator's Office Task Force**

**Sen. Robby Mills, Co-Chair
Rep. Randy Bridges, Co-Chair**

Sen. Denise Harper Angel
Sen. Michael J. Nemes
Rep. Samara Heavrin

Rep. Nima Kulkarni
Tom Crawford

LRC Staff: Jennifer Hays, Cynthia Brown, and Chase O'Dell

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Property Valuation Administrator's Office Task Force

Jurisdiction: Study the operations of property valuation administrators' offices to identify best practices to reduce redundancy, increase efficiency, improve processes, increase cost savings, and create uniformity among the offices located within the commonwealth. Study the funding of property valuation administrators' offices to identify if other funding methods or an increase in the current level of funding is needed. Study each property valuation administrator's job requirements, property valuation methods, and time frame established in relation to the ad valorem taxation process.

Committee Activity

During the 2020 Interim, the Property Valuation Administrator's (PVA's) Office Task Force held five meetings. The committee received testimony regarding a wide range of topics related to the Property Valuation Administrator's Office.

Discussion Of The Draft Report Of The Property Valuation Administrator's Office Task Force

A member of the LRC Appropriations and Revenue staff discussed the draft report of the Property Valuation Administrator's Office Task Force.

The major objectives of the task force were reviewed, including studying the operations of PVA offices to identify best practices, studying the funding of these offices, and studying PVA job duties.

PVAs assess real estate parcels; administer the homestead exemption; transfer property records; provide correct addresses for tax assessments; handle tangible property tax returns; and assess vehicles, boats, and campers. PVA offices are also responsible for recordkeeping. Records include real property appraisals and exemptions, maps, sketches, photos, tangible property data, and more.

PVA offices are funded through four major sources: state appropriations; county appropriations; appropriations from cities that elect to use the PVA assessment; and miscellaneous income received from charging fees, from printing tax bills, or from interest.

The Kentucky PVA Association has requested that a dedicated funding stream be allocated to PVAs. The association recommends that a percentage of the state real property tax rate be allocated directly to PVA offices. Some PVAs have suggested that special purpose governmental entities (SPGEs) should be charged a fee for using the property tax rolls. The association suggested that the amount that counties and cities pay for using the tax roll should be increased, either through a consumer price index that gradually increases every year, or through increased caps. The association also suggested that a fee be attached to property tax bills on motor vehicles.

Overview Of The Property Tax Calendar

A member of the LRC Appropriations and Revenue staff provided an overview of the property tax calendar, which begins January 1 with the assessment date. The listing period follows the assessment date. The PVA is involved during this part of the calendar through May. During the listing period, the PVA is collecting data to create the tax roll. The inspection period begins in May. During this time, the public can review the assessments, and property owners can appeal the value of their property. After the inspection period, the Department of Revenue certifies tax rolls and assessments submitted by PVAs. The department certifies by doing a sales assessment ratio study to determine whether current assessments are within the acceptable range of fair cash value.

Once the assessments are complete and the tax rate is set, tax bills can be prepared. The county clerk prepares tax bills and must deliver those bills to the sheriff by September 15. Once the bills are delivered, the sheriff can mail them and collect the taxes, which are due by December 31. The dates and deadlines within the property tax calendar are mandated by statute rather than by the state constitution.

When an entity fails to meet the tight deadlines, there will be a ripple effect throughout the calendar. Delays in the property tax calendar can impact the budgets of local taxing districts that rely solely on property tax income. Other PVA job duties are impeded when county clerks have to prepare property tax bills in September while also preparing for a November election. Assessment notifications consume time and resources, which can affect the calendar.

Overview Of The PVA's Job Duties And Office Funding

The executive director of the Kentucky PVA Association 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 Constitution of Kentucky. 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, and they produce more than \$3.2 billion in state and local tax revenues annually.

By statute, PVAs are state officers with county jurisdiction. Deputies are nonmerit, at-will state employees. The Department of Revenue (DOR) authorizes each PVA's office budget. PVAs must have their assessments certified by the DOR annually. Certifications rely on a sales ratio study.

PVAs assess more than 2 million properties statewide. PVAs also maintain records of property ownership and transfers. 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 5 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 4 years.

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 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 more than \$56 million. This appropriation is to be used only 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. Other common operating expenses for a PVA office include vehicle costs or mileage reimbursement, computers, geographic information systems (GIS), database software and technology, postage, printing, and office supplies.

The position of the Kentucky PVA Association is that 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.

PVA Office Efficiencies, Best Practices, And Uniformity Among Offices

The Webster County PVA testified that one of the difficulties in creating uniformity is that each county is unique. Local PVA offices are charged with certain duties to comply with constitutional, statutory, and recommended guidelines. The Webster County PVA advocated for expanding the Kentucky property tax calendar to provide each governmental agency involved in the process a road map to get their job done in a timely manner.

PVAs are guided by statutes and guidelines for recordkeeping. Many counties are struggling with adequate storage space for records. There are many technology products that can be used to create more efficiency, but a cost/benefit ratio must be considered. The Webster County PVA office chooses the programs that it can best afford. Other government agencies are provided standardized software, which allows for uniformity between circuit clerks and county clerks.

The Daviess County PVA office has 9.5 employees and is funded for 12. Training is given on the job and through classes given by the Department of Revenue. Daviess County is a rapidly developing county, which needs to use technology as much as possible, because of a lack of deputies and funding. Technology services used by the office include services for aerial imagery and access to a countywide planning and zoning database for permits. The Daviess County PVA office also has current and upgraded computers, printers, scanners, and software, as well as tablets, vehicles, and laser measurement tools for field deputies.

The Boone County PVA testified that that office has 10.5 state-funded staff members. The office has eight part-time employees and eight full-time employees. Also discussed was the burden on PVA offices of rising retirement costs with no increased funding.

Revenue Generated By The PVA Office And Any Office Expense Issues Or Challenges

A representative of the Department of Revenue testified most appropriations come from the general fund, as well as from counties and cities. The general fund appropriation to PVAs totaled \$56.4 million in 2020. PVA offices also receive miscellaneous income from interest, printing tax bills, and fee schedules.

General fund appropriations are not enough to cover all PVA personnel costs for the year. In 2020, a total of 64 percent of income generated by PVA offices had to be submitted back to the DOR to cover personnel costs.

The Henderson County PVA testified that the \$56.4 million appropriation from the general fund is only for PVA office payroll expenses. Local fund allocations are based on the size of the tax roll. These allocations total \$11.6 million statewide.

The state allocation to PVA offices covers roughly 83.5 percent of payroll needs. Offices must come up with an additional \$11,250,000 just to make payroll. A total of 73 percent of local allocations goes toward paying office staff, leaving \$3,100,000 of local allocations to pay for operating expenses. PVA offices generate more than \$3 billion in revenue every year. There is a \$48 return in revenue for every dollar spent on PVA offices.

PVA offices are locked into pay grades that are 11 years old. Office expenses include aerial imagery, computers and software, vehicles, postage, and more.

A total of 38 full-time positions within PVA offices statewide have been eliminated, which saves \$1.5 million annually. The 90-day hiring freeze saves \$650,000 a year. As of 2019, almost 90 positions had not been filled due to a lack of funds.

The director of the Kenton County Public Library testified that most libraries are SPGEs. Libraries that are SPGEs are funded almost entirely through property taxes. Libraries do not receive payroll taxes or taxes on insurance or utilities. Libraries that are not SPGEs receive funding from other local sources.

The chief of the Buechel Fire Protection District testified that professional firefighters are required to take 100 hours of continuing education every year. Fire districts are battling increased costs with limited revenue. Fire districts are also seeing increased administrative costs through health insurance, training, and pensions. PVAs provide tax rolls to fire districts. Fire districts have very limited additional revenue outside of the tax base.

Technology And Software

Member Tom Crawford testified that PVA offices are responsible for purchasing vehicles, computers, and tablets for field work. All equipment needs are paid for with local funds received by the office.

The Finance and Administration Cabinet's enterprise license agreement for ArcGIS software currently includes 116 county PVA offices. An estimated annual savings of \$200,000 is realized through this agreement.

There are 11 tax roll software systems in use throughout the state, along with complementary software programs.

There are 107 PVA offices with a website. Each office negotiates its own contract agreement.

The county clerks and sheriffs make their own decisions in regard to what software vendor they want to use. If all offices involved in the property tax process were to use the same vendor, there could be a smooth transfer of data from the PVA office to the county clerk's office and to the sheriff's office.

A representative of the Commonwealth Office of Technology (COT) testified that COT-GIS operates under KRS 42.650 and maintains the central statewide GIS clearinghouse.

Kentucky is commonly known as the best-mapped state in the nation. The state maintains a nationally recognized, publicly available Enterprise GIS that is accessible as interactive maps, downloadable data, and baseline information. GIS began in Kentucky 40 years ago. The KyGeoNet and its supporting infrastructure at COT receives a monthly average of 15 million server requests from more than 30,000 unique visitors using interactive maps, retrieving data, or doing data research. Kentucky, through its KyFromAbove program, is one of the few states that have achieved statewide elevation data coverage.

The COT representative reviewed opportunities for cost savings, including purchasing flyovers once and letting everyone use the results. All GIS users need ortho imagery. Oblique imagery needs to be made available to PVAs. Data should be openly shared at all levels of government.

A representative of the Kenton County Sheriff's Office discussed how the sheriff's office and the Kenton County PVA's office work together with shared software on property tax issues, such as getting individuals signed up for the homestead exemption. The sheriff's office collected 99.2 percent of property taxes due. The office also has an in-house software system.

The Henderson County clerk testified that the Henderson County PVA has separate software, while the county clerk, county attorney, and sheriff share the same software. It works well with the segregation of duties. Having a separate software system provides an extra layer of checks and balances to ensure that the assessment data is accurate for preparing the tax bills. There are no problems in Henderson County with there being two separate software programs as opposed to one shared program.

**Report Of The 2020
Public Water And Wastewater System Infrastructure Task Force**

**Sen. Phillip Wheeler, Co-Chair
Rep. Jim Gooch, Co-Chair**

Sen. Brandon Smith
Sen. Robin Webb
Rep. Derek Lewis
Rep. Dean Schamore

Linda Bridwell
Paul Miller
Josiah L. Keats

LRC Staff: Stefan Kasacavage, Tanya Monsanto, Janine Coy, and Susan Spoonamore

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Public Water And Wastewater System Infrastructure Task Force

The overall problems facing Kentucky's water and wastewater utilities have remained unchanged since December 2019. Most water and wastewater systems, especially in rural parts of the commonwealth, continue to be undercapitalized and in need of infrastructure investment. A smaller subset of systems are potentially mismanaged and in serious financial distress. Over the past 2 decades, many of these distressed water and wastewater utilities resisted the call to increase rates or make needed infrastructure upgrades and repairs, which has left those systems at risk of insolvency.

The Legislative Research Commission established the Public Water and Wastewater System Infrastructure Task Force during the 2019 Interim. The task force was reauthorized to continue its work during the 2020 Interim. The LRC-appointed membership was reduced from 15 members to 9 members, but the goals of the task force remained principally unchanged. The task force was directed to implement the 2019 task force recommendations; pinpoint state agencies with regulatory, oversight, and enforcement responsibilities; determine statutes that need to be amended; and identify financial resources for water and wastewater utilities. The task force received written recommendations and took testimony from various stakeholders, and the co-chairs informed the LRC of those recommendations by memorandum dated December 1, 2020.

Task Force Activity

The task force held three meetings in June, July, and October of the 2020 Interim. Unlike the work performed in 2019, the task force shifted its initial focus to understanding the impact of COVID-19 on Kentucky's water and wastewater systems. The task force found that COVID-19 had significant impacts on water and wastewater utilities due to business closures, unemployment, and increased water usage for cleaning and disinfecting.

Utility Disconnections And Late Fees Related To COVID-19

Representatives of the Kentucky Public Service Commission (PSC) explained that 29 states and the District of Columbia issued moratoriums on utility disconnections. In March, the PSC opened case number 2020-00085 to evaluate the impact of COVID-19 on utility customers. Initial case filings showed a slightly higher rate of delinquencies during the pandemic, but there was no hard data on customer nonpayments (arrearages). On May 8, 2020, the Governor signed executive order 2020-323, which suspended disconnection of utility ratepayers for nonpayment and waived late fees for ratepayers. This action covered all regulated utilities as well as municipal and privately run utility services.

The task force anticipated that the combined impact of reduced household income and prohibitions on disconnection would result in a glut of customer arrearages for Kentucky's utilities, including water and wastewater utilities. The arrearages would negatively affect the utilities' profitability and operating income. The task force asked whether federal Low Income Home Energy Assistance Project (LIHEAP) funds could assist water ratepayers and wastewater

ratepayers. The PSC reported that LIHEAP does not pay for water and sewer bills, but there is hope that a congressional relief package would include some LIHEAP-type funding for water and sewer.

Funding Of Water And Wastewater Infrastructure Projects

Representatives of the Kentucky Infrastructure Authority (KIA) and the Office of Financial Management in the Finance Administration Cabinet outlined various state and federal sources of funding for water and wastewater infrastructure. Kentucky's water and wastewater utilities will need approximately \$892 million and \$475 million for wastewater and drinking water projects, respectively. Funding through KIA is available for projects related to drinking water, wastewater, storm water, and infrastructure. Bond financing could fill some of the funding gaps. However, some water and wastewater utilities are unable to access funding of any type because they lack up-to-date audits, which are part of the eligibility criteria for most funding programs.

Healthy At Home Utility Relief Fund

In October, the Governor signed executive order 2020-881, which lifted a moratorium on utility disconnections and set aside \$15 million in the Healthy at Home Utility Relief Fund. Established to prevent disconnection from essential utility services, this fund principally serves customers of water and wastewater utilities.

Legislative Proposals

The president of Bluewater Kentucky (a consulting agency that has worked to reform the ailing Martin County Water District), the executive director of the Kentucky Rural Water Association (KRWA), and a representative of Bowling Green Municipal Utility presented their legislative proposals to the task force. Written recommendations were received from the KRWA, the Kentucky Municipal Utility Association, KIA, and the PSC. Many of the recommendations shared common themes.

High-Risk Utilities. There was an emphasis on targeting high-risk utilities rather than establishing broad reforms and standards for all utilities. The argument was made that COVID-19 was creating too many uncertainties for water utilities. Fiscally, utilities do not know whether arrearages will continue to grow or if the additional funding through the relief fund will be sufficient. Also, personnel issues arise as principal employees are either remote or unavailable because of COVID-19. All testimony echoed the need for annual audits, additional training for board and commissioner members, and adoption of asset management planning, but the concern was that adding more requirements on all utilities would reduce the number of ways to address COVID-19. The Division of Water, the auditor of public accounts, or KIA could identify utilities that are underperforming or in distress. Then a plan could be developed to address the needs of those distressed utilities.

Measuring Water Loss. Adopting a method and standard for measuring nonrevenue water costs as a percentage of total operating costs is more effective than measuring water loss as a percentage of total water. The American Water Works Association has methods for measuring

water loss as a percentage of total operating costs. The concern was that the Public Service Commission's current method of assessing high water loss as a percentage of total water unnecessarily penalizes the utility. Water and wastewater utilities need flexibility to prioritize goals in capital planning because some water loss may be deemed an affordable loss.

Rate Adjustments. Regular rate review and measured rate adjustments are affordability concerns for water and wastewater utilities. Many such utilities continue to resist rate increases, but the rate should reflect the full cost of service and provide revenue for maintenance and capital improvements. The Kentucky Rural Water Association noted that water rates will not decrease. Although Martin County has some of the highest water bills, a KRWA study demonstrated that the Martin County Water District needed to raise its rates by 50 percent to stabilize expenses.

**Report Of The 2020
Substance Use Recovery Task Force**

**Sen. Ralph Alvarado, Co-Chair
Rep. Russell Webber, Co-Chair**

Sen. Julie Raque Adams
Sen. Johnny Ray Turner
Sen. Max Wise

Rep. Danny Bentley
Rep. Joni Jenkins
Rep. Lisa Willner

LRC Staff: Ben Payne, Samir Nasir, and Christina Williams

**Presented to the
Legislative Research Commission
and the
2021 Regular Session of the
Kentucky General Assembly**

Substance Use Recovery Task Force

Jurisdiction: The Substance Use Recovery Task Force was created to review all substance use recovery grants and efforts under way in the commonwealth. The duties of the task force shall include but are not limited to

- examining the University of Kentucky HEALing grant, the Kentucky Opioid Response Efforts, and any other substance use recovery grants or efforts in the commonwealth;
- examining the capacity for Medicaid funds to be used for addiction treatment while incarcerated; and
- 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 reentry of substance-involved individuals that may include engagement by social workers, peer support, health care connections, and workforce development supports.

Task Force Activity

The Substance Use Recovery Task Force met six times during 2020. The task force heard testimony on a wide range of topics related to substance use disorder (SUD) in the commonwealth.

Substance Use Disorder Treatment Programs In The Kentucky Department Of Corrections

The director of the Division of Addiction Services, Department of Corrections, and a county jailer testified on how corrections systems are working in the arena of SUD. These officials reported on the total numbers of incarcerated individuals who suffer from SUD and the numbers of programs the corrections system has to treat these inmates.

The task force learned that there are not enough funds to adequately operate the treatment programs to serve the entire inmate population affected by SUD. The officials told the task force that significant barriers exist for these individuals when they attempt to access opioid disorder treatment programs, well before they are ever involved with the criminal justice system.

Capacity For Medicaid Funds To Be Used For Addiction Treatment While Incarcerated

The commissioner and the chief behavioral officer of the Kentucky Department for Medicaid Services discussed how Medicaid funds could possibly be used to treat individuals with SUD while they are incarcerated. The task force learned that Kentucky is seeking approval from the US Centers for Medicare and Medicaid Services (CMS) for an amendment to its Medicaid substance use disorder 1115 waiver to authorize federal Medicaid matching funds for the provision of SUD treatment to eligible incarcerated individuals.

Kentucky Workforce And Substance Use Disorder

Representatives of the Kentucky Chamber of Commerce and more than five private business testified on their suggestions and experiences related to employment for individuals with SUD. The chamber officials discussed their collective process in helping to create a database of employers in Kentucky who have job opportunities for individuals with SUD. The individual employers presented information about their real-time experiences with employees at different stages of SUD. They explained that they have created fair-chance employment policies that help encourage continued employment of individuals with SUD.

Substance Use Recovery And Treatment Programs

Officials from the University of Kentucky (UK) testified about its role in providing services and treatment options for individuals with SUD. The university has been awarded hundreds of millions of dollars in federal and private grant money to be used in studying and establishing treatment modalities for SUD. UK partners with public and private entities to create treatment opportunities throughout the commonwealth.

The executive director of the Kentucky Office of Drug Control Policy reported on executive and legislative actions taken over the last 8 to 10 years related to battling the opioid epidemic in the state. The amount of illegal drugs has diminished because of new laws over the last several years. The official said that additional steps beyond legislation to combat SUD are needed. Some of these steps could be creating opportunities for treatment, stable housing, medication-assisted support, and peer supports.

Representatives of private treatment programs throughout the commonwealth provided testimony. The task force learned that statistics show the need for active treatment programs in Kentucky. Almost all of the programs offer peer support, case management services, life skills and job support training, vocational and academic education opportunities, guaranteed opportunities for employment, transportation assistance, medical and psychosocial therapies, and housing supports. Some programs serve a few hundred individuals a year, and others have the capacity to have monthly contact with more than 1,000 individuals. The task force heard from private companies urging the awareness of alternative medications, technology, and injectables related to the treatment of SUD.

Findings And Recommendations

In a memorandum dated November 24, 2020, the Substance Use Recovery Task Force submitted the following findings and recommendations to the Legislative Research Commission:

Findings

- A significant number of incarcerated individuals have a substance use disorder, and many are incarcerated for crimes related to their substance use disorder. The ability to effectively treat these inmates, while incarcerated or in post release, is not adequate because of barriers in the referral process that prevent Kentucky jails and correction facilities from taking full

advantage of every treatment option available. A part of this inadequacy is that there are not proper levels of funding for these programs from federal, state, and local governments. Information was given stating that research shows 60 percent to 70 percent of those incarcerated, paroled, or probated individuals have some form of a substance use disorder and are in need of treatment and an assessment. Kentucky state and local corrections agencies are trying to serve this segment of the corrections population, but they reported insufficient funds to operate the necessary treatment services and programs. Kentucky should seek approval from the CMS for an amendment to its Medicaid substance use disorder 1115 waiver to authorize federal Medicaid matching funds for the provision of SUD treatment to eligible incarcerated individuals. The Kentucky Department for Medicaid Services submitted the application to CMS and is awaiting a determination.

- More than \$400 million has been awarded to the University of Kentucky in grants and programs to conduct research in the field of substance use disorders. UK is using this funding to establish, operate, and monitor SUD research and treatment programs throughout the commonwealth, such as the Helping to End Addiction Long-Term Communities Study, the Justice Community Opioid Innovation Network, the Kentucky Communities and Researchers Engaging to Halt the Opioid Epidemic, syringe service programs, the Kentucky Opioid Response Effort, bridge clinics, and the Perinatal Assistance and Treatment Home program.
- Business owners and business advocacy organizations such as chambers of commerce have been working for many years in the area of creating positive employment opportunities for individuals who suffer from SUD. The task force heard testimony from businesses about their individual efforts to actively employ individuals with SUD. The Kentucky Chamber of Commerce reported on statistics that show work on a database of employers in Kentucky who have nearly 90,000 job opportunities for individuals with SUD. The General Assembly has been working to create more positive employment opportunities for individuals with SUD. In the 2020 Regular Session, SB 191 was enacted, calling on the Cabinet for Health and Family Services to establish a framework for fair-chance employers to adapt; in return, they receive protection from certain liabilities related to negligent hiring, retention, and supervision.
- The reduction of the supply of opioids on the market in Kentucky has helped to reduce the number of individuals in the commonwealth who suffer from SUD. The General Assembly has enacted several bills in the last 10 years that have helped to reduce the number of illicit opioids in Kentucky. HB 1 of the 2012 Extraordinary Session, commonly referred to as the Pill Mill Bill, was aimed at the prescribing of opioids for chronic pain. SB 192 from the 2015 Session, the Heroin Bill, created some harm reduction measures, such as a Good Samaritan provision, greater access to naloxone, allowance for syringe services, and tougher penalties for heroin and fentanyl offenses. HB 333 from the 2017 Session addressed prescribing for acute pain and created harsher penalties for trafficking heroin. The Kentucky Office of Drug Control Policy additional steps beyond legislation to combat SUD, such as creating opportunities for treatment, stable housing, medication-assisted support, and peer supports.
- More SUD treatment programs now exist and successfully operate in all regions of Kentucky and offer inpatient and outpatient treatment and short-term and long-term supports to individuals with SUD. In 2019, there were 70,466 overdose deaths nationwide and 1,316 in Kentucky. So far in 2020, there has been a 5 percent increase over the number of overdose deaths in 2019. One in five incarcerated people are incarcerated for a drug offense.

Approximately 29 percent to 50 percent of workers reported substance abuse issues for alcohol, recreational drugs, or prescription drugs. These statistics show the need for active treatment programs in Kentucky. The programs in Kentucky offer treatment and support modalities for individuals with SUD. Almost all of the programs offer peer support, case management services, life skills and job support training, vocational and academic education opportunities, guaranteed opportunities for employment, transportation assistance, medical and psychosocial therapies, and housing supports. Some programs serve a few hundred individuals a year, and others have the capacity to have monthly contact with more than 1,000 individuals. SUD treatment programs in Kentucky offer differing models for length of treatment. Depending on the SUD that is being treated, some programs have success in a few months; under other programs, successful treatment of SUD involves participation in a multiyear program.

- The Substance Abuse and Mental Health Services Administration, a part of the US Department of Health and Human Services, has awarded Kentucky \$78.8 million in federal funds from October 2018 to September 2021 to be used toward the response effort to SUD. Kentucky is using this money to increase access to medications for opioid use disorder, reduce the unmet treatment need, reduce opioid overdose-related deaths, and expand evidence-based services to address stimulant misuse and use disorders. Testimony was given to the task force related to state training for individuals on how to properly use overdose reversal medications. The task force also heard from private companies urging the awareness of alternative medications, technology, and injectables related to the treatment of SUD.

Recommendations

- Through the adoption of a concurrent resolution, encourage the Education and Workforce Development Cabinet to encourage Kentucky businesses to create career paths for individuals who are in need of second chances and to not have “zero tolerance” policies for employees related to substance use disorder.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to establish a work group to create written recommendations for distribution throughout Kentucky for individuals who suffer from substance use disorder, related to ways to reduce the barriers those individuals experience when attempting to access opioid disorder treatment programs.
- Through the adoption of legislation, expand the use of telehealth for counseling, behavioral therapy, medication-assisted treatment, and general medical care for individuals with substance use disorder and require that private insurance and the Kentucky Medicaid program provide coverage for these expanded services.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services and the Justice and Public Safety Cabinet to work together to create recommendations for the legislature related to partnerships for decriminalization, diversion programs, and funding of drug courts, and to submit those recommendations to the Legislative Research Commission by December 1, 2021.
- Through the adoption of legislation, remove the barriers of prior authorization requirements for medication-assisted treatment related to treatments approved by the US Food and Drug Administration.

- Through the adoption of a concurrent resolution, encourage the Cabinet for Health and Family Services and Medicaid managed care organizations to permit coverage of digital therapeutics approved by the US Food and Drug Administration in order to provide more therapy options and improve compliance and outcomes for individuals going through substance use disorder recovery.
- Through the adoption of a joint resolution, encourage the Cabinet for Health and Family Services to work with substance use disorder treatment providers to establish a pilot program to fully fund post-inpatient treatment housing and transitional living in a limited setting for individuals with substance use disorder.
- Through the adoption of a concurrent resolution, encourage Congress to continue to provide state funding that supports the Kentucky Opioid Response Effort and other programs that provide support to individuals with substance use disorder.
- Through the adoption of a concurrent resolution, support the Cabinet for Health and Family Service's 1115 waiver application for Medicaid funds to be permitted to be used for addiction treatment for incarcerated individuals and encourage the US Centers for Medicare and Medicaid Services to approve the commonwealth's waiver application.
- Through the adoption of a joint resolution, direct the Cabinet for Health and Family Services to study why individuals do not seek treatment for a substance use disorder before becoming involved in the family court system or the child welfare system, to identify barriers to treatment, to develop strategies for access to treatment, and to submit the findings to the Legislative Research Commission by December 1, 2021.
- Through the adoption of a joint resolution, direct the Justice and Public Safety Cabinet to study why individuals do not seek continued treatment for a substance use disorder after release from incarceration, to identify barriers to finding a treatment program, to develop strategies for access to a treatment program, and to submit the findings to the Legislative Research Commission by December 1, 2021.