

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY BUDGET AMENDMENT FORM
2016 REGULAR SESSION
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Amend printed copy of HB 303/HCS 1

Part III

General Provisions

On page 180, delete line 27 through page 192, line 18, delete language and insert the following in lieu thereof:

"1. **Funds Designations:** Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Unemployment Compensation Fund, Kentucky Public Employees Health Plan, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Prison Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted

Amendment No. HFA 9

Sponsor: Rep. Jeff Hoover

Committee Amendment:

Signed: _____

Floor Amendment:

LRC Drafter: Settle, Leah

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXXX

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Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, other miscellaneous federal receipts received by a budget unit, and the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. Expenditure of Excess Restricted Funds or Federal Funds and Interim Appropriation Increases: (1) (a) If amounts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2015-2016, fiscal year 2016-2017, or fiscal year 2017-2018, and any balance carried forward to the credit of the same account from the prior fiscal year exceed the appropriation made for a specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, those amounts shall be maintained in the account until appropriated by the General Assembly unless the provisions of paragraph (c) of this subsection apply.

(b) If a budget unit receives unanticipated Restricted Funds or Federal Funds during fiscal year 2015-2016, fiscal year 2016-2017, or fiscal year 2017-2018 that are of a type or from a source that was not included in an appropriation in Part I, Operating Budget, of this Act for that budget unit, then the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity, and use of the moneys, may authorize the acceptance, obligation, credit, or allotment of the funds and shall establish and maintain a separate discrete account for the receipt of the funds. The

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funds shall be maintained in the account until appropriated by the General Assembly unless the provisions of paragraph (c) of this subsection apply.

(c) 1. If:

a. The Governor declares a state of emergency under KRS 39A.100, and addressing that emergency requires the expenditure of Restricted or Federal Funds that are in excess of the appropriation made for a specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act; or

b. Federal Funds become available from a new source, those funds were not appropriated to the budget unit in Part I, Operating Budget, of this Act, and the ability to retain those funds requires that the funds be obligated, allotted, or expended prior to the General Assembly being in regular session; then,

The Secretary of the Finance and Administration Cabinet may authorize the obligation, allotment, and expenditure of the funds if the requirements established in subparagraph 2. of this paragraph are met.

2. a. The agency head shall submit a written request with appropriate documentation of the amount, source, purpose, necessity, and use of the moneys to the State Budget Director;

b. If he or she approves the request, the State Budget Director shall include written documentation of his or her approval and shall forward the written request to the Secretary of the Finance and Administration Cabinet; and

c. The Secretary of the Finance and Administration Cabinet shall submit the written request and documentation of approval by the State Budget Director to the Interim Joint Committee on Appropriations and Revenue for review pursuant to the conditions and procedures established by subsection (2) of this section.

3. The Secretary shall establish a separate discrete account for the obligation, allotment, receipt, and disbursement of these Federal or Restricted Funds and shall establish the maximum

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sum which may be obligated, allotted to, and expended from the account.

(2) (a) Any request referred to the Interim Joint Committee on Appropriations and Revenue pursuant to subsection (1)(c)2.c. of this section shall be reviewed as provided for in this subsection.

(b) The Interim Joint Committee on Appropriations and Revenue shall have 30 days to review any request.

(c) If the Interim Joint Committee on Appropriations and Revenue fails to review a referred request within the 30 day period, the proposed revision shall be deemed to have been reviewed and favorably acted upon.

(d) If the Interim Joint Committee on Appropriations and Revenue objects to a proposed obligation, allotment, or expenditure of funds, the basis for the objection shall be communicated to the Secretary of the Finance and Administration Cabinet and the State Budget Director in writing within five days of the meeting at which the proposal was considered. The proposed obligation, allotment, or expenditure of funds shall not be implemented unless:

1. The request is revised to address the objections of the committee; or
2. The committee is informed by the Secretary of the Finance and Administration Cabinet, in writing, in detail, within 30 days of receipt by the Secretary of the committee's objections, that a determination has been made not to comply with the objections of the committee.

(3) Institutions of higher education shall be exempt from all conditions and procedures in this section with respect to the authority of the State Budget Director and the Secretary of the Finance and Administration Cabinet to review and approve the expenditure of unappropriated Restricted Funds or Federal Funds or revisions to appropriations in excess of any enacted appropriations; however, in the event of a revision, an institution of higher education shall report Restricted Funds and Federal Funds that have not been appropriated to the State Budget Director

and the Interim Joint Committee on Appropriations and Revenue.

(4) The Legislative Research Commission shall maintain records of the findings of the Interim Joint Committee on Appropriations and Revenue and the determinations and reports of actions by the State Budget Director and shall transmit these records to the General Assembly when next convened.

3. Revision of Appropriation Allotments: Allotments within appropriated sums for the activities and purposes contained in the enacted Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

4. Appropriations Expenditure Purpose and Transfer Restrictions: Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this section shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

5. Permitted Appropriation Obligations: No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly and legislative and executive records.

6. Lapse of General Fund or Road Fund Appropriations Supplanted by Federal Funds: Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

7. Federally Funded Agencies: A state agency entitled to Federal Funds, which would represent 100 percent of the cost of a program, shall conform to KRS 48.730.

8. Lapse of General Fund or Road Fund Excess Debt Service Appropriations: Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

9. Statutes in Conflict: All statutes and portions of statutes in conflict with any of the provisions of this Act, to the extent of the conflict, are suspended unless otherwise provided by this Act.

10. Construction of Budget Provisions on Statutory Budget Administration Powers and Duties: Nothing in this Act is to be construed as amending or altering Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

11. Interpretation of Appropriations: All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

12. Publication of the Budget of the Commonwealth: The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2016 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the Legislative Budget, Executive Budget, Transportation Cabinet Budget, and Judicial Budget as enacted by the 2016 Regular Session, as well as other Acts which contain appropriation provisions for the 2016-2018 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2016 Regular Session. This document shall include, for each agency and budget unit, a consolidated budget

summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted Executive Budget and Transportation Cabinet Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

13. State Financial Condition: Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

14. Prorating Administrative Costs: The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of the Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

15. Construction of Budget Provisions Regarding Executive Reorganization Orders: Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2016 Regular Session of the General Assembly.

16. Budget Planning Report: By August 15, 2017, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.120, a budget planning report.

17. Tax Expenditure Revenue Loss Estimates: By May 31, 2017, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss affected by tax expenditures. The Department of Revenue shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" as used in this section means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

18. Duplicate Appropriations: Any appropriation item and sum in Parts I to X of this Act and in an appropriation provision in any Act of the 2016 Regular Session which constitutes a duplicate appropriation shall be governed by KRS 48.312.

19. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

20. Severability of Budget Provisions: Appropriation items and sums in Parts I to X of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

21. Unclaimed Lottery Prize Money: For fiscal year 2016-2017 and fiscal year 2017-2018, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Kentucky Educational Excellence Scholarship Reserve Account to be held as a subsidiary

account within the Finance and Administration Cabinet for the purpose of funding the KEES Program as appropriated in this Act. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the KEES Reserve Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

22. Workers' Compensation: Notwithstanding KRS 342.340(1) or any other provision of law, public sector self-insured employers are not required to deposit funds as security, indemnity, or bond to secure the payment of compensation liabilities, provided that each public sector employer has the authority to impose taxes or raise tuition in an amount sufficient to recoup payments of compensation liabilities as they are incurred. Notwithstanding KRS 342.340(1) and 803 KAR 25:021, Section 5, the Personnel Cabinet shall be exempt from procuring excess risk insurance in fiscal year 2016-2017 and fiscal year 2017-2018 for the Workers' Compensation Benefits and Reserve program administered by the Cabinet.

23. Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

24. Carry Forward and Undesignated General Fund and Road Fund Carry Forward: Notwithstanding KRS 48.700, 48.705, and other Parts of this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2015-2016 and fiscal year 2016-2017, the actual amount of undesignated balance of the General Fund and the Road Fund for the year just ended. The amounts from the undesignated fiscal year 2015-2016 and fiscal year 2016-2017 General Fund and Road Fund balances that are designated and carried forward for budgeted purposes in the 2016-2018 fiscal biennium shall be

determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. Any General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Surplus Expenditure Plan contained in Part VII of this Act unless otherwise provided in this Act. The Road Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the Road Fund Surplus Expenditure Plan contained in Part IX of this Act unless otherwise provided in this Act.

25. Adoption of Budget Reductions: Notwithstanding KRS 48.130 and 48.600, the General Assembly adopts and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 14-01 and enacts the transfers to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 14-01. Notwithstanding KRS 48.130 and 48.600, the General Assembly adopts and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 14-01 and Road Fund Budget Reduction Order 16-01.

26. Use of Public Funds: Notwithstanding KRS 311.710, KRS 311.715, or any other provision of the Kentucky Revised Statutes to the contrary, public funds, including moneys received from the federal government, shall not directly or indirectly be used, granted, paid, or distributed to any entity, organization, or individual that provides abortions or abortion services, or that is an affiliate of any entity, organization, or individual that provides abortions or abortion services. Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, state and federal family planning funds shall be awarded to eligible individuals, organizations, or entities applying to be family planning contractors in the following order of descending priority:

- (1) Public entities that directly provide family planning services, including state, county, and

local community health clinics and federally qualified health centers; (2) Nonpublic entities that directly provide comprehensive primary and preventative health services, as described in 42 U.S.C. sec. 254b(b)(1)(A), in addition to family planning services; and (3) Nonpublic entities that directly provide family planning services, but do not provide comprehensive primary and preventative services.

27. Budget Implementation: The General Assembly directs that the Executive Branch shall carry out all appropriations and budgetary language provisions as contained in the State/Executive Budget. The Legislative Research Commission shall review quarterly expenditure data to determine if an agency is out of compliance with this directive. If the Legislative Research Commission suspects that any entity has acted in non-conformity with this section, the Legislative Research Commission may order an audit or review at the agency's expense. Such audit findings, reviews, and reports shall be subject to the Kentucky Open Records law.

28. Civil War Reenactors: Notwithstanding KRS 38.440, Civil War reenactors may associate, drill, and parade with firearms and/or swords without permission from the Governor before, during, and after Civil War reenactments and events.

29. Language Provisions: Any language provision in this Act that expresses legislative intent regarding a specific appropriation shall be expended only for the purposes outlined in that language provision. Any funds not expended for that specific purpose shall be transferred to the Budget Reserve Trust Fund Account (KRS 48.705) by June 30 of each fiscal year.

30. Unexpended Debt Service: Notwithstanding KRS 48.720, any General Fund moneys appropriated for debt service in fiscal years 2016-2017 and 2017-2018 that are not expended specifically for debt service shall be transferred to the Budget Reserve Trust Fund Account (KRS 48.705).

31. Effects of Subsequent Legislation: If any measure enacted during the 2016 Regular

Session of the General Assembly subsequent to this Act contains an appropriation or is projected to increase or decrease General Fund revenues, the amount in the Budget Reserve Trust Fund shall be revised to accommodate the appropriation or the reduction or increase in projected revenues. Notwithstanding any provision of KRS 48.120(4) and (5) to the contrary, the official enacted revenue estimates of the Commonwealth described in KRS 48.120(5) shall be adjusted at the conclusion of the 2016 Regular Session of the General Assembly to incorporate any projected revenue increases or decreases that will occur as a result of actions taken by the General Assembly subsequent to the passage of this Act by both chambers.

32. Permitted Use of Water and Sewer Bond Funds: Notwithstanding Part II, (3) of this Act and any statute to the contrary, any balances remaining for either closed or open project grant agreements authorized pursuant to bond pools set forth in 2003 Ky. Acts ch. 156, Part II, A., 3., d. Water and Sewer Resources Development Fund for Tobacco Counties and e. Water and Sewer Resources Development Fund For Coal Producing Counties, 2005 Ky. Acts ch. 173, Part II, A., 3., 003. Infrastructure for Economic Development Fund for Coal-Producing Counties and 004. Infrastructure for Economic Development Fund for Tobacco Counties, 2006 Ky. Acts ch. 252, Part II, A., 2., 003. Infrastructure for Economic Development Fund for Non-Coal Producing Counties and 004. Infrastructure for Economic Development Fund for Coal-Producing Counties, 2008 Ky. Acts ch. 123, Section 3., 004. Infrastructure for Economic Development Fund for Coal-Producing Counties and 005. Infrastructure for Economic Development Fund for Non-Coal Producing Counties, and 2008 Ky. Acts ch. 174, Section 2. and 2009 Ky. Acts ch. 87, Section 2. shall not lapse and shall remain to the credit of projects previously authorized by the General Assembly unless expressly reauthorized and reallocated by action of the General Assembly.

33. Settlement Funds Received by Constitutional Officers: Notwithstanding KRS 48.005, whenever funds or assets of any kind are recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth by an elected statewide constitutional officer under

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that officer's statutory or common law authority, the constitutional officer may first recover the reasonable costs of litigation incurred by his or her office, as determined by the court and approved by the Secretary of the Finance and Administration Cabinet. After recovery of reasonable costs, any required consumer restitution or payments shall be made. All remaining funds shall be deposited in the State Treasury in a separate account and shall not be expended until appropriated by the General Assembly.

34. Kentucky Public Employee Benefit Reserve Trust Fund: The Kentucky Public Employee Benefit Reserve Trust Fund is hereby created as a separate trust fund in the State Treasury. The fund shall be administered by the Personnel Cabinet, and shall consist of amounts received from appropriations, transfers, gifts, grants, or other resources. Amounts deposited in the fund shall remain in the fund until specifically appropriated by the General Assembly in an enacted appropriation. Amounts in the fund shall be invested as provided in KRS 42.500 to 42.530 and any interest or income earned on those investments shall be deposited in the fund and shall become a part of the fund. Notwithstanding KRS 45.229, any amounts in the fund not expended at the close of a fiscal year shall not lapse and shall carry forward in the fund. Beginning on October 1, 2016, and each quarter thereafter, the Secretary of the Personnel Cabinet shall provide to the Legislative Research Commission a quarterly report of the balance of the fund, including all receipts, investments, and income. Notwithstanding KRS 18A.2254(3), \$300,000,000 in fiscal year 2016-2017 and \$200,000,000 in fiscal year 2017-2018 shall be transferred to the Kentucky Public Employee Benefit Reserve Trust Fund from the Public Employee Health Insurance Trust Fund. These surplus funds were accumulated during prior health insurance plan years and are not needed to fulfill health insurance claims payments for any prior plan year. These funds shall not be expended or appropriated without the express authority within an enacted biennial budget.

35. Line of Duty Death Benefits: (a) Notwithstanding KRS 61.315, funds shall be

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provided for payment of benefits for survivors of state and local firefighters if the firefighter's death was the result of cancer and if he or she:

1. Was a firefighter for at least five consecutive years;
2. Developed one or more of the cancers listed in paragraph (b) of this section which caused the firefighter's death within 10 years of separation from service as a firefighter;
3. Did not use tobacco products for a period of 10 years prior to the diagnosis of cancer;
4. Was under the age of 65 at the time of death;
5. Was not diagnosed with any cancer prior to employment as a firefighter; and
6. Was exposed while in the course of firefighting to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program, and the carcinogen is reasonably associated with one or more of the cancers listed in paragraph (b) of this section.

(b) This section shall apply to the following cancers:

1. Bladder cancer;
2. Brain cancer;
3. Colon cancer;
4. Non-Hodgkin's lymphoma;
5. Kidney cancer;
6. Liver cancer;
7. Lymphatic or haematopoietic cancer;
8. Prostate cancer;
9. Testicular cancer;
10. Skin cancer;
11. Cervical cancer; and
12. Breast cancer.

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(c) 1. The provisions of this section creating an entitlement to the line of duty death benefits shall apply exclusively to this general provision and shall not be interpreted or otherwise construed to create either an express or implied presumption of work-relatedness for any type of claim filed pursuant to KRS Chapter 342.

2. This section shall not be used as a bar or other type of limitation to impair or alter the rights and ability of a claimant to prove work-relatedness under KRS Chapter 342 or other laws."

SUMMARY:

Amend language provision related to funds designations; amend language provision related to expenditure of excess of Restricted Funds or Federal Funds; include language provision related to interim appropriation increases; amend language provision related to lapse of road fund excess debt service to include General Fund dollars; insert language provision related to construction of budget provisions regarding executive reorganization orders; amend language provision related to tax expenditure revenue loss estimates to change report date from November 30, 2017, to May 31, 2017.