

**ETHICS REPORTER**

**September, 2021**

Kentucky Legislative Ethics Commission

22 Mill Creek Park, Frankfort, Kentucky 40601-9230

Phone: (502) 573-2863

<http://klec.ky.gov>

***Kentucky lobbying continues to rival records for odd-year spending***

According to the most recent lobbyist and employer reports, legislative lobbying spending for the first 8 months of 2021 was just shy of $15 million, at $14.9 million.

Businesses and organizations kept up the trend of increased lobbying spending by nearly reaching the record $15.7 million spent in the same period in 2019.

The General Assembly is in session for only 30 legislative days in odd years, as opposed to a 60-day session in even numbered years. While a special session was also held in September, these expenditures will not be reported until January, 2022.

During the first two-thirds of 2021, 748 lobbying employers paid about 612 lobbyists $13.5 million, and an additional $531,872 was spent on lobbying-related administrative costs, such as travel and other expenses.

The leading spender for January through August, 2021, is the **Kentucky Chamber of Commerce**, which spent $355,812 on lobbying. The second place finisher, at $184,933, is **Altria (Philip Morris)**.

The rest of the top 10 spenders and amounts for this period of reporting are: **American Civil Liberties Union of Kentucky** ($162,863); **Kentucky Hospital Association** ($124,127); **Kentucky Equine Education Alliance (KEEP)** ($122,156); **Keeneland Association** ($122,118); **Kentucky Education Association** ($108,081); **CSX Corporation** ($103,467); **Secure Democracy** ($103,240); and **Anthem, Inc. and its Affiliates** ($96,500).

The remainder of the top 20 spenders and amounts are: **Heaven Hill Distilleries** ($96,000); **Kentucky League of Cities** ($893,438); **HCA Healthcare** ($89,665); **Charter Communications** ($88,967); **National Council of State Boards of Nursing** ($86,330); **LG&E and KU Energy** ($84,413); **Kentucky Retail Federation** ($77,282); **Westlake Chemical Corporation** ($77,000); **RAI Services Company** ($76,625); and **DraftKings, Inc.** ($76,500).

***Advertising relating to lobbying in the 2021 legislative session nearly doubles from last short session***

In 2014, bipartisan legislation enacted by the Kentucky General Assembly required employers of lobbyists to report the cost of advertising appearing during a legislative session that supports or opposes legislation, which is paid for by that employer of lobbyists or a person or organization affiliated with an employer. This includes statements disseminated to the public in print, via radio or television, on billboards, or any electronic means, including internet or telephonically, and includes direct or bulk mailings.

During the last short regular legislative session, in 2019, **$317,859** was spent on advertising relating to legislation, by employers of lobbyists.

In 2021, this amount increased substantially, as employers spent **$500,928** on advertising to support or oppose legislation during the regular session.

The top 5 employers and amounts spent on advertising, and legislation reported, were:

* **Kentucky Chamber of Commerce** ($114,160)- SB 5 (liability protection during emergencies); HB 7 (recovery ready communities); HB 25 (KEES scholarships); HB 126 (crimes and punishments); HB 561 (gas tax) and transportation investment. Included digital ads, radio and social media ads, legislator direct communication, and patch through calls and texts.
* **Kentucky Education Association** ($79,656) - SB 25 (education opportunity accounts); HB 149 (education opportunity accounts); and HB 192 (executive branch budget). These included billboards, radio ads, phone calls, digital ads, and posters.
* **National Council of State Boards of Nursing** ($69,330) – SB 78 (prescriptive authority of advanced practice registered nurses). Included ads, emails, and search engine marketing.
* **Kentucky Equine Education Alliance (KEEP)** ($54,524) – SB 120 (pari-mutuel wagering). Included patch through calls, social media and digital advertising.
* **Americans for Prosperity** ($47,841) – Gas tax. Included television, radio, and digital ads, and telephone calls.

***Recent lobbying registrations and terminations***

Seven businesses and organizations recently registered to lobby the General Assembly: **American Kidney Fund**; **Bar K Ranch; Carvana; EdChoice, Inc.**; **Mako Medical Laboratories LLC**; **New Towne Consultants (NTC)**; and **Vera Action, Inc.**

Recently terminated businesses and organizations include: **Airbnb, Inc.**; **Barr Media, LLC;** **BusPatrol**; **Confluent Health**; **Enhanced Capital**; **Guardian Healthcare Providers**; **Janus Capital Management LLC**; **Kentucky Beverage Association;** **Light River Technologies, Inc.**; **Morehead State University**; **Philips North America LLC; Securus Technologies**; **and Self Storage Association**.

#### ***Commission Office Procedures and COVID-19***

#### Following guidance from federal, state, and local officials regarding the COVID-19 pandemic, the Commission halted in-person services at its Frankfort office as of Tuesday, March 17, 2020.

#### As of **July 1, 2021**, the Commission office re-opened its office to the public. We request that you wear a mask when visiting our office, due to the increased prevalence and transmissibility of the COVID Delta strain at this time. Also, we would be happy to speak to you over the phone or via Zoom.

 We encourage you to continue to contact us via the means listed below, and by filing electronically or by scanning paperwork and emailing it to us. If you need to send the Commission copies of paperwork, it is most efficient to scan and email it to the email addresses as listed on the staff page, or fax to the number above.

Legislators, staff, lobbyists, employers, and the public may continue to contact the office by phone at (502) 573-2863, by fax at (502) 573-2929, and via the email addresses listed on the staff page: https://klec.ky.gov/About-KLEC/Pages/Commission-Staff.aspx . You may still reach Laura Hendrix, Executive Director, at (502) 573-2910, Emily Dennis, Counsel, at (502) 573-2911, and Lori Smither, Staff Assistant, at (502) 564-9084. You may still reach Donnita Crittenden, Executive Assistant, at the main Commission number (502) 573-2863.

####  Continued thanks to the many lobbying entities who have honored our request to begin filing online, and those who have utilized this service for many years. If a lobbyist or employer is currently filing disclosures by paper and would like to file online, please email us and we can contact you with an ID and password.

####  If an entity needs to register as a lobbyist or employer, please email the required scanned paperwork to Donnita Crittenden or Lori Smither at the staff emails in the link above or fax them to (502) 573-2929. Blank forms may be found here <https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx>

####  All provisions of the Code of Legislative Ethics are in force during this time. If there is a need for an opinion about the application of the Code to any particular ethical issue that may arise, please continue to contact us and we will answer your questions.

#### ***Training for Lobbyists and Employers on video***

#### The Legislative Ethics Commission has a training video from one of our in-person lobbyist and employer trainings on the LRC Capitol Connection YouTube page, for viewing at any time. The link is on our website and on the LRC Capitol Connection page at <https://www.youtube.com/watch?v=ojKIWUNV8po&feature=youtu.be>. The video walks through the online filing process in step-by-step detail. Please call us with any questions!

#### ***Overview of Legislative Ethics Code online***

#### The Legislative Ethics Commission has a PowerPoint overview of the Legislative Ethics Code available for reference. The link is on our website, and also on the LRC Capitol Connection page at <https://www.youtube.com/watch?v=I4FJvhrSoao>. Feel free to watch!

***Lobbying report deadlines and important reminder about reporting bill numbers***

**Tuesday, January 18, 2022** is the next reporting deadline for lobbying entities, and all lobbyists and employers are required to file Updated Registration Statements then, for the period of **September 1** through **December 31, 2021.**

The easiest and quickest way for lobbyists and employers to file is to visit the Commission’s website: <https://apps.klec.ky.gov/lec/onlinefiling.aspx> .

Additionally, reporting entities are reminded that they are required to report the specific bill numbers that they are lobbying on, as required by the Legislative Ethics Code, if those numbers are available. If your reports have not adequately reflected bill numbers in the past, please make every effort to reflect bill numbers in updated registration statements going forward.

***Ethics & Lobbying News from around the U.S.***

***Dentist guilty of conspiring to bribe former Arkansas lawmaker Hutchinson***

**ARKANSAS- *Democrat-Gazette—***By Ron Wood– September 14, 2021

FAYETTEVILLE — Benjamin Burris, an orthodontist who operated clinics across Arkansas, pleaded guilty in federal court Monday morning to one count of bribing former state Sen. Jeremy Hutchinson to pass laws to benefit Burris' businesses.

Burris paid Hutchinson $157,500 between February 2014 and November 2016, according to a 20-page, 15-count federal indictment.

Hutchinson, then a practicing lawyer, was paid monthly retainers that nominally were for legal services. But he was also expected to introduce and lobby for laws or regulatory changes Burris wanted, the indictment said.

Hutchinson pleaded guilty June 25 to one count of conspiring between 2014 and 2017 to commit federal program bribery in connection with Burris' orthodontist clinics.

Burris pleaded guilty to count one of the indictment, conspiracy to commit honest-services fraud. Burris will be sentenced in about four months.

Burris entered into a plea agreement with federal prosecutors, which includes a speculative sentence of a year and a day in federal prison and a fine to be determined by U.S. District Judge Timothy L. Brooks. The proposed sentence isn't binding on the court.

Burris faces a maximum of 20 years in prison and fines of up to $250,000 on the conspiracy to defraud charge.

"This conviction for a bribe payor is an important milestone for the people of the State of Arkansas in our lengthy public corruption investigation," said David Clay Fowlkes, acting U.S. attorney. "While the bribery conduct of several members of the Arkansas Legislature is disgraceful, the only lasting disgrace would be in meeting these schemes with silence and toleration.”

Burris, formerly of Fayetteville and Fort Smith, lives in Windermere, Fla. He was allowed to remain free until sentencing on the existing bond and conditions, with travel restrictions. He must also report his conviction to any state licensing boards.

Burris, 49, was a co-owner of several Arkansas orthodontic clinics, including Burris DDS, Gateway Ventures LLC, Oliver-Burris LLC, Smile Systems LLC, Snaggle Tooth Management LLC and Bethel Burris PLLC, according to the indictment.

Burris sold his businesses and moved to Florida in the spring of 2017 and hasn't practiced in Arkansas since, according to prosecutors.

The indictment charged Burris with 14 counts of honest-services fraud and one count of conspiracy to commit honest-services fraud.

In addition to paying $157,500 to Hutchinson's law firm, Burris provided free orthodontic services to members of Hutchinson's family and use of a private plane to travel to a college football game, prosecutors charge.

For his part, Hutchinson used his state senator's position to draft and file legislation to kill a dental-practices law Burris opposed. The former state senator, who resigned his seat in August 2018, also worked with a state agency for rule changes to help Burris' businesses, the indictment says.

The federal charges detailed Hutchinson and Burris meetings, some of which included other, unnamed legislators. As the meetings took place to consider Burris' legislative goals, Hutchinson accepted checks almost monthly from Burris' companies, the indictment says.

Burris' dealings with Hutchinson began, for purposes of the federal charges, after the orthodontist was accused in 2013 by state regulators of allowing his dental hygienists to provide services to patients who weren't getting orthodontic treatment.

Until 2017, a state law known as the Dental Practices Act required dentists who were specialists, including orthodontists, to limit their practices to their specialties and banned them from doing other general dentistry services.

Burris entered into a consent order in November 2013 with the Arkansas State Board of Dental Examiners, agreeing to stop the forbidden hygienic services. But the orthodontist remained involved in the issue months later as he worked with Hutchinson and other legislators against the regulation.

About Feb. 11, 2014, Burris sent a text message stating, "The chair of the Arkansas state legislature's budgetary commission just told us he will put a freeze on the [board of dental examiners'] budget -- TODAY!" Asked who is the chairman, Burris replied: "Jeremy Hutchinson," according to the indictment.

The indictment said that same day Hutchinson, a member of the Senate Joint Budget Committee, placed a hold on the budget appropriation for the dental examiners board.

Also on Feb. 11, Hutchinson, Burris and an employee hosted a dinner at a Little Rock restaurant "attended by several Arkansas legislators invited by Hutchinson, and others, for the purpose of discussion of Burris' legislative objectives," the indictment said.

About Feb. 20, Burris sent this text message to someone identified only as "Person B" in the indictment: "We own the dental board. Call me." In another text message that day, Burris said the dental examiners board "has rolled over already and agreed with our guy that they need to rewrite the entire dental practice act. We own them. I'm kinda disappointed that they quit so soon. Pansies.”

Burris sent Hutchinson and an employee an email Feb. 27 titled "Legislative Objectives," which contained seven items, according to the indictment. First was "Remove specialty restrictions because they are stupid and contrary to logic and the public good.”

The next day, Feb. 28, Burris sent a $20,000 check from his Gateway Ventures company to Hutchinson's law firm.

Hutchinson, a nephew of Gov. Asa Hutchinson and son of former U.S. Sen. Tim Hutchinson, also has pleaded guilty to two other public corruption-related crimes.

***New York state government ponders whether it can police itself***

**NEW YORK– *Spectrum News Syracuse***– by Nick Reisman-- September 15, 2021

ALBANY- Corruption scandals in New York state government have often followed a pattern: A revelation, a resignation and calls for reform.

But in the wake of former Gov. Andrew Cuomo's scandal-scarred end to his decade-long tenure, structural changes are being called for to how New York state government itself is policed.

The saga of the state's Joint Commission on Public Ethics, or JCOPE, has become a prime example of the oversight problems plaguing New York. Critics contend the commission lacks independence and cannot function as an oversight body for the very officials who appoint it.

"What I'll do is turn it upside down and challenge the premise that an entity that is created by elected officials with their own appointees should be charged with investigating those individuals," Gov. Kathy Hochul on Wednesday said.

Hochul herself this week came under criticism when she re-appointed a former commissioner to the panel who has ties to Cuomo, though Hochul said the appointment was necessary for the commission to meet and conduct business this week.

The list of grievances for editorial boards and good-government organizations is long: The commission approved a multi-million dollar book deal for Cuomo last year with nary a question raised in public, it investigated a sexual assault survivor for her advocacy for a proposed measure to designed to help victims, it declined to investigate a close former aide to Cuomo and allegedly leaked information about its decision to Cuomo.

Reform proposals have included completely scrapping the commission and replacing it with a panel that looks more like a commission that investigates wrongdoing in the state's judiciary. But state government has long lagged in policing itself. Sen. Anthony Palumbo backs reform, but they're worried one party could wield too much influence.

"You want them to be independent and ethical, but you certainly don't want, particularly in a state where one party controls one side, they can't go after someone unjustifiably," Palumbo said. "So there has be a balance there. But I agree major changes are needed."

Cuomo still faces myriad state and federal investigations stemming from sexual harassment allegations, his book deal and how his family members received COVID-19 tests when supplies where scarce. Assemblywoman Majorie Byrnes says the state legislative committee investigating Cuomo could release its report by Oct. 1.

"If it has half of what I've read, you should be interested in reading it," Byrnes said recently.

John Kaehny, of the good-government group Reinvent Albany said that task has been often left to the federal Department of Justice. Both Sheldon Silver, the former Assembly speaker, and Dean Skelos, the ex-Senate majority leader, were ousted by federal corruption convictions.

"There definitely has to be independent enforcement and the feds are crucial, which is tough given how partisan everything is now," he said.

All taxpayers can pay a price when public money or trust is abused, but Kaehny says corruption can often land heaviest on the poorest.

"The people who suffer the most is the average person, the poor person, who depends on state aid for these things," Kaehny said, "not the rich and powerful."

***Corn dogs, butter sculptures and political civility: Republican, Democrat model civil bipartisan exchange***

**MINNESOTA- *ABC News***– By Devin Dwyer, Megan Hughes, and Benjamin Siegel— September 13, 2021

More than 1 million people attended the Minnesota State Fair this year -- snacking on pork chops, sizing up the famed butter sculptures and posing with prize-winning farm animals.

At a time when partisanship is uglier than ever in the halls of Congress, Phillips, a blue state Democrat, and Johnson, a Trump country Republican, are piloting a novel bipartisan political exchange program, featuring joint visits to each other's districts and intimate joint town hall meetings with a diverse mix of constituents.

But Reps. Dean Phillips of Minnesota and Dusty Johnson of South Dakota were looking for something else: an opportunity to find common ground and prove that civility in the country's politics is not extinct.

"There are lots of good people in Congress," Johnson told ABC at the Minnesota State Fair where both men poured fresh milk together, visited a barn filled with pregnant livestock and rode down a giant slide.

"You can’t work with people you don’t trust, and you can’t trust people you don’t know," Phillips said.

Both lawmakers are members of the House Problem Solvers Caucus, a group of moderate consensus-seekers on Capitol Hill who have notched success brokering compromises around COVID-19 relief and in shaping debate around a bipartisan infrastructure agreement.

Despite their sharp differences on government spending, health care and abortion, Phillips and Johnson said they hope actively modeling civility and decency will lay the groundwork for a more productive legislative process in Washington.

"The people who are loudest really want us to be divided. I think most members are good people who want to find common ground but, man alive, the loudest ones -- they get a disproportionate amount of the attention," Johnson said.

In a Minneapolis suburb, Phillips and Johnson convened with seven voters from across the political spectrum -- liberals and conservatives, all strangers to each other -- for a conversation moderated by the nonpartisan nonprofit Braver Angels, founded by University of Minnesota professor and licensed marriage therapist Bill Doherty.

The organization, established after the 2016 election, is dedicated to breaking through polarized political rhetoric and building bipartisan trust at a grassroots level. It has facilitated more than 1,000 conversations across the country.

"I’ve been doing marriage therapy for 40 years, I’ve never seen politics invade the marriage like it has now," Doherty told ABC News. "We seem to have more things that are dividing us than ever."

Johnson and Phillips became the first members of Congress to take part in a conversation moderated by Braver Angels, where they sat among participants and joined the frank dialogue about how political polarization has strained family relationships, divided neighborhoods and unsettled communities nationwide.

Nick Erpelding, a self-identified conservative, said politics was "nowhere near the top of the conversation list" when he married his left-of-center wife 14 years ago.

"You can’t go anywhere today without people looking at you, and before they even know who you are, they want to know, OK, is this person vaccinated, or is this person toting a gun?" he said.

Michael, a self-identified liberal participant, said some relationships in his family are so strained that his son doesn’t see his cousins.

"It’s tragic," he said. "Some people that I talk to wonder could we go to civil war if we don’t stop this and find a better way?"

Led by Doherty -- who cut off the participants and lawmakers from interrupting one another -- the conversation did not even mention former President Donald Trump or President Joe Biden by name.

Instead, using prompts such as "health care" and "polarization," participants listened to personal stories and perspectives instead of debating or challenging one another.

That included Johnson and Phillips, who spoke about their families and frustrations with colleagues on Capitol Hill who are more interested in celebrity than compromise.

"If you pose questions about what really is concerning people in their lives and in their communities, they don't go right away to the politicians," Doherty explained about the group’s approach.

Together, the group didn’t find a way to make health care more affordable or bring Republicans and Democrats together around fighting the COVID-19 pandemic.

But they left the conversation with a greater appreciation of the others in the group and their perspectives.

"We’re more alike than we are different," said Erin Brumm, another conservative participant. "It was a little bit surprising, but enlightening."

"I learn from him. He learns from me," Phillips said of Johnson and their experience in Minnesota. "And if that can be just a tiny bit of a seed that we metaphorically plant at the state fair … that’s a darn good beginning."

Phillips said he plans to visit Johnson's district soon, and both said they have convened their congressional offices for similar workshops. The Minnesota trip was organized in part by the Bipartisan Policy Center, which said it has 30 more exchange visits planned for this fall and winter.

Both lawmakers will also be able to put their new approach to the test later this month when Congress debates infrastructure legislation and Biden's domestic policy agenda -- in addition to must-pass business that includes government funding and the nation's debt limit.