

2015 Interim

# LEGISLATIVE

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\* Read online at [www.lrc.ky.gov/legislation.htm](http://www.lrc.ky.gov/legislation.htm)

RECORD



## Ag investment yielding healthy returns

by Rebecca Hanchett  
LRC Public Information

FRANKFORT—Marketing and promotion projects provided the best return on investment for ventures that received Kentucky tobacco settlement dollars between 2007 and 2014, according to a new report.

UK agricultural economist Dr. Alison Davis told the General Assembly's Tobacco Settlement Agreement Fund Oversight Committee on Dec. 2 that the marketing and promotion sector—including the popular initiatives Kentucky Proud and related Restaurant Rewards program—yielded a \$3.07 return for every \$1 invested according to her agency's evaluation of state Agricultural Development Board (ADB) investments. The Louisville Farm to Table project alone had about a \$9 return for every dollar invested, said Davis.

“(The Louisville project) was our largest return on project we had,” she said.

Overall, Davis said projects evaluated by the Community and Economic Development Initiative of Kentucky, or CEDIK, which she directs produced \$2.03 in farm income for every dollar invested. That investment led to 708 new or expanded jobs and 77 new markets impacting around 34,000 farms—about half of which produce tobacco, Davis said.

Other projects evaluated were in livestock, horticulture, grain and forage, education, leadership and technical assistance, Davis said. In livestock, Davis said there was a \$2.81 return for each \$1 invested, with the Kentucky Beef Network being the largest recipient of investment dollars.

All large projects funded by the ADB were evaluated, as were 50 percent of medium-size project and 25 percent of small projects.

“It was really quite a joy to go around and meet with project directors, to meet with our expert panels we brought in to help us evaluate what we received as impacts...and the overwhelming support saying Kentucky would not be where it is today without the Kentucky Agricultural Development Fund,” said Davis.

Kentucky's investment in agriculture through the ADB has made it somewhat enviable among other states where no such level of investment exists, Davis told lawmakers. She said Kentucky's agriculture programs fare very well particularly in comparison to neighboring states.

“There's a great deal of envy about what House Bill 611 (which established the ADB) did for agriculture, and there are a lot of conversations about how Kentucky would have been about 15 to 20 years behind where they are now if these funds were not dispersed,” she said.

Although projects were the report's focus, Davis said an analysis of funds used for county cost-share programs and Kentucky Agriculture Finance Corporation (KAFC) loans is also covered therein. She said county cost sharing reached “a lot of new counties, with the Kentucky Agricultural Relief Effort (KARE) reaching 118 of Kentucky's 120 counties and CAIP (the County Agricultural Investment Project) reaching 108 counties. Davis said just under 62,000 awards were made to counties with the bulk of the awards going for large animal agriculture, barn infrastructure, forage and grain improvement, on-farm water and agricultural diversification programs.

Of the KAFC programs evaluated Davis said the Beginning Farmer Loan Program has “by far” the most support by enabling new farmers to buy land, equipment and get started in agriculture.

Sen. Paul Hornback, R-Shelbyville, asked Davis what she thinks the impact of the federal Tobacco Transition Payment Program, also known as the “tobacco buy-out,” has had on Kentucky over the past 8 years. “Do you think because of the payments that farmers were better able to invest in diversification and where does that put us in the future when those payments are no longer coming in?” he asked.

Sustainability of agricultural investments are important to the future, she explained, and the report considered that.

“I think we found that still it's important but that they put themselves in a situation where it's a little bit less uncomfortable than it was before,” said Davis.

Sen. Robin Webb, D-Grayson, said the state still needs to keep watch over tobacco counties that continue to struggle.

“We've still got a lot of tobacco impacted individuals who need that leg up, if you will” in keeping with the intent of HB 611, she said.

The marketing and promotion sector—including the popular initiatives Kentucky Proud and Restaurant Rewards—yielded a \$3.07 return for every \$1 invested.



# Bill seeks to impose fee on electric car owners

by Jim Hannah  
*LRC Public Information*

FRANKFORT – Electric car owners could be charged an annual fee to offset the gas tax those motorists don't pay under prefiled legislation for the 2016 General Assembly.

"This is a bill whose time has come," bill sponsor Sen. Joe Bowen, R-Owensboro, said on Dec. 1 at the last meeting of the year for the Interim Joint Committee on Transportation. "It is a bill about fairness. It is a bill that is about being proactive. It is a bill that in time will help our challenged road fund."

Known as BR 61, the legislation would require the owner of a plug-in electric vehicle to pay a \$100 fee when initially registering the vehicle and upon renewal. He said the amount of the fee was derived from calculating the average amount a motorist in a gasoline-powered vehicle pays in gas taxes per year.

"The impetus behind this legislation is simple," said Bowen, who is also a member of the committee. "If you are using our ... roads out there, you ought to help pay for them. Currently, we have a situation where there is an exempt class – those folks who drive a vehicle powered by electricity or battery. They pay no road tax. They pay no fee. And that is not fair."

Georgia, Idaho and Wyoming enacted legislation this year requiring new fees on certain hybrid and electric vehicles, according to information from the National Conference of State Legislatures (NCSL) that was shared with the committee. Colorado, Nebraska, North Carolina, Virginia and Washington adopted fees for electric vehicles during previous legislative sessions.

Georgia also issues an "alternative fuel license plate" to electric vehicles, which gives these vehicles the ability to drive in high occupancy toll, known as HOT lanes, regardless of the number of passengers in the vehicle, according to NCSL. Hybrid vehicle owners who wish to pay the \$200 fee to receive this plate and the benefit of travelling in the HOT lanes with no passenger restrictions may do so, but it is not required for a normal registration.

Committee Co-chair Rep. Hubert Collins, D-Wittensville, asked if the federal government was moving to tax electric vehicles.

Bowen said the legislation was an attempt at being proactive.

"This is acting because Washington hasn't acted," he said. "We shouldn't wait on Washington to make decisions that are good for the Common-



Rep. Rick Nelson, D-Middlesboro, left, speaks to Rep. Tim Couch, R-Hyden, before the Interim Joint Committee on Transportation meeting in December.

wealth of Kentucky. A lot of decisions Washington makes have a negative effect on ... Kentucky."

After the committee was informed that Oregon has agreed to a 5,000-vehicle opt-in this year that allows drivers to pay a fee based on miles driven rather than gallons of fuel purchased, Rep. David Floyd, R-Bardstown, asked Bowen if he researched replacing the gas tax with a fee based on miles driven. Bowen said "no," adding that there is already a system in place to tax vehicles that use other alternative fuels such as propane.

Committee Co-chair Ernie Harris, R-Prospect, said he looks forward to the state Senate taking up the prefiled bill early in the upcoming session. He added that an amendment might be attached that would address falling gas tax receipts because of more fuel-efficient vehicles.

Those fuel-efficient vehicles are attributed, in part, to projected declines in the amount of motor fuels taxes estimated to be collected in the future. The motor fuels taxes collected by Kentucky is expected to decrease \$100.4 million, or 11.8 percent, from this past fiscal year to fiscal year 2018, according to Kentucky Transportation Cabinet estimates presented to the committee.

Harris said that projected decline is squeezing funding for transportation infrastructure—which relies heavily on gasoline taxes.

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# Trooper safety proposals aired before panel

by Jim Hannah  
*LRC Public Information*

FRANKFORT — State legislators are exploring what they can do during the 2016 General Assembly to improve the safety of Kentucky State Police in the wake of the fatal shooting of Trooper Cameron Ponder this fall.

Commissioner Rodney Brewer gave four recommendations during the Dec. 16 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection. The suggestions were to build KSP an indoor gun range, replace its aging fleet of marked cruisers, purchase pistol-mounted flashlights and increase pay to curb attrition. The cost of implementing all the recommendations approached an estimated \$20 million.

“It is obvious we have a problem just in the maintenance of our vehicles ... and when we can’t buy flashlights and holsters for flashlights for our troopers,” Speaker of the House Rep. Greg Stumbo, D-Prestonsburg, said after Brewer’s presentation. “Hopefully, we can make some of these things happen when we get into session.”

Committee Co-chair Rep. Will Coursey, D-Symsonia, echoed Stumbo’s remarks.

“I think this General Assembly stands prepared to help you where we can,” Coursey said. “Recruitment, retention and compensation is what we will hone in on.”

Rep. Regina Bunch, R-Williamsburg, said she was stunned at the pay inequity that exists between state troopers and municipal police officers in Kentucky.

“To me this is unacceptable,” she said to Brewer. “I look forward to working with you to address these issues and the safety issues. I think this is something that needs to be addressed.”

Rep. Leslie Combs, D-Pikeville, said Brewer’s presentation made her “take note.”

“It is imperative we protect our officers and give them the necessary equipment to protect themselves,” she said. “On the issue of pay ... I would have thought coming in as a state trooper would pay higher than any of those local agencies.”

Brewer gave some cost estimates to his proposals.

An indoor gun range at KSP’s new academy would cost between \$2.1 million and \$2.3 million. He said KSP has never owned its own gun range, adding that troopers sometimes practice at abandoned mines and the farms of friends and family.

The cost of replacing aging cruisers would

cost \$7.1 million. Brewer said Kentucky is spending \$180,000 per month just in maintenance to keep the current cruisers running. More than 50 percent of the fleet has over 100,000 miles. Troopers drive their cruisers a combined 30 million miles per year.

Gun-mounted flashlights, and new holsters the flashlights will fit into, would cost \$179,000.

Brewer said if he had to choose between his recommendations, he would likely pick a pay raise for his troopers. He asked for a \$7.84 million budget increase to fund a \$4,000 raise that would become effective July 1.

This money would be sufficient to cover the salary and benefits, he said.

Brewer additionally asked for up to \$400,000 to establish a pay advancement plan. He said that would curb the flow of experienced officers leaving the force and ultimately save money on training new hires.

It costs KSP up to \$76,000 for every cadet it sends to the police academy.

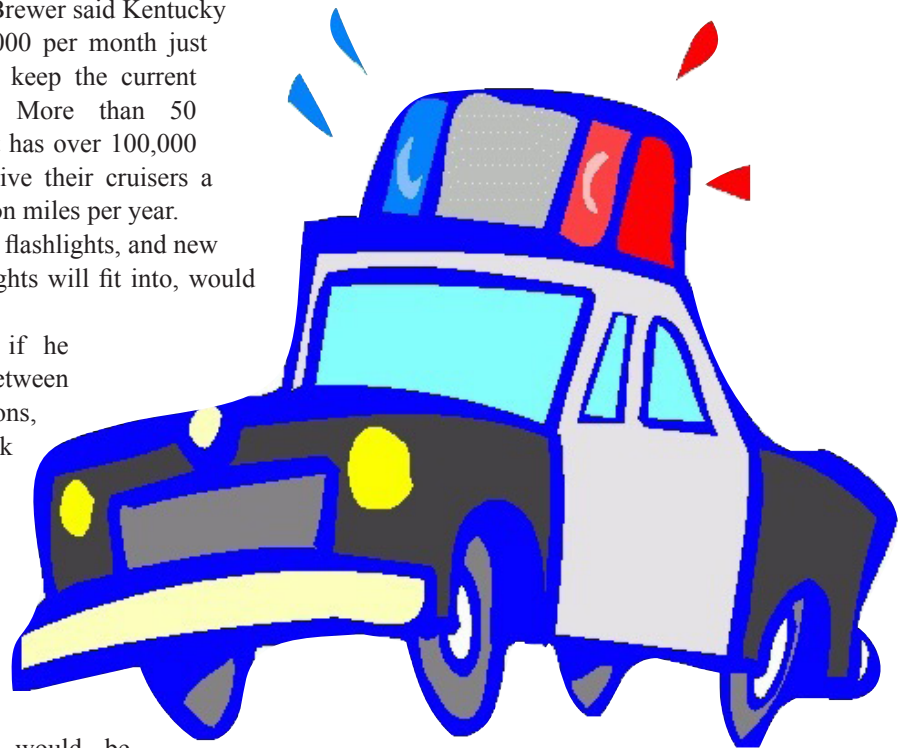
Brewer recommended against spending tax dollars on bullet-resistant windshields. The idea of installing the bullet-resistant windshields came in the immediate days following the killing of Ponder. He was fatally shot through the front windshield of his cruiser on Sept. 13.

Brewer said it’s just impractical to install up to two-inch-thick glass, similar to what is used in the presidential limousine, in police cruisers. He added that the presidential limousine has essentially become an armored vehicle.

Brewer said such cars are impractical for civilian policing.

KSP research into laminates that some manufacturers claim can make glass bullet resistant showed, said Brewer, that the “technology is just not there yet.”

“What we found ... is all glass will eventually fail depending on the caliber of the weapon, the number of times it is fired at and the proximity – how close the perpetrator is,” he said.



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The suggestions were to build KSP an indoor gun range, replace its aging fleet of marked cruisers, purchase pistol-mounted flashlights and increase pay to curb attrition. The cost of implementing all the recommendations approached an estimated \$20 million.

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# 2016 REGULAR SESSION CALENDAR

2016 REGULAR SESSION CALENDAR

JANUARY

| Sunday | Monday  | Tuesday    | Wednesday  | Thursday   | Friday   | Saturday   |
|--------|---|------------|------------|------------|--|------------|
|        |   |            |            |            | 1  | 2          |
| 3      | 4   | 5          | 6          | 7          | 8<br>*HR 49<br>Posting required<br>for prefiled House<br>Bills | 9          |
| 10     | 11  | 12<br>(1)  | 13<br>(2)  | 14<br>(3)  | 15<br>(4)  | 16         |
| 17     | 18<br>Martin Luther King,<br>Jr. Day<br>HOLIDAY | 19<br>(5)  | 20<br>(6)  | 21<br>(7)  | 22<br>(8)  | 23<br>(9)  |
| 24     | 25  | 26<br>(10) | 27<br>(11) | 28<br>(12) | 29<br>(13)   | 30<br>(14) |
| 31     |   |            |            |            |  |            |

\*House Rule 49 states in part: "In the case of prefiled House bills receiving the affirmative votes of a majority of the House members of the interim joint committee to which they were assigned, posting by the chair or the committee shall occur during the first four days of the session, and those bills may be considered by the appropriate committee during the first fifteen legislative days of the session. No posting request shall be required for those prefiled bills."

FEBRUARY

| Sunday | Monday   | Tuesday    | Wednesday  | Thursday   | Friday                                      | Saturday |
|--------|--|------------|------------|------------|---|----------|
|        | 1  | 2          | 3          | 4          | 5   | 6        |
|        | (19)   | (20)       | (21)       | (22)       | (23)  |          |
| 7      | 8  | 9          | 10         | 11         | 12  | 13       |
|        | (24)   | (25)       | (26)       | (27)       | (28)  |          |
| 14     | 15<br>Presidents' Day<br>HOLIDAY                 | 16<br>(29) | 17<br>(30) | 18<br>(31) | 19<br>Last Day for<br>Bill Requests<br>(32) | 20       |
| 21     | 22   | 23         | 24         | 25         | 26  | 27       |
|        | (33)   | (34)       | (35)       | (36)       | (37)  |          |
| 28     | 29<br>Last Day for<br>New House<br>Bills<br>(38) |            |            |            |   |          |

( ) Denotes Legislative Day

2016 REGULAR SESSION CALENDAR

MARCH

| Sunday | Monday                    | Tuesday    | Wednesday                                | Thursday   | Friday                    | Saturday |
|--------|---------------------------|------------|--|------------|---------------------------|----------|
|        |                           | 1          | 2<br>Last Day for<br>New Senate<br>Bills | 3          | 4                         | 5        |
|        |                           | (39)       | (40)                                     | (41)       | (42)                      |          |
| 6      | 7                         | 8          | 9  | 10         | 11                        | 12       |
|        | (43)                      | (44)       | (45)                                     | (46)       | (47)                      |          |
| 13     | 14                        | 15         | 16                                       | 17         | 18                        | 19       |
|        | (48)                      | (49)       | (50)                                     | (51)       | (52)                      |          |
| 20     | 21                        | 22         | 23                                       | 24         | 25<br>Concurrence<br>Only | 26       |
|        | (53)                      | (54)       | (55)                                     | (56)       | (57)                      |          |
| 27     | 28<br>Concurrence<br>Only | 29<br>VETO | 30<br>VETO                               | 31<br>VETO |                           |          |
|        | (58)                      |            |  |            |                           |          |

APRIL

| Sunday | Monday    | Tuesday        | Wednesday | Thursday  | Friday    | Saturday  |
|--------|-----------|----------------|-----------|-----------|-----------|-----------|
|        |           |                |           |           | 1<br>VETO | 2<br>VETO |
| 3      | 4<br>VETO | 5<br>VETO      | 6<br>VETO | 7<br>VETO | 8<br>VETO | 9         |
| 10     | 11        | 12<br>SINE DIE | 13        | 14        | 15        | 16        |
|        | (59)      | (60)           |           |           |           |           |
| 17     | 18        | 19             | 20        | 21        | 22        | 23        |
| 24     | 25        | 26             | 27        | 28        | 29        | 30        |

# 2015

# Kentucky

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# Committee Meetings

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### TOURISM AND DEVELOPMENT

#### Minutes of the 3rd Meeting of the 2015 Interim

November 9, 2015

##### Call to Order and Roll Call

The 3rd meeting of the Tourism and Development was held on Monday, November 9, 2015, at 11:00 AM, at the Kentucky Horse Park, Hospitality Tower, Rolex Stadium. Senator Chris Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Rita Smart, Co-Chair; Senator Stan Humphries; Representatives James Kay and John Short.

Citizen Members: Carolyn Mounce, Eric Summe, Grayson Smith, Mary Quinn Ramer, and Prakash Maggan.

Guests: Jamie Link, Executive Director, Kentucky Horse Park; Christa Marrillia, Director of Marketing, Keeneland; and Ann Sabatino Hardy, Executive Director, Horse Country.

LRC Staff: John Buckner, Lou DiBiase, and Ashlee McDonald.

##### Horse Related Tourism

Jamie Link, Executive Director, Kentucky Horse Park, welcomed the subcommittee and spoke about Kentucky Horse Park. The park operates 1,224 acres and has been open to the public since 1978. In 2010, Kentucky Horse Park hosted the World Equestrian Games. The event created approximately \$200 million in revenue for the state in direct and indirect spending. The park employs 78 full time staff 70 more for seasonal activities. There are 100 standing structures located on the property. The challenge has been trying to operate a government agency by using business principles to become financially self-sufficient. In the most recent study conducted in 2011 by the University of Louisville, the Kentucky Horse Park was found to have a substantial positive economic impact to Kentucky. Mr. Link stated that he is working with an economist for an updated study. The Kentucky Horse Park has approximately a 250,000 tourists every year. The park would like to add more equine education and a premier equestrian facility for tourist promotions.

Responding to a question from Representative Kay regarding the possibility of hosting the 2018 World Equestrian Games, Mr. Link explained that there is a conflict of interest. Since the games would be held in the Rolex Stadium of the Kentucky Horse Park and one of the largest sponsors of the World Equestrian Games is a direct competitor of Rolex watches, it does not seem like a feasible request at this time.

In response to another question from

Representative Kay, Mr. Link stated that, through the Department of Education, the Kentucky Horse Park participates in a school field trip program that has proven to be very successful.

Responding to a question from Senator Humphries, Mr. Link explained that the \$2.5 million subsidy has remained at a static level since 2010 but that he will get more definite information to the committee regarding state subsidies in an historical context.

Christa Marrillia, Director of Marketing, Keeneland, explained that, according to a 2014 study, racing and sales at Keeneland brought \$590 million to Fayette County. During the 2015 Breeders Cup celebrations, there were over 90,000 people who attended with a ticket revenue of \$19 million. The total wagered for Breeders Cup weekend was \$150 million. There were 450 private jets at Bluegrass Airport, 32 international horses and 4.6 million people watched the Breeders Cup, which is a 58 percent increase from last year.

Responding to a question from Representative Kay regarding the possibility of the 2018 Breeders Cup at Churchill, Ms. Marrillia stated that Keeneland has already been evaluating the possibility of bringing the Breeders Cup back to Keeneland in 2018.

Responding to a question from Representative Smart, Mary Quinn Ramer, President, VisitLex, added that the official numbers of the Breeders Cup and its impact for Lexington will be available in mid December.

Ann Sabatino Hardy, Executive Director, Horse Country Inc., explained that the primary goal of Horse Country Inc. is to develop a program for guests to be provided a tour of premier equine locations. This is to encourage and promote tourism of horse farms and agritourism for the state. Horse Country, Inc. is organized as a privately funded 501(c)6 organization with a governing board of nine members. Ms. Hardy explained that the 577 tickets to tour and meet American Pharoah at Coolmore sold out in less than 24 hours. She anticipates all ticket sales for tours to follow this lead.

Responding to comments from Representative Kay, Ms. Hardy explained that Horse Country has already shown an enormous impact on the participating horse farms.

In response to a question from Representative Smart, Ms. Hardy explained that Horse Country Inc. is reviewing every avenue available to get the company marketed as much as possible.

There being no further business before the committee, the meeting was adjourned at 12:30 p.m.



# INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

## Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

### Minutes of the 2nd Meeting of the 2015 Interim

October 27, 2015

#### Call to Order and Roll Call

The 2nd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, October 27, 2015, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Joe Bowen, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Julie Raque Adams, Ralph Alvarado, Stan Humphries, Christian McDaniel, Morgan McGarvey, Albert Robinson, Dan “Malano” Seum, and Damon Thayer; Representatives Johnny Bell, Kevin D. Bratcher, Derrick Graham, Mike Harmon, and Mary Lou Marzian.

**Guests:** John Steffen, Executive Director, and Emily Dennis, General Counsel, Kentucky Registry of Election Finance; Maryellen Allen, Executive Director, and Matt Selph, Assistant Director, State Board of Elections; James Lewis, Leslie County Clerk and Elections Committee Chair, Kentucky County Clerk’s Association; Don Blevins, Jr., Fayette County Clerk; and Roger Baird, President, Harp Enterprises, Inc.

**LRC Staff:** Judy Fritz, Greg Woosley, Kevin Devlin, and Terisa Roland.

#### Approval of Minutes

The minutes of the August 25, 2015 meeting were approved without objection, upon motion by Representative Owens and second by Senator Humphries.

#### Kentucky Registry of Election Finance – Filing System Modernization

The Task Force heard testimony from John Steffen, with the Registry of Election Finance, regarding the Registry’s proposed project to modernize the campaign finance reporting system. Mr. Steffen testified that the current system was built in the mid-1990s. The Registry is trying to jump ahead to the technology that is in use today. The projected cost of the update to the system is \$1.8 million. The Capital Projects and Bond Oversight Committee recommended funding for the project at a recent meeting.

Mr. Steffen further described the current system. The software the system is based on is no longer supported by the vendors that made it. This is increasingly becoming a problem because a catastrophic failure could occur and disrupt the Registry’s ability to fulfill its statutory mandate. The modernization project would make the Registry more efficient. Currently, a staff person has to key in all of the information supplied by a candidate in his or her reports, but the new system would allow

the report to be scanned into the system in the exact form that the candidate filed. The Registry does not have the staff resources to type in the expenditures by candidates, so the public is only receiving information on contributions to candidates, which is only half of the campaign finance data being reported.

Responding to a question by Senator McDaniel if mandatory electronic filing would result in a labor savings to the Registry, Mr. Steffen said that there would still be a process of uploading the form, but that it would result in a more efficient process. In a follow-up question regarding potential budgetary constraints to funding the project and whether electronic filing would help efficiency now and provide a bridge to later funding, Mr. Steffen said that electronic filing would make the Registry more efficient, but that it would not alleviate the problems with the reliability of the system.

Regarding electronic filing, Representative Harmon asked if the modernized system would continue the current requirement of candidates having to purchase the software needed to file electronically. Mr. Steffen responded that he would like to see the ability to file electronically rolled into the new system without cost to candidates, but that it would largely depend on the funding of the project. Responding to concerns from Senator Robinson regarding a candidate filing electronically versus delivering a paper copy to the Registry, Emily Dennis said that some people in the past have expressed concerns over possible mail fraud charges from sending an incorrect report electronically, but that every past proposal has included a provision permitting the filing to be hand delivered on a disk or other portable media.

Responding to questions from co-chair Owens regarding the relative cost of maintaining the current system versus replacing the system and whether the project could be implemented in phases, Mr. Steffen said that although the ongoing costs are not as large as the full project cost, they are nonetheless substantial and do not fully address the vulnerability of the system to a catastrophic failure. He also stated that the project is designed so that it could be implemented incrementally and the funding request is split into two requests, which would allow the Registry to implement the first phase and put the second phase off for some time.

A copy of the proposed project financial summary was provided to the members and can be found in the Legislative Research Commission Library.

#### Voting Equipment in the Commonwealth

A panel of presenters testified about voting equipment used in the Commonwealth. Matt Selph with the State Board of Elections stated that in 2002 the Election Assistance Commission (EAC) appropriated \$2.0 billion to the states to update their voting systems, with Kentucky receiving approximately \$32 million. A majority of Kentucky’s counties (66 percent) updated their equipment in 2008 with this federal money, but many of the machines are nearing the end of their ten year lifespan. The Presidential Commission

on Election Administration issued a report in 2014 that noted voting equipment in the United States is aging and that urged states to begin strategizing on ways to extend the useful life of the machines and to ultimately plan for replacing the current voting systems. Mr. Selph stated that by the 2020 presidential election the majority of the Commonwealth’s machines will be two years past their expected lifespan. Aging voting equipment is expensive to maintain and is prone to failures. The cost of replacing the voting equipment across the Commonwealth is an estimated \$60 million. A plan should be in place to begin funding for equipment replacement during the next biennium.

Responding to a question from Senator Bowen on the types of machines used in the state, Mr. Selph stated that approximately 99 counties are using machines by Harp Enterprises, around 20 are using machines by ES&S, and Jefferson County uses equipment from an old vendor that is serviced by ES&S. In response to a follow-up question regarding why some counties did not update their equipment when the \$32 million was received, Mr. Selph stated that it was his understanding that Jefferson County had not yet utilized the money because it was not enough to replace all the machines in the county, and that approximately \$3 million remains for Fayette County and Jefferson County to replace equipment. As to how further equipment replacement would be funded, Mr. Selph noted it is unlikely that federal money is coming, and he stressed that waiting until 2018 to find all of the approximately \$60 million to fund the replacement cost could be problematic. He stated that this will be an 8-10 year cyclical replacement process and a funding source should be identified now to transition into replacement gradually.

Responding to a question from Representative Graham on the age of equipment in Jefferson County and Fayette County, Mr. Selph noted that Fayette County replaced its equipment in 2006, but that Jefferson County was using equipment from the mid-1990s. Representative Graham expressed concern about the age of the equipment in Jefferson County and whether there was a backup plan for failure, and Franklin Friday, Government Affairs Director for Jefferson County Clerk Bobbie Holsclaw, stated that Jefferson County’s Accutouch equipment dates from 1998, but that Jefferson County has updated the system periodically with new CPUs and other parts. Mr. Friday also noted that it is fairly reliable and is a failsafe system in that it has backup paper ballots, but because the vendor no longer makes the machines the spare parts over the long run are running out. The clerk is working on a replacement plan with the Metro Council, and Jefferson County will likely couple the approximately \$2 million of federal money available with other funding and / or financing to replace its equipment within the next three years.

Don Blevins, Jr., Fayette County Clerk, testified that Fayette County purchased nearly all new machines in 2006 just before the EAC released federal money for equipment replacement, and consequently, Fayette County did not need to immediately replace its equipment. The EAC could

certify new machines to be used in elections at any time, so Fayette County thought it was most prudent to continue using the 2006 machines that were certified until they needed to be replaced and then update to the most current machine in use at that time.

Responding to a question from Co-Chair Owens regarding whether counties had the choice of equipment to be used and who paid for it prior to the federal money, Mr. Selph stated that counties have a choice of using any of the certified machines. Historically, counties have paid for voting equipment. Mr. Blevins added that it was his experience that some machines fail on an election day. Counties without backup machines this could be a problem as soon as the 2016 elections. He recommended that the General Assembly consider replacing approximately 20 percent of the machines in use and keep the old machines as backup equipment. In response to follow-up questions as to whether the counties should have discretion on what type of machines should be used and who should pay for them, Mr. Blevins stated that under a partial replacement program a county would not have discretion because they would need to replace machines with the same equipment they are currently using so that the old machines could serve as backup equipment, and he noted that the General Assembly would likely need to fund replacement because many counties cannot afford new equipment.

Senator Seum asked whether the federal government dictated to the counties what equipment to use when the money was offered, and both Maryellen Allen and Matt Selph noted that the EAC sets standards for acceptable voting equipment, but that counties have discretion in their choice of equipment. Mr. Selph also stated that he has been compiling data on what equipment was purchased by the counties in 2006-2008 and the overall condition and maintenance of the machines in each county. He noted he is also gathering information on what other states are doing on the issue, as well as discussing different options with vendors that might allow the counties or the General Assembly to save money in replacement costs.

James Lewis, Leslie County Clerk and chair of the Elections Committee of the County Clerk's Association, testified regarding a survey of county clerks on voting equipment and funding. Approximately 85 percent of county clerks do not feel that their county can afford to replace the county's voting equipment. Many counties do not have backup equipment, and although they perform regular maintenance on the machines, there is still some risk that even one or two machines failing on election could create a major problem for some counties. He reiterated that ensuring the integrity of the election process is one of the most important functions of a county, and that because there will be a need to replace the equipment in the near future it would be prudent for county fiscal courts and the General Assembly to have a plan in place for funding.

Roger Baird, President of Harp Enterprises,

testified on voting equipment generally. Harp services 97 counties with voting equipment and has been in business since 1972. Kentucky was on paper ballots until the 1960s, and in 1962 the General Assembly mandated that all counties use lever machines. Those machines were not funded, and counties had to purchase them with county money. The machines were tough and lasted in many counties through the mid-1980s. In the 1980s, the counters in the machines began to fail, and Harp began to sell a new type of electronic machine, which lasted a long time but was difficult to sell because counties did not have the money to buy them. Consequently, many counties financed their equipment purchases through the Kentucky Association of Counties on a five or ten year installment basis when equipment needed to be replaced.

Mr. Baird said that, following the 2000 presidential election, everyone was suddenly interested in voting equipment, which was great for his business and for the country because new equipment was developed. Every system has to be certified by the EAC and the state, limiting the number of available choices of machines. However, he said the dual certification process means the equipment being used is mostly good equipment, with the Harp equipment exhibiting less than a one percent failure rate on every piece of equipment sold and serviced. He stated that he does not believe the machines need to be replaced immediately, but he noted that the proposal to replace a little at a time was the process generally used prior to the Help America Vote Act (HAVA) funds from the federal government and that this is a good idea for a regular replacement program. He said that the new equipment will be faster, more efficient, and will likely have the accessibility functions built into one machine, which can nearly cut the replacement cost in half since a county will not have to purchase both a regular machine and an accessible machine to be compliant.

Responding to a question from Senator Raque-Adams regarding an action plan and communication with the counties, Mr. Selph stated that the SBE is regularly speaking to the county clerks to gauge the status of their equipment and to try to develop ideas to assist the counties from a state level. He also noted that he is spending a lot of time talking to other state election administrators, as well as attending conferences and networking with other experts, to formulate a plan going forward. In response to a follow-up as to whether he anticipates looking to the General Assembly for an action plan or simply funding, he stated that it is likely both, but that it is too early in the process of gathering data to fully answer that question at this time.

Representative Bratcher asked the panel who is ultimately responsible for ensuring that a citizen's right to vote is protected, and James Lewis responded that just as all politics are local, all efforts to administer elections according to law are conducted at the local level by the county clerks and the county boards of elections. In a follow-up question regarding whether all votes are required to have a backup paper ballot, Mr. Lewis said that in

the 19 counties that use ES&S machines the votes are cast and recorded electronically, which are saved to a flash drive and a backup drive within the machine – and that the county clerks have custody of all of the machines both before and after voting.

Mr. Selph gave a PowerPoint presentation to accompany his testimony, a paper copy of which was distributed to the members and is available in the Legislative Research Commission Library.

There being no further business, the meeting was adjourned at 2:30 p.m.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

### **Minutes of the 5th Meeting of the 2015 Interim**

November 5, 2015

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

The 5th meeting of the Interim Joint Committee on Transportation was held on Thursday, November 5, 2015, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee's October 6, 2015 were approved.

Present were:

**Members:** Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators, Jared Carpenter, C.B. Embry Jr., Gerald A. Neal, Dorsey Ridley, Albert Robinson, Brandon Smith, Johnny Ray Turner, Whitney Westerfield, and Mike Wilson; Representatives Denver Butler, Leslie Combs, Tim Couch, David Floyd, Tom McKee, Russ A. Meyer, Charles Miller, Jerry T. Miller, Terry Mills, Tanya Pullin, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Diane St. Onge, Fitz Steele, Jim Stewart III, Tommy Turner, David Watkins, and Addia Wuchner.

**Guests:** Mike Hancock, Secretary, Kentucky Transportation Cabinet (KYTC); Rebecca Goodman, General Counsel, KYTC; Rodney Kuhl, Commissioner, Department of Motor Vehicle Regulation, KYTC; Wendy Reilly, Manager of Government Relations, HID Global; Kathleen Carroll, Vice President of Corporate Affairs, HID Global; Paul Bergman and Mike Young, Scenic Kentucky; Tom Fitzgerald, Kentucky Resources Counsel; and, Loretta Crady, Hardin County Circuit Court Clerk, Chair, Driver's License Committee, Kentucky Association of Circuit Court Clerks.

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

#### **KYTC: REAL ID and possible alternatives**

Rodney Kuhl, Commissioner, Department of Motor Vehicle Regulation, KYTC, testified concerning REAL ID and possible alternatives. Commissioner Kuhl stated the REAL ID process began in 2005 as a result of a federal mandate that was passed. Since 2005 the REAL ID act has seen many changes and has now reached the implementation phase. There are four phases of REAL ID and three of those four have already been implemented. Phase one includes the requirement



of a REAL ID to enter the Department of Homeland Security Office in Washington, DC. Phase two includes a REAL ID to have limited access to most federal facilities and nuclear power plants. Phase three includes the requirement of a REAL ID to enter most federal facilities including military bases however that does not include health services or social security offices. The fourth and final phase of REAL ID implementation includes the requirement of a REAL ID or alternate identification such as a passport to be able to board commercial aircraft within the United States. The fourth phase will be implemented no sooner than 2016.

Commissioner Kuhl stated that KYTC recently visited with Indiana which is a REAL ID compliant state to observe their print farm and the processes they undergo to produce a REAL ID. The cabinet also visited Virginia to compare their processes with that of Indiana's. Georgia, where Kentucky's current print vendor is located was also visited to discuss REAL ID compliant situations. The University of Kentucky Transportation Center has also completed a study on Kentucky becoming REAL ID compliant. Kentucky has received an extension from the Department of Homeland Security until October 10, 2016 to become REAL ID compliant. Commissioner Kuhl stated within the past year, the Systematic Alien Verification for Entitlements (SAVE) program was implemented resulting in the ability to ensure the citizens that are being processed for a non U.S. citizen ID have legal status.

In moving forward, Commissioner Kuhl stated the cabinet feels it would be beneficial for Kentucky to move to a central issuance system for driver's licensing and identification cards. The recommendation is for the Circuit Court Clerk's office to continue to take applications and photos for licenses, then issue a temporary driver's license by paper or perhaps a mobile identification process in the future. The actual driver's license would then be produced and mailed to the recipient by a private vendor. The current vendor that Kentucky utilizes has several print farm operations other than Georgia, and the closest are in Illinois, Pennsylvania, and Massachusetts. Commissioner Kuhl stated by going to a central issuance system the security issues of utilizing 141 locations will be eased by transitioning to one location where the card is produced by the vendor. Commissioner Kuhl stated the cabinet recommends switching from a four to eight year renewal cycle for IDs. Both Tennessee and Indiana regret not going to an eight year cycle, and several surrounding states are moving toward an eight year issuance cycle as well.

In moving forward with REAL ID, Commissioner Kuhl suggested further discussion on the possibility of current Kentucky citizens being "grandfathered" into the system and having the option to choose a non-REAL ID. However, all new and incoming residents will be required to obtain a REAL ID. Breeder documents that are currently needed to receive a Kentucky driver's license, such as birth certificates, will also be required to obtain a REAL ID, therefore the cabinet would push for the issuance of a REAL ID instead.

Commissioner Kuhl stated by undertaking REAL ID and a central issuance system, it provides KYTC with an opportunity to possibly move the entire application process for non U.S. citizens, including the photographs, to the KYTC field offices. Currently, for these individuals, applications are taken at the field office, and photos and cards are done at the County Clerk's office. Streamlining these applications for this population would reduce the load on Circuit Clerks. Another idea that has been brought to the attention of the cabinet from the Federal Bureau of Prisons and the Department of Justice is a possible program to have prisoners photos taken while they are still in a prison facility and then the required documents along with the photograph will be sent off to be processed. When that prisoner is no longer incarcerated, they may be provided with an ID that will be needed to successfully integrate them back into society.

Commissioner Kuhl stated KYTC proposes an increase in renewal fees as well as initial identification acquisition fees. This increase in fees would require a statutory change. Four out of the seven states surrounding Kentucky are REAL ID compliant, five of the seven surrounding states utilize a central issuance system, and four of the seven states are either already doing an eight year issuance or are in the process of moving toward an eight year issuance. Currently the \$20.00 fee charged for receiving a driver's licenses is broken down as follows: 1) \$0.50 goes to the county in which it is issued, 2) \$0.50 to driver's education, 3) \$1.00 to the cost of the card itself, 4) \$4.40 to the Administrative Office of the Courts, and 5) \$13.60 to the Road Fund. The proposed increase from a \$20.00 fee to a \$50.00 fee for an eight year driver's license would be broken down as follows: 1) \$2.00 to the county, 2) \$2.00 to driver's education, 3) \$8.00 to the cost of the photo taken, 4) \$10.00 to the Administrative Office of the Courts, and 5) \$28.00 to the Road Fund. Commissioner Kuhl stated the next step in order to make Kentucky REAL ID compliant is legislative assistance via statute change. These statutory changes are needed by the 2016 General Assembly.

Commissioner Kuhl stated if REAL ID legislation is passed in 2016, it will take until approximately early 2017 to implement an RFP and begin the work. Approximately two years from that time, the first REAL IDs will be issued. Commissioner Kuhl said that the Department of Motor Vehicle Regulation has reached a limit on the number of extensions the Federal Government will grant in order to allow Kentucky to become REAL ID compliant and from this point on legislation is needed. Kentucky has a federal extension until October 10, 2016. Commissioner Kuhl stated if legislation is passed Kentucky may be granted another extension due to working towards becoming compliant.

In response to a question asked by Chairman Collins, Commissioner Kuhl stated it would be more costly to have Kentucky as a printing location for REAL IDs than to delegate the printing out to a private vendor.

Chairman Collins questioned the reasoning

behind the recommendation of increasing the driver's license renewal cycle from four to eight years and also increasing the fee of the renewal to \$50.00. Commissioner Kuhl stated in order cover the central issuance costs, which will include the costs of mailing the new IDs as well as the increase in card costs, and an increase in the funds that must be distributed to the Administrative Office of the Courts to help with their budget, a fee increase is needed. Chairman Collins expressed that there may be difficulty in getting an increase in fees passed.

In clarification, Commissioner Kuhl stated breeder documents that are needed to obtain a driver's license include documents such as a certified birth certificate, social security card, passport, or proof of residence or evidence of lawful status. He added for anyone moving to a REAL ID that is a current citizen of Kentucky, they would have to bring breeder documents, whether they are a new driver or have been a driver for several years. If the person chooses not to obtain a REAL ID, in order to board a commercial aircraft, a passport will serve as proper identification and a REAL ID would not be required.

In response to a question asked by Representative Floyd concerning the involvement of Circuit Court Clerks to help transition Kentucky to REAL ID, Commissioner Kuhl stated there has not been a committee established specifically for the transition into REAL ID simply because it is not clear at this time if Kentucky will become REAL ID compliant.

In response to a situation that Senator Smith was made aware of concerning an instance where someone was charged the full \$20.00 fee several times in the four year period for changes made to their driver's license instead of the \$12.00 change fee, Commissioner Kuhl stated this issue will be looked into. Senator Smith suggested a legislative change if the full renewal fee is in fact being charged for such changes and there is not a new renewal date being set.

Representative Wuchner stated an increase in fees would place Kentucky at approximately a 35-40 percent higher rate for the fees than the surrounding states. This fee, along with the state's ad valorem tax on motor vehicles, could create a disincentive to locate in the state, and more discussion on that fee is needed.

In response to a question asked by Senator Wilson, Commissioner Kuhl stated the cost of Kentucky going to a central issuance system will be covered by the proposed fee increase. Also in response to a second question asked by Senator Wilson, Commissioner Kuhl stated driver's testing is done by the Kentucky State Police. Once the driver's testing is completed the citizen then travels to the County Clerk's office and receives their license. There is currently no proposal to change this process.

In response to a question asked by Senator Wilson, Commissioner Kuhl stated additional funding has been requested in KYTC's budget request for the possible REAL ID transition. In response to a question asked by Senator Wilson, Commissioner Kuhl stated Minnesota passed



legislation to not become REAL ID compliant. He added New Mexico and Washington have legislation that they are trying to get repealed in an effort to become REAL ID compliant and have been technically denied an extension, but they will be given extra time to become compliant.

In response to a question asked by Representative Mills concerning the analyzation of cost savings on the four to eight year license renewal recommendation, Commissioner Kuhl stated some preliminary figures have been analyzed but it is important to remember that out of the licensing fee money is put into the road fund and allocated to the Administrative Office of the Courts and those fees must continue to be allocated accordingly.

#### **A presentation on the feasibility of display of driver's license info on electronic devices**

Wendy Reilly, Manager of Government Relations, HID Global and Kathleen Carroll, Vice President of Corporate Affairs, HID Global gave a brief presentation on the feasibility of display of driver's license information on electronic devices. HID Global is the world's leading manufacturer of secure identity credentials, headquartered in Austin, Texas. HID provides identity solutions, including access control badges, digital credentials, government identity credentials, and the ecosystem to authenticate those credentials. HID also produces the United States Green Card which has not been counterfeited in more than 18 years, a testament to the expertise HID Global provides in its commitment to security. Ms. Reilly stated HID Global has been at the forefront in developing an interoperable mobile platform to allow citizens to carry their identity credentials on a mobile device. There are more than 184 million smartphone users in the United States and many of those citizens conduct their daily activities such as reading email, paying for groceries, sending texts, and taking videos and pictures "on the go." Ms. Carroll stated citizen identity "tokens" in smartphones are already in use for many applications including ID badges, credit cards, student IDs, and hotel keys. She added using HID Global's mobile platform, Starwood Hotels is offering its guests the convenience of mobile check-in and sending room keys directly to mobile devices which allows the guest to bypass the front desk and go straight to their room to open the door with their smartphone once they arrive at the hotel.

There is significant momentum in the United States to examine the feasibility of provisioning driver's licenses to smartphones. HID is reaching out to key stakeholders which include state DMV's, law enforcement, citizen and privacy organizations, the Transportation Security Administration (TSA), as well as state and federal legislators to understand the implications of providing such an option to citizens. Seven states throughout the U.S. are currently looking into provisions and implications of mobile driver's licenses.

Ms. Reilly stated there are four key stakeholders that should have significant input into any solution when discussing a mobile driver's license: citizens, law enforcement, federal

authorities, and state licensing authorities. Because of the busy nature of citizens' lives, more than thirty states now allow drivers to show proof of insurance on their smartphones. Applications such as Apple Pay and Google Wallet have made it possible to pay for purchases over their phones. Many citizens prefer the convenience of carrying their smartphone with their credentials rather than a wallet, which could easily become an identity theft problem if their purse or wallet is stolen. As a matter of convenience, a secure mobile driver's license option will allow people to only carry their smartphone and leave their purse or wallet at home. Additionally, driver's licenses built on a secure platforms will give citizens more control over their personal information allowing them to choose when and with whom they share their information and how much information they share.

HID Global is working with law enforcement to understand its concerns and objectives when considering a mobile driver's license option. First and foremost is the safety of law enforcement officers as they need to be able to trust and authenticate an identity credential. When appropriate, a secure mobile driver's license platform would allow the authentication of a person's ID from a safe distance by using Bluetooth technology to give law enforcement officers more time to determine if a traffic stop is routine, or may be more complex. A highly secure mobile platform that allows for validation and authentication of a person's driver's license by authorized entities and individuals can help to reduce the prevalence of fake IDs. A mobile credential would only be sent to a mobile device through a secure service by an authorized state licensing authority. HID Global's mobile driver's license solution is built upon Seos secure technology, which incorporates best in class cryptographic standards defined by the National Institute of Standards and Technology.

Ms. Reilly added that state licensing authorities are often concerned with operation efficiencies that not only affect how they spend their state allocated funds, but also create a more seamless experience for their customers. States also often want to be leaders with deploying innovative technology, as other states tend to follow their lead. Both operation efficiencies and innovative technology are benefits for state agencies when considering the deployment of a mobile driver's license program. To date, there is no state that has a public program underway that offers an optional mobile driver's license to citizens. It is unknown at this time if states would realize a cost savings with the deployment of a mobile driver's license program, the fiscal implications are being studied by a few of the seven states that are currently looking into provisions and implications of mobile driver's licenses. Iowa currently has a pilot program underway and is offered to select Iowa Department of Transportation employees. A physical driver's license would continue to exist alongside a mobile driver's license for the foreseeable future due to many instances where a citizen would need to prove their identity by presenting a physical driver's license, therefore a mobile driver's license

would not replace the physical license, and rather it would complement it. Ms. Carroll stated they met with Kentucky State Police to gain feedback on an implementation of a mobile driver's license program.

Ms. Carroll stated many stakeholders have indicated that privacy is a major consideration when considering a mobile driver's license solution. Citizens want to know that their information is safe and state licensing authorities want to know that the solution they choose for a mobile driver's license will protect the privacy of their citizens. Such a solution must take into account the Fair Information Practice Principles which include transparency, individual participation, purpose specification, data minimization, use limitation, data quality and integrity, security, and accountability and auditing. The heart of the driver's license solution concept is that the citizens have the choice to opt for the mobile driver's license, they control who sees their information, they never have to hand over their smartphone, and they have control over what information is seen.

Due to an increasingly digital world, identity drives daily actions and there has been an increase in identity fraud. Identity thieves are becoming more sophisticated in their methods preying upon vulnerabilities that exist for individuals and business. Strong identity protection is one of the most critical concerns of citizens. A secure mobile driver's license platform should provide citizens with the assurance that only those entities that the citizens authorize may access their device, and subsequently authenticate their identity. Any transmitted data from a mobile device used to obtain a citizen's credential information will only be usable by the intended authenticating party such as the DMV, law enforcement, etc. and is protected in transit aiding standard-based cryptography.

HID Global has identified and partnered with stakeholders that would be affected by the implementation of a future mobile driver's license program. HID Global has identified the following six principles that should be the backbone of any mobile driver's license solution. The first principle is that the program should be voluntarily mobile and that access to a citizen's driver's license solution should only be possible by some intended action on the citizen's part. The second principle is that the mobile driver's license program should be interoperable and should be able to work with the major smartphone brands and able to work across the North American continent. The third principle is that it must be secure and using strong standards-based cryptography so that a citizen's data only can be viewed by the intended authenticating smartphone. Privacy is another principle, as a citizen should never be asked to hand over their smartphone. Remote capability even in remote areas should be a principle as a citizen's driver's license should be able to be securely made available. Always available is the last and finale principle. The mobile ID should always be available even when a citizen's smartphone is inoperable, i.e. dead batter or not function. A citizen's driver's license should be able to be securely accessed.

Ms. Carroll said that, ultimately, the consideration of a mobile driver's license option requires extensive research and collaboration to ensure that they most secure and privacy enhancing solution is offered. She stated HID Global looks forward to serving as a trusted advisor as Kentucky and other states explore a workable mobile driver's license program. Ms. Carroll and Ms. Reilly demonstrated how the mobile driver's license program would work using a demonstration that was set up in room 169.

In response to a question asked by Senator Wilson, Ms. Carroll stated mobile driver's licenses are a new concept and other vendors are developing their own concepts such as the vendor that is working on the Iowa pilot. She stated it is important that whatever solution is revealed will be interoperable standards based, so no matter the vendor, it will work. She added the services could be competitively bided out between the states and different vendors.

In response to a question asked by Representative St. Onge, Ms. Carroll stated there is not yet an idea of how much implementing a mobile ID program will cost but during the development stage the vendors are bearing the cost of the development process. She added the goal is for pilots to begin to be ran to see the feasibility of the application in the real world and then determine cost. She added the cost that the state will have to bear is indeterminable at this time. She added any other certificates that other states utilize for driving will be open to the mobile platform as well.

In response to a question asked by Representative Floyd concerning when a citizen is pulled over for a traffic stop, Ms. Carroll stated the phone will not be handed over to prove credentials, rather, the information will be transmitted through Bluetooth.

Administrative Regulations 603 KAR 5:155, 603 KAR 10:010, 603 KAR 10:002, and 603 KAR 10:021 were reviewed. Paul Bergman and Mike Young, Scenic Kentucky; and Tom Fitzgerald, Kentucky Resources Counsel all spoke in opposition to the regulations citing reasons such as LED light pollution, vegetation, environmental, and possible legal repercussions. Mike Hancock, Secretary, KYTC and Rebecca Goodman, General Counsel, KYTC, spoke in favor of the regulations siting those concerns had been addressed in the regulations. Secretary Hancock further emphasized that these regulations were the cabinet's best attempt to give its employee's authority to police this industry in an effective manner. The cabinet also expressed no desire to amend or defer the regulations.

The Committee staff informed the members of the Committee of the options before them in considering administrative regulations. The Committee could unilaterally find the regulations deficient, or, with the agreement of the Transportation Cabinet, amend or defer the regulations. The Committee staff stressed that the Committee does not approve administrative regulations.

Representative Riggs stated he has not been

adamantly opposed to the removing and pruning of junk vegetation around billboards however, he believes good points have been made concerning the law about care and maintenance of public roads and the billboard regulations go beyond the care and maintenance of public roads. He expressed his discomfort with the public policy changes made by the executive branch, and his concern for dropping the requirement to require ten businesses in the area which should be considered a public policy decision that the legislature should make. He also added the setback of the 1620 feet requirement to 660 feet is not care and maintenance of public roads but more of a public policy issue.

Chairman Collins stated the removal of six existing billboards in order to place one electronic billboard means the reduction of the overall number of billboards and he does not see a problem with doing so. He added several billboards are off of a right-of-way and on someone else's property, which he assumes they receive money for allowing them to be there. He also stated that the cabinet has the authority to clear the right-of-ways on the highway as they see fit. Chairman Collins stated he would like to see the right-of-ways clean for safety reasons.

Representative Floyd stated he is sympathetic to the objections made against the regulations but he believes KYTC has made a good faith effort to solve the problem. He suggested deferring or finding the regulations deficient so there may be common ground found to please all parties involved.

Chairman Harris stated there are some people that are opposed to any billboards but that is no longer up for discussion. He added that there are people who have invested in legal billboards that have been permitted by the cabinet for decades, and if he were a billboard company or private owner of a billboard, and vegetation grew up in front of it, he would feel as if he is being deprived of the ability for other people to see his property (the billboards.) He added there are some people that want to remove every billboard and that is no longer up for discussion as well so neither of those matters are issues to him. He added it is easier to change regulation with a new administration than it is to change legislation.

In response to a question asked by Senator Embry concerning the six billboards that must be given up in order to obtain one electronic billboard, Ms. Goodman stated if a person or billboard company does not have six billboards to give up but they would like to purchase an electronic billboard, they may purchase deteriorating static billboards and/or they can also "bank" any billboards. Banking billboards entails obtaining a few billboards at a time and having KYTC track those for the person and allow them to be added up. When the person or company is ready to erect the electronic billboards or when they reach six billboards, a permit can then be reviewed and issued to remove the six billboards and replace them for one electronic board if all of the criteria has been met.

In response to a question asked by Representative Simpson, Ms. Goodman stated a local community must pass a resolution via their

local legislative body stating that they want the electronic billboards. If the community is silent on the issue it will be indicated that they do not wish for the electronic billboards to be placed there. There must be an affirmative expression that the community does want the electronic billboards before the process can begin within that community.

In response to a question asked by Representative Simpson concerning if a community can express a blanket acceptance of the billboards or if there is a necessity to have an approval on each location, Ms. Goodman stated in her opinion, the community could require that the billboard companies come before them if they want to approve them individually. Ms. Goodman added they have to comply with all local zoning rules and there has to be a favorable expression for the electronic billboards.

In response to a question asked by Representative Riggs concerning no requirements for setback limitations of the billboards on an off ramp or on ramp of a highway, Ms. Goodman stated engineers assisted the cabinet and they were advised on this issue, and the setbacks were eliminated in this particular case. She added there are numerous spacing requirements on the billboards, weather its electronic billboard to electronic billboard, electronic billboard to static billboard, or static billboard to static billboard. She also added it is difficult to specify where a ramp begins and ends and based on the advice given by the engineers, this approach is a safe way to proceed.

Chairman Harris stated the Interim Joint Committee on Transportation directed KYTC to solve the issue. He added that the first regulations that were promulgated were not up to par and the current regulations are much improved and is much more of a compromise which also gives the cabinet the tools needed to prevent the profilation of more billboards that are erected without permits.

The regulations were neither deferred, nor amended, nor were they found deficient. Chairman Harris adjourned the meeting at 11:47 A.M.

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

### **Budget Review Subcommittee on Postsecondary Education**

#### **Minutes of the 3rd Meeting of the 2015 Interim**

October 22, 2015

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

The 3rd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 22, 2015, at 1:00 PM, at the Murray State University CFSB Center in Murray, Kentucky. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Arnold Simpson, Co-Chair; Senators Danny Carroll, C.B. Embry Jr., and Stan Humphries; Representatives Larry Clark, Jim DeCesare, Derrick Graham, Kenny Imes, and Jody



Richards.

Guests: Bob Rogers, Superintendent, Murray Independent Schools; Tres Settle, Superintendent, Calloway County Schools; Dr. Tim Todd, Interim Provost, Murray State University (MSU); Jordan Smith, Director of Government Relations, MSU; Joanne Lang, Executive Director, AdvanceKentucky; Callie Adams, Student, MSU; and Lindsey Coleman, Student, MSU.

LRC Staff: Chuck Truesdell, Jennifer Krieger, and Ben Thompson.

#### **Welcome**

Superintendents Bob Rogers and Tres Settle welcomed the subcommittee to Murray, testified about their school districts, and expressed budgetary concerns for school districts statewide.

#### **Murray State University**

Dr. Tim Todd and Mr. Jordan Smith presented a video featuring University President Robert O. Davies discussing MSU.

In response to a question from Representative DeCesare, Dr. Todd noted that President Davies is very supportive of performance based funding, specifically for any new funding.

In response to a question from Representative Carney, Dr. Todd noted that MSU has had students from every county in Kentucky.

#### **AdvanceKentucky**

Executive Director Joanne Lang, Ms. Callie Adams, and Ms. Lindsey Coleman provided testimony on the effectiveness of the AdvanceKentucky program.

In response to a question from Chair West, Director Lang noted that AdvanceKentucky is a voluntary program that schools apply for. Director Lang said that AdvanceKentucky pays roughly half of the Advance Placement (AP) exam fees for participating students, as well as giving \$100 for each qualifying score to students and their teachers.

In response to questions from Representative Graham, Director Lang noted that 32 of the 101 schools in the program are in eastern Kentucky. Director Lang noted that some schools aren't prepared to implement AdvanceKentucky, while reiterating that the program is entirely voluntary. Director Lang noted that districts that are currently in the laying foundation phase are utilizing pre-AP teacher training.

In response to a question from Representative Carney, Ms. Adams stated that in her opinion dual credit courses are more beneficial than AP courses. Director Lang noted that nearly all of the schools in the AdvanceKentucky network have both AP and dual credit courses.

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

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

### **Budget Review Subcommittee on Primary and Secondary Education**

#### **Minutes of the 3rd Meeting of the 2015 Interim**

October 22, 2015

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

The 3rd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 22, 2015, at 1:00 PM, at the Murray State University CFSB Center in Murray, Kentucky. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Senators Danny Carroll, C.B. Embry Jr., and Stan Humphries; Representatives John Carney, Will Coursey, Jeffery Donohue, Derrick Graham, and Dennis Horlander.

Guests: Bob Rogers, Superintendent, Murray Independent Schools; Tres Settle, Superintendent, Calloway County Schools; Dr. Tim Todd, Interim Provost, Murray State University (MSU); Jordan Smith, Director of Government Relations, MSU; Joanne Lang, Executive Director, AdvanceKentucky; Callie Adams, Student, MSU; and Lindsey Coleman, Student, MSU.

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#### **Welcome**

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#### **Murray State University**

Dr. Tim Todd and Mr. Jordan Smith presented a video featuring University President Robert O. Davies discussing MSU.

In response to a question from Representative DeCesare, Dr. Todd noted that President Davies is very supportive of performance based funding, specifically for any new funding.

In response to a question from Representative Carney, Dr. Todd noted that MSU has had students from every county in Kentucky.

#### **AdvanceKentucky**

Executive Director Joanne Lang, Ms. Callie Adams, and Ms. Lindsey Coleman provided testimony on the effectiveness of the AdvanceKentucky program.

In response to a question from Chair West, Director Lang noted that AdvanceKentucky is a voluntary program that schools apply for. Director Lang said that AdvanceKentucky pays roughly half of the Advance Placement (AP) exam fees for participating students, as well as giving \$100 for each qualifying score to students and their teachers.

In response to questions from Representative Graham, Director Lang noted that 32 of the 101 schools in the program are in eastern Kentucky. Director Lang noted that some schools aren't prepared to implement AdvanceKentucky, while reiterating that the program is entirely voluntary. Director Lang noted that districts that are currently in the laying foundation phase are utilizing pre-AP teacher training.

In response to a question from Representative Carney, Ms. Adams stated that in her opinion dual credit courses are more beneficial than AP courses. Director Lang noted that nearly all of the schools in

the AdvanceKentucky network have both AP and dual credit courses.

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

## **INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM**

### **Minutes of the 5th Meeting of the 2015 Interim**

November 19, 2015

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

The 5th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, November 19, 2015, at 11:00 AM, at Shelby Valley High School, Pikeville, Kentucky. Representative John Short, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John Short, Co-Chair; Senators Perry B. Clark, Chris Girdler, Ernie Harris, and Mike Wilson; Representatives Lynn Bechler, Hubert Collins, Tim Couch, Jim Gooch Jr., Chris Harris, James Kay, Brian Linder, Terry Mills, Ruth Ann Palumbo, and Russell Webber.

Guests: Bob Stewart, Secretary, Tourism, Arts, and Heritage Cabinet; Mike Mangeot, Commissioner, Department of Travel and Tourism; Seth Wheat, Office of Adventure Tourism; Jared Arnett, Executive Director, Shaping Our Appalachian Region; Janet Lile, Finance and Administration Cabinet; Mike Hayden, Kentucky Communications Network Authority; Senator Ray Jones; Tony Tackett; Phil Osborne.

LRC Staff: John Buckner, Lou DiBiase, and Karen Brady.

#### **Tourism in Kentucky**

Bob Stewart, Secretary, Tourism, Arts, and Heritage Cabinet, gave an overview on the state of tourism in Kentucky. In 2014, the state hit a record level of economic impact for tourism spending, topping \$13 billion for the first time in Kentucky history. This was a four and a half percent increase over 2013, and impact was felt across all nine tourism regions of the state, generating over 180,000 jobs with \$2.9 billion in wages. Spending by visitors in the commonwealth generated \$1.4 billion in state and local taxes. In 2014, the Kentucky Appalachians region's economic impact was \$391 million and supported 6,000 jobs; in Pike County alone the economic impact was \$65.6 million and supported 900 jobs.

Secretary Stewart emphasized that the potential for future growth in tourism in Eastern Kentucky is outstanding. One exciting development is The Breaks Interstate Park's examination of the possibility of a new white water rafting season in the summer months. He also mentioned the new Dueling Barrels Distillery in downtown Pikeville, and reported that Elkhorn City has been named one of Kentucky's trail towns.

Mike Mangeot, Commissioner of the Department of Travel and Tourism, explained the different marketing and advertising mediums used to promote the state. The internet is the number



one source of travel information; print media and social media are both other platforms used to market tourism in Kentucky. Commissioner Mangeot explained that international marketing is very important, with growth in markets like China. The new film incentive that was passed last year has incredible opportunity; 2016 could be a historic year in Kentucky for film production. Between 2009 and 2014, 11 projects were approved; since April 2015, 17 projects have been approved. Production companies have stated it is now the best incentive in the country.

It has been a banner year for tourism development incentives. Kentucky was the first state to have such incentives, and since the initial law passed in 1996, more than \$1 billion has been invested in tourism attractions in Kentucky.

The consistent theme in marketing and advertising is horses, bourbon, outdoor adventure, arts, culinary, and music.

There were 20 million visitors to Kentucky in 2014, and 63 percent of all tourism dollars came from out-of-state visitors. Strategic Marketing and Research Insights (SMARI) studied return on investment found that, for every dollar spent on advertising, \$151 was generated in economic impact (\$129 is average for other states) and \$15.69 in tax revenue. Since 2012, the transient room tax is up 21.5 percent and on pace this year to exceed \$12 million.

In response to Representative Bechler, Secretary Stewart attributes the state's growth in tourism's economic impact to an overall improved economy, spending money on advertising/media that works, the national and international events that Kentucky has hosted in recent years, and the explosion of the popularity of bourbon. Secretary Stewart also stated that Kentucky's return rate on visitors is very, very good.

In response to Senator Clark, Secretary Stewart stated that the potential in Kentucky for adventure tourism is incredible, and especially could bring real growth in rural parts of the state.

Seth Wheat, with the Office of Adventure Tourism, explained the mission of his office is to promote and develop opportunities for outdoor recreation. He spoke of the importance of the Cross Kentucky Master Trail Plan, and how trail systems are a driving force in the adventure tourism industry. The Master Plan will be sent out to every county in the state, so each local community will have a guide to go by. Kentucky has 13 certified Trail Towns. The goal of this program is to create destinations based around the outdoor adventure they have to offer. It normally takes two years for a town to complete the process of becoming a certified trail town.

#### **The Appalachian Opportunity**

Jared Arnett, Executive Director, Shaping Our Appalachian Region (SOAR), gave an overview of SOAR. SOAR is a catalyst to engage the region of Eastern Kentucky to plan and affect change. The sitting Governor and Congressman of the 5<sup>th</sup> District are co-chairs of SOAR. Sixty percent of SOAR's funding comes from private partners. SOAR's public partners are the Appalachian

Regional Commission, state of Kentucky, and the city of Pikeville. Mr. Arnett emphasized that SOAR is about a network of people who believe in the region and building a team to get it done.

#### **Kentucky Wired**

Janet Lile, Finance & Administration Cabinet, and Mike Hayden, with the newly formed Kentucky Communications Network Authority, discussed the Kentucky Wired project, which is a statewide fiber optic network that is under construction and will be completed in 2018. It will bring high-speed, high-capacity broadband access to every county in Kentucky. With Kentucky Wired, the state will be responsible for building out the middle portion of a fiber network. Benefits of Kentucky Wired include promoting economic development, enhancing education and public safety, improved healthcare, and lower consumer costs. Overall, the goal is to establish scalable networks that can provide for future growth, and one network that can serve government, businesses, and citizens.

Ms. Lile stated that Kentucky is 47<sup>th</sup> in the nation for broadband availability. She emphasized that Kentucky Wired is a state-owned physical fiber optic network, and is serving government first, but it will be open access. Kentucky Wired will be using both public and private funding resources. The two main reasons a Public-Private Partnership (P3) was chosen were money and expertise. The total financing is \$324 million. Nine percent is from state funding, seven percent federal funding, and 84 percent is from the P3.

There being no further business to come before the committee, the meeting was adjourned at 1:35 p.m.

## **INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

### **Minutes of the Sixth Meeting Of the 2015 Interim**

November 18, 2015

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

The sixth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 18, 2015, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 1:00 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Tom Burch, Co-Chair; Senators Ralph Alvarado, Tom Buford, Danny Carroll, David P. Givens, Denise Harper Angel, and Jimmy Higdon; Representatives Robert Benvenuti III, George Brown Jr., Bob M. DeWeese, Reginald Meeks, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, Russell Webber, and Addia Wuchner.

Guest Legislator: Senator Chris McDaniel.

Guests: R. Stewart Perry, Former National Board Chair, American Diabetes Association; Bob Babbage, Partner, Babbage Cofounder; Connie Gayle White, MD., MS., Facog, Deputy Commissioner, Clinical Affairs, Department for Public Health, Cabinet for Health and Family Services; Gary Daugherty, Director of

State Government Affairs, American Diabetes Association; Timothy K. McDaniel, Ph.D., Senior Vice President, Emerging Opportunities, Translational Genomics Research Institute (TGen), Phoenix, Arizona; Thomas Felix, M.D., Director, R&D Policy, Global Regulatory Affairs and Safety, Amgen, Inc.; Amy Dempster, Senior Manager, State Government Affairs, Mid-Atlantic Region, Genentech; Ben Twilley, Senior Manager, State Government Affairs, Express Scripts; Ralph Bouvette, Executive Vice President, American Pharmacy Services Corporation; Robert McFalls, Executive Director, Kentucky Pharmacists Association; Jamie L. Studts, Ph.D., Associate Professor, Department of Behavioral Science, University of Kentucky College of Medicine, and Assistant Director, Cancer Prevention and Control, Markey Cancer Center; Shannon McCracken, Interim Executive Director, Kentucky Associations of Private Providers (KAPP); Connie Calvert and Jonathan Shrewshacy, Board of Optometric Examiners; Richard Heine, Friedell Committee; Jane Cheshire Glibert, Kentucky Teachers' Retirement System; Bonnie Thorson Young, Seven Counties Services; Nicole S. Biddle, Counsel, Optometrists Board; Todd Trapp and Christa Bell, Cabinet for Health and Family Services, Department for Community Based Services; and Frank Burns, M.D., Kentucky Academy of Eye Physicians and Surgeons

LRC Staff: DeeAnn Wenk, Ben Payne, Jonathan Scott, Sarah Kidder, and Gina Rigsby, and Miranda Deaton.

#### **Diabetes Action Plan**

R. Stewart Perry, Former National Board Chair, American Diabetes Association, Bob Babbage, Partner, Babbage Cofounder, and Connie Gayle White, MD., MS., Facog, Deputy Commissioner, Clinical Affairs, Department for Public Health, Cabinet for Health and Family Services, stated that 1 in 11 adults in the United States have diabetes. The rate in Kentucky is 1 in 8. In 2013, 11 percent of the members of the Kentucky Employees Health Plan (KEHP) had diabetes. Medicaid members experience a higher rate at 18 percent. In Kentucky's Appalachian counties, the rate of diabetes among adults is 13.6 percent compared to 9.5 percent for non-Appalachian counties. Kentucky is currently 14<sup>th</sup> in the nation for diabetes and 8<sup>th</sup> in pre-diabetes. KRS 211.752 requires an annual Diabetes Action Report (DAP) by the Department for Medicaid Services, Department for Public Health, and the Office of Health Policy within the Cabinet for Health and Family Services and the Department of Employee Insurance with the Personnel Cabinet pertaining to diabetes be submitted to the Legislative Research Commission. In 2013, in-patient hospitalizations for diabetes resulted in charges of \$223,507,370 and \$33,011,751 for the emergency department visits. Over 69 percent of pregnant women with pre-existing diabetes will deliver by Cesarean section compared to 36 percent of pregnant women without diabetes.

The 16-week lifestyle intervention program, Diabetes Prevention Program (DPP), developed

by the Centers for Disease Control and Prevention (CDC) is now a covered service of the KEHP. The goal of the DPP is evidence-based lifestyle changes to prevent type 2 diabetes. The KEHP covers the \$429 cost of the DPP for appropriate individuals. Kentucky is currently 10<sup>th</sup> in the nation for the number of people participating in the National Diabetes Prevention Programs (NDPP). Currently, there are 59 counties with a covered NDPP. Due to earlier diagnosis and improved treatments, the rate of end-stage kidney disease among Kentuckians with diabetes has declined since 2000. The cabinet has received an enhanced CDC grant for work to support expansion of recognized DPPs and recognized Diabetes Self-Management Education (DSME) programs. The DAP legislation helped move the state toward better patient care, data integration, and transparency.

In response to questions by Representative Burch, Mr. Babbage stated that diabetes is found in all economic areas of Kentucky's population. Dr. White stated that as a person's education and income increases, the risks of getting diabetes decreases. Mr. Perry stated that before the Medicaid expansion in Kentucky, \$1 in every \$3 in the Medicaid program was spent on diabetes.

In response to questions by Representative Meeks, Dr. White stated that the KEHP is the only insurance carrier in Kentucky that covers the DPP. Diabetes self-management education classes are offered in some health departments. Gary Daugherty, Director of State Government Affairs, American Diabetes Association, stated that the Medicaid expansion has allowed more individuals to get more adequate healthcare. Representative Meeks asked for a chart that lists DPP participants county by county be provided by the cabinet.

In response to questions by Representative Benvenuti, Dr. White stated that only 59 counties offer DPP programs, so the infrastructure to educate individuals on how to prevent or manage diabetes themselves is not currently available. Diabetes self-management is not offered in every county. Any program is worth it to prevent people from getting diabetes. Mr. Perry stated that currently Medicaid does not cover the DPP.

#### **Minutes**

A motion to approve the October 21, 2015 minutes was made by Representative Burch, seconded by Senator Alvarado, and approved by voice vote.

#### **Biomedical Industry**

Timothy K. McDaniel, Ph.D., Senior Vice President, Emerging Opportunities,

Translational Genomics Research Institute (TGen), Phoenix, Arizona, stated that DNA from a cancer patient's tumor can show the biology of the tumor and be used to identify the right genome-identified drug needed for the treatment of the patient. TGen is a non-profit medical research institute dedicated to translating discoveries in the science of genomics for the benefit of patients. A research team works with a clinical team in order to accelerate any new medical technologies to benefit patients. There are six locations through the state of Arizona, and the disease focus is cancer.

TGen also has a clinic to study rare childhood genetic diseases. There is a team that focuses on microbial diseases. Twenty percent of TGen's budget comes from partnerships with industry companies throughout 28 countries. TGen was created to bring world class researchers to Arizona and raise its global profile and build its economic development by bringing companies to Arizona. Arizona provided \$40 million of seed money to TGen over the first five years. The \$40 million was matched by private foundation contributions as well as the city of Phoenix. A 2014 report, Promises Economic Benefits, Positive Economic Benefits of TGen on the State of Arizona, reported a \$700 million economic impact over the first ten years. In 2014, state tax revenue for TGen and its corporate spinoffs has generated \$8.7 million. TGen's economic impact on Arizona was \$22 million in 2006 and \$174 million in 2014.

In response to questions by Senator Danny Carroll, Dr. McDaniel stated that TGen has research that spans the range of genetic and childhood developmental disorders.

In response to questions by Senator Alvarado, Dr. McDaniel stated that if a child goes through the full course of diagnostics such as MRIs, spinal taps, muscle biopsies, there would be a 5 percent to 10 percent diagnosis rate. If a genome is applied, the diagnosis is 40 percent. The cause of approximately 12 different genetic diseases have been discovered.

In response to a question by Representative Wuchner, Dr. McDaniel stated that there are 7,000 different rare genetic diseases with only one-half of them that the gene has been identified.

#### **Biosimilar/Biologic Pharmaceuticals**

Thomas Felix, M.D., Director, Research and Development Policy, Global Regulatory Affairs and Safety, Amgen, Inc., stated that Amgen is a biotechnology corporation company developing both innovative biologic medicines and biosimilars of non-Amgen products. Amgen's core business is focused on discovering, developing, and delivering innovative medicines for patients with grievous illness. Biologics are approved for the treatment of cancers, immune system disorders, neurologic disorders, and hematologic conditions. Biologic is a substance that is made from a living organism or its products. Biologics are developed in living systems using complex manufacturing processes involving many highly regulated and unique steps. Biosimilars are versions of existing biologic products which are similar but not identical. The FDA has the discretion to determine that certain studies are not required for generics and biosimilars. Biosimilarity is when a drug is highly similar notwithstanding minor differences in clinically inactive components and has no clinically meaningful differences in safety, purity, and potency of the product. Interchangeability is having the expectation of same clinical result in any given patient and when administered more than once, having no additional risk to safety or efficacy as a result of switching. Biosimilars are not traditional products such as aspirin. The FDA policy on approval standards for biosimilars does not address automatic substitution. Approval of

biosimilars was signed into law along with the federal Patient Protection and Affordable Care Act.

Amy Dempster, Senior Manager, State Government Affairs, Mid-Atlantic Region, Genentech, stated that for the past 35 years, Genentech has used human genetic information to discover, develop, manufacture, and commercialize medicines to treat patients with serious, complex, or life-threatening medical conditions including cancer, arthritis, stroke, and cystic fibrosis. Americans of all ages, ethnicities, and income levels are prescribed FDA-approved biologic products manufactured by Genentech. Genentech has headquarters in South San Francisco, California, with the largest warehouse and distribution center located in Louisville, Kentucky. In 2010, the Kentucky Distribution Center in Louisville became Genentech's primary distribution center of all Genentech and Roche's products in the United States. Advancing legislation to allow pharmacists to substitute FDA-approved interchangeable biologics is an important step in making sure the residents of Kentucky are given safe and effective medicine that also has additional protections by informing the practitioner of what medicine was actually dispensed to a patient at the pharmacy. Genentech believes it should be up to the prescribing physician or practitioner and the patient to determine the appropriate product used to treat a patient's illness.

Ben Twilley, Senior Manager, State Government Affairs, Express Scripts, stated that there is a tremendous amount of savings potential for biosimilars. The first biosimilar approved nationally in March 2015 is expected to save the healthcare industry \$5.7 billion over the next decade. There are 11 biosimilars that potentially could be approved by the FDA over the next decade that would save \$25 billion in savings. Since 2006, biosimilars have been available in Europe that has resulted in a 30 percent discount compared to brand name biologics.

In response to questions by Senator Alvarado, Dr. Felix stated that numerous gaps exist to accurately identify an adverse event and attribute it to the right place. This is not in the best interest of the patients. As a nation we are trying to break down walls in silos of information that exist between members of the healthcare team. There is information that should be shared by a pharmacist and a physician. Information gaps need to be closed that might prevent appropriate continuity of care for a patient if something were to go wrong. Ms. Dempster stated that 20 states and Puerto Rico have enacted laws that require notification to doctors when a drug is substituted with a biosimilar. Mr. Twilley stated that the goal is to have a savings of 30 percent to 40 percent just like Europe experienced. The first biosimilar was approved nationally in 2015 and with a savings of \$25 billion to \$250 billion.

In response to questions by Senator Higdon, Mr. Twilley stated that a patient receives a prescription and when filling a prescription, a pharmacist makes a substitution. As the pharmacist is processing a claim, a notation is made on the



claim that a substitution occurred and then it is automatically updated in the system and updated in the patient's medical record where the physician is able to retrieve the information. Ms. Dempsey stated that the proposed legislation should state that whatever drug is dispensed to the patient is reported to the physician so a patient's record can be updated.

Robert McFalls, Executive Director, Kentucky Pharmacists Association, stated that over the years, Kentucky pharmacists have worked with members of the legislature, payors, state agencies, and other organizations to promote prescriber and pharmacy practices to enhance the prescribing and dispensing of generic drugs. Since 1972, Kentucky law requires when a prescription is filled, a generic drug will be dispensed automatically if one is available. On November 13, 2015, the Kentucky Pharmacists Association House of Delegates voted unanimously to oppose any provision in a biologic substitution law that creates an obstacle for the simple and seamless substitution of biologic products deemed interchangeable by the FDA.

Ralph Bouvette, Executive Vice President, American Pharmacy Services Corporation, stated that proposed legislation contains a provision that requires pharmacists to notify the prescriber when a substitution of a biologic products is made with a product deemed interchangeable by the FDA. The legislation has the potential to negatively impact the use of lower cost interchangeable biologics and creates some practical problems for pharmacists and prescribers. In order to determine if a biosimilar can be safely interchanged, the FDA will test the effectiveness of the product; determine that there are no clinically significant differences between the interchangeable product and the original reference product in terms of safety, purity, and potency; and determine that an interchangeable biologic can be administered more than once to an individual and that the risk of switching the patient between the interchangeable product and the original reference product is no greater than the risk of using the original reference product without switching.

The proposed legislation would allow notification to the physician or practitioner to occur by an interoperable electronic medical records system, an electronic prescribing technology, a pharmacy benefits management system, and a pharmacy record that can be electronically accessed by the physician. Pharmacies without access to these technologies would be required to notify the prescriber by phone, fax, e-mail, or other means. Over time these notifications will overwhelm pharmacists and prescribers' offices. There is no reason at this time to expect that interchangeable biologics will have any higher incidence of adverse reactions than generic equivalents did when they were first introduced. The better approach would be to make the information available to the prescriber upon request. Pharmacies maintain very detailed records.

In response to questions by Representative Moore, Mr. Bouvette stated that the FDA will have the same screening process in place for biosimilars as it does currently for generics. Mr. McFalls stated

that the Department of Insurance is looking into consumer concerns that an individual is required to use a mail order pharmacy after that individual has filled two prescriptions at a local pharmacy. A consumer should know if it is a requirement for mandatory mail order before choosing a health plan. Mr. McFalls did not know when this requirement went into effect, but consumers need to have the choice where to fill a prescription. Representative Moore stated that this requirement would have an impact on small and independent pharmacies.

In response to questions by Senator Givens, Mr. McFalls and Mr. Bouvette stated that the Kentucky Pharmacists Association and the American Pharmacy Services Corporation would support the proposed biological products legislation if the requirement for the prescribing pharmacist to communicate to the prescribing practitioner is removed. Ms. Dempster stated that 19 of the 20 states that have passed similar legislation require some form of communication between the pharmacist and practitioner about a substitution of a prescribed drug. This change would be revisions to state pharmacy acts not medical board provisions. Dr. Felix stated that this type of transparency would allow for post approval monitoring and study of outcomes related to an administered product. The FDA is spending a great deal of time making sure when a drug has been studied and approved, it is approved for its specific terms of use. After the post-approval of a drug, there needs to be a capability to know exactly what happens to a patient after a product is administered.

In response to questions by Senator Alvarado, Mr. McFalls stated that there will be fewer biologic products dispensed compared to regular drug products a daily basis. Senator Alvarado stated that for the patient's safety, a physician needs to know when a patient has received a shot that does not require a prescription (i.e. flu) and given by someone other than the physician (i.e. Kroger). Mr. Bouvette stated that reporting flu shots has to be specifically stated by protocol that a physician be notified.

In response to questions by Representative Wuchner, Dr. Felix stated that the proposed legislation requires notification to the patient by the pharmacist if there will be a substitution of a prescribed drug with a biosimilar or interchangeable biologic. Mr. Bouvette stated that current generic law states that a substitution is favored and presumed. A sign is posted in all pharmacies that states that if and when an approved generic is available, a patient would receive it unless the doctor or patient states otherwise. Dr. Felix stated that the majority of biologics are administered in a physician's office. A very small percentage is self-administered by a patient.

In response to a question by Representative Meeks, Dr. Felix stated that no novel therapy has been approved for Alzheimer's treatment for a long time, but there are a number products in development.

#### **The Kentucky LEADS Collaborative**

Jamie L. Studts, Ph.D., Associate Professor, Department of Behavioral Science, University

of Kentucky College of Medicine, and Assistant Director, Cancer Prevention and Control, Markey Cancer Center, stated that 30 percent of primary care physicians (PCPs) do not refer a patient diagnosed with lung cancer to medical oncology. Thirty percent of PCPs are not aware of treatment benefits for early and advanced lung cancer. Lung cancer survivors experience lower quality of life, great symptom burden, more distress than other cancer survivors, access fewer survivorship resources, and encounter more barriers to care. The Kentucky LEADS (Lung cancer Education, Awareness, Detection, Survivorship) received a \$7 million grant from the Bristol-Myers Squibb Foundation. The Kentucky LEADS Collaborative includes the University of Kentucky's HealthCare Markey Cancer Center, the University of Louisville's James Graham Brown Cancer Center, and the Lung Cancer Alliance. There are 15 implementation sites throughout Kentucky. The collaborative engaged primary care providers in interviews regarding their role in lung cancer care. A Lung Cancer Care Task Force was organized that developed the 2015 Lung Cancer in Kentucky: A Primary Care Action Plan. The LEADS Collaborative is dedicated to reducing the burden of lung cancer in Kentucky and beyond through development, evaluation, and discrimination of novel, community-based interventions to promote provider education, survivorship care, and prevention and early detection regarding lung cancer.

Senator Adams stated that lung cancer rates are too high, and she supports a Smoke-free Kentucky.

In response to questions by Senator Danny Carroll, Dr. Studts stated that one of the challenges the Survivorship Care training program is that it is expensive, and there is only enough money to work with 10 implementation sites statewide.

In response to a questions by Representative Burch, Dr. Studts stated that the cost for lung cancer screening is variable, but it is covered under the Affordable Care Act covers because it is United States Preventive Services Task Force Grade B. Technically the cost should be zero, but because it is so new, CMS have not established the rate for reimbursement. Low-dose CT is a CAT scan that delivers a low dose of radiation for a maximum of 15 minutes for entire procedure done on an annual basis to help detect lung cancer at its earliest stage.

#### **Primary Care Providers**

Shannon McCracken, Interim Executive Director, Kentucky Associations of Private Providers (KAPP), stated that the KAPP is comprised of 75 agency members from all geographic areas of the Commonwealth. The KAPP supports nearly 80 percent of all SCL waiver recipients and employs over 4,000 full-time employees. The SCL waiver is a Kentucky Medicaid home and community based 1915(c) waiver that provides an alternative to institutional care for individuals with intellectual and developmental disabilities and allows individuals to remain in the community in the least restrictive setting. Currently there are 4,800 participants in the SCL waiver with another 2,000 on a waiting list. Community waivers like



the SCL are in line with national trends and also in compliance with the Americans with Disabilities Act of 1990, the Olmstead Act of 1999, and the Home and Community Based Settings Final Rule which Kentucky has to comply with by 2019. The SCL waiver recipients are not patients. The job of providers is to support these individuals as much as possible to live in the community like anyone else. In 2013, the cabinet proposed changes to the SCL waiver with explicit assurance that all participants currently receiving a service under the approved waiver would not lose services. In reality, the amended waiver is full of barriers that hinder the majority of service recipients, especially those with complex needs, and cater to a small subset of the population who are able to function more independently with time-limited supports such as Supported Employment and Community Access. The result has been the recoupment of millions of dollars from providers over the past year, not for waste, fraud, or abuse, but for minor documentation errors for services that were, by all accounts, provided in good faith.

For the amended administration regulation to work, barriers to services and excessive administrative burdens must be removed. Rates have not been changed for 11 years and must be reviewed. Three specific actions that would improve services and give providers some needed relief are to stop or pause the recoupment process in order to review the direction being given to auditors; defer the regulation when it is referred to the Interim Joint Committee on Health and Welfare to examine the public comment process; and require explicit goals of the process be to assess how the system is functioning, ensure that individuals have choices in programs that are appropriately valued and funded, reduce barriers to access, and reduce the regulatory burden.

In response to questions by Representative Burch, Ms. McCracken stated that public comment was submitted opposing the administrative regulation because of the concerns about people losing services. Inspections results can be appealed to the cabinet before a facility is fined. Some agencies never received recoupment of services.

Senator Danny Carroll stated that disconnect between providers and the cabinet needs to change.

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

The following referred administrative regulations were up for consideration: **201 KAR 5:030** – establishes the required hours of study for optometrists and prescribes the approved programs and those records that shall be maintained and submitted showing proof of attendance at these programs; **201 KAR 5:110** – establishes the educational and competence criteria necessary for a therapeutically licensed optometrist to perform expanded therapeutic procedures; **201 KAR 6:070** – establishes the requirements for continuing education and the methods and standards for the accreditation of continuing education courses by the Board of Licensure for Long-Term Care Administrators; **201 KAR 9:305** – establishes the criteria for the continued licensure of athletic

trainers; **201 KAR 9:310** – establishes continuing medical education requirements for physicians in Kentucky, including requirements for courses relating to the use of KASPER, pain management, and addiction disorders required for physicians who prescribe or dispense controlled substances in the Commonwealth of Kentucky; **201 KAR 46:010** – establishes definitions for terms used in 201 KAR Chapter 46; **201 KAR 46:020** – establishes fees for the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator; **201 KAR 46:030** – establishes uniform curricula standards for post-secondary education institutions by the Board of Medical Imaging and Radiation Therapy; **201 KAR 46:040** – establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts; **201 KAR 46:045** – establishes procedures for the temporary licensure of medical imaging technologists, advanced imaging professionals, and radiation therapists who are eligible to apply for the appropriate national board exam; **201 KAR 46:050** – establishes procedures for the provisional licensure of nuclear medicine technologists and radiation therapists who are seeking post-primary certification in computed tomography (CT) and radiographers or radiation therapists who are seeking post-primary certification in positron emission tomography (PET) to gain clinical competency; **201 KAR 46:060** – delineates the requirements for continuing education and prescribes methods and standards for the approval of continuing education courses by the Board of Medical Imaging and Radiation Therapy; **201 KAR 46:070** – establishes uniform enforcement procedures regarding the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operation and penalties for violation of licensure requirements; **201 KAR 46:081** – establishes the requirements for the licensure of a limited x-ray machine operator; **902 KAR 20:320** – provides minimum licensure requirements regarding the operation of and services provided in Level I or Level II psychiatric residential treatment facilities, including those facilities which elect to provide outpatient behavioral health services (**deferred before the September and October meetings by CHFS**); **921 KAR 2:006** – establishes the technical requirements of school attendance, residence, citizenship, deprivation, living with a relative, age, one (1) category of assistance, cooperation in child supports activities, strikers, minor teenage parent provisions, time limits and potential entitlement for other programs for eligibility for benefits from the Kentucky Transitional Assistance Program (K-TAP); **921 KAR 2:016** – sets forth the standards of need for and the amount of a Kentucky Transitional Assistance Program payment; **921 KAR 2:017** – establishes requirements for receiving Kentucky Works

Program (KWP) supportive services; **921 KAR 2:046** – establishes the conditions under which an application is denied or assistance is decreased or discontinued and advance notice requirements; **921 KAR 2:050** – establishes the time and manner of payments for the Kentucky Transitional Assistance Program (K-TAP) and the Kentucky Works Program (KWP) in conformity with the Social Security Act, 42 U.S.C. 601 – 619, and federal regulations; **921 KAR 2:055** – establishes the requirements to be followed in conducting a hearing related to the Kentucky Transitional Assistance Program (K-TAP), the Low-Income Home Energy Assistance Program (LIHEAP), the State Supplementation Program (SSP), or an applicant or a recipient of the Child Care Assistance Program (CCAP); **921 KAR 2:060** – establishes the designation of certain employees by the secretary of the Cabinet for Health and Family Services to administer oaths and affirmations, in conformity with KRS 205.170(1); **921 KAR 2:370** – sets forth the technical requirements of the Kentucky Works Program (KWP); **921 KAR 2:500** – establishes requirements for the Family Alternatives Diversion Program (FAD); **921 KAR 2:510** – establishes eligibility requirements for the Relocation Assistance Program (RAP); **921 KAR 2:520** – establishes requirements for receiving the work incentive payment; **921 KAR 3:035** – establishes the certification process used by the cabinet in the administration of SNAP; **921 KAR 3:042** – establishes technical eligibility requirements used by the cabinet in the administration of the SNAP Employment and Training Program (E&T); **921 KAR 3:050** – establishes the criteria for recipient claims, collections provisions, and additional provisions used by the cabinet in the administration of SNAP; **921 KAR 3:090 & E** – establishes requirements for the Simplified Assistance for the Elderly Program (SAFE), a demonstration project administered by the cabinet to improve access to SNAP for elderly and disabled individuals; **922 KAR 1:310** – establishes basic standards for child-placing agencies; **922 KAR 1:340** – establishes basic standards of care for independent living programs; **922 KAR 1:350** – establishes criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children; and **922 KAR 1:495** – establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

#### **Adjournment**

There being no further business the meeting was adjourned at 3:45 p.m.

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

### **Minutes of the 5th Meeting of the 2015 Interim**

November 12, 2015

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

The 5th meeting of the Interim Joint Committee

on Veterans, Military Affairs, and Public Protection was held on Thursday, November 12, 2015, at 1:00 PM, in Louisville, at the Kentucky Air National Guard base. Representative Will Coursey, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Representative Will Coursey, Co-Chair; Senators C.B. Embry Jr., Carroll Gibson, Ernie Harris, Gerald A. Neal, Dennis Parrett, and Dan “Malano” Seum; Representatives Regina Bunch, Tom Burch, Denver Butler, Larry Clark, Leslie Combs, Myron Dossett, David Hale, Kenny Imes, Terry Mills, Tim Moore, Tom Riner, Dean Schamore, Rita Smart, and Russell Webber.

Guests: Maj. Gen. Edward Tonini, Adjutant General, and Col. Barry Gorter, 123d Airlift Wing Commander.

LRC Staff: Erica Warren, Jessica Zeh, Jonathan Philpot, and Rhonda Schierer.

#### **Minutes**

A motion and a second were made to approve the September and October meeting minutes. The minutes were approved.

#### **Department of Military Affairs Update and Air National Guard Overview**

Maj. Gen. Edward Tonini gave an overview of the Air National Guard, stating that Kentucky’s 123d Air Wing has been honored and awarded with a prestigious award for their excellence in service and practice. Kentucky has received the highest award in the nation 16 times and is in the top 10 percent of all units of the Air Force. Gen. Tonini stated that Grade Lane divides the Kentucky Air National Guard (KY ANG) base, which provides a significant security risk. KY ANG has tried mitigating the risk by partnering with many surrounding property owners, and federal and state agencies to mitigate this risk. Gen. Tonini stated that he went to Washington to advocate for the purchase of the five acres to reroute the Grade Lane. Washington contributed 2.1 million dollars and the Department of Transportation gave the remaining finances needed to start the project. There are 21 new C130J aircrafts appropriated and eight have already been spoken for elsewhere, but he hopes that Kentucky will stay in contact with officials and politicians in Washington to make sure Kentucky receives eight of them to replace their older models in order to continue to be the most best and efficient in the nation.

In response to a question from Representative Schamore, Gen. Tonini stated that the new C130J cost up to 90 million dollars and that the upkeep on the older aircrafts is incredibly expensive.

Col. Barry Gorter, 123d Wing Commander gave a PowerPoint presentation on the 123d Airlift Wing and it is a part of this official record. Col. Gorter discussed the five groups under his command, including Operations, Maintenance, Mission Support, Medical, and Contingency Response. The facilities of the 123d Airlift Wing consist of 88 acres, 328,743 square feet of building space, 80,000 square yards of aircraft related pavements, 59,100 square yards of vehicle related

pavements, 8,000 gallons of vehicle fuel storage capacity, 875 parking spaces with 12 to 16 aircraft parking spots. The annual lease cost for the base is \$43,365,000 and the expiration date is 2046. Col. Gorter described the 123d Air Lift Wing’s federal and state missions and accomplishments, and stated that there is a KY NAG guardsman deployed somewhere around the world every day. The KY ANG has participated in numerous federal operations worldwide in the past decade while also being an integral part of state missions throughout the Commonwealth. There have been 80 Kentucky airmen deployed to Senegal recently to support Operation United Assistance. The KY ANG have had deployments of 393,000 plus man days in 45 countries since 9/11, with 1200 dedicated members who continually volunteer to deploy.

In response to a question from Representative Riner, Col. Gorter stated that there are 90 units that fly C130 aircrafts across the nation and that Kentucky is among those units and has eight of the C130s.

Maj. Gen. Tonini briefed the committee on legislative items of concern. He discussed the Youth Challenge Program and the unintended consequences of the drop-out age being raised to 18, minor changes with the Kentucky Military Code of Justice, and the demands on the state tuition assistance program.

#### **Gold Star License Plate Proposal**

Cindy Stonebraker, State Coordinator for Kentucky Gold Star Families, was unable to attend the meeting due to a family medical situation, however she sent a copy of her testimony to staff. The copy is part of this official record in the Legislative Research Commission Library.

#### **Other Business**

Gen. Tonini announced that there would be a tour of the KY ANG base upon adjournment of the meeting.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 6th Meeting of the 2015 Interim**

November 9, 2015

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

The 6th meeting of the Interim Joint Committee on Education was held on Monday, November 9, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Derrick Graham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Julie Raque Adams, Jared Carpenter, Danny Carroll, David P. Givens, Jimmy Higdon, Alice Forgey Kerr, Gerald A. Neal, Reginald Thomas, Johnny Ray Turner, Stephen West, and Max Wise; Representatives Linda Belcher, George Brown Jr., Regina Bunch, John Carney, Jeffery Donohue, Kelly Flood, Cluster Howard, James

Kay, Mary Lou Marzian, Reginald Meeks, Charles Miller, Ruth Ann Palumbo, Marie Rader, Jody Richards, Tom Riner, Bart Rowland, Rita Smart, Wilson Stone, David Watkins, and Addia Wuchner.

Guests: Craig, Susan, and Morgan Guess, Paducah, Kentucky; Erin Klarer, Kentucky Higher Education Assistance Authority; and Clyde Caudill, Kentucky Association of School Administrators.

LRC Staff: Jo Carole Ellis, Ben Boggs, Joshua Collins, Janet Stevens, and Amy Tolliver.

Representative Charlie Miller introduced special guests from his district, Sam Corbet, Carol Haddad, and Debbie Westland and thanked them for their many years of service in the field of education.

#### **Reports from Subcommittee Meetings**

Representative Reginald Meeks reported that the Subcommittee on Postsecondary Education met to hear presentations on university foundations at Kentucky’s public postsecondary institutions. The Subcommittee on Postsecondary Education also heard a report from the Office of Career and Technical Education. Senator Danny Carroll reported that the Subcommittee on Elementary and Secondary Education met to hear presentations about the United Way, Born Learning Academies, and Driven by Toyota. The subcommittee also heard a presentation from the Governor’s Office of Early Childhood on the newly created Superintendent School Readiness Toolbox and received a copy of the state’s 2015 Early Childhood Profile, produced by the Kentucky Center for Education and Workforce Statistics.

#### **Kentucky Youth Bullying Prevention Taskforce**

Secretary Audrey Tayse Haynes, Cabinet for Health and Family Services, stated that the Kentucky Youth Bullying Prevention Task Force, established in October 2014, is charged with developing recommendations based on proven comprehensive bullying prevention strategies to lead to safe schools and communities. The task force issued its final report in October 2015. Secretary Haynes stated that the issue of bullying must be recognized and comprehensively addressed as a community-wide public health issue, rather than a school-specific issue.

Secretary Haynes stated that the four main recommendations of the task force are: 1) adopt a formal definition of bullying to help differentiate between bullying behavior and other types of unwanted behavior; 2) the Kentucky Department of Education (KDE) should continue its support for the adoption of evidence-based standards and programs supporting a positive climate and culture within schools; 3) school districts should invest in and support mental health counselors as a preventive measure; and 4) a state-level agency or office should be established to coordinate and support bullying prevent efforts.

Kelly Foster, Associate Commissioner, Office of Next Generation Schools and Districts, KDE, discussed KDE’s services and supports relating to bullying prevention. She stated that KDE tracks the number of bullying calls they receive, directs callers to needed resources, compiles the Safe Schools Annual Statistical Report based on incident data



reported into Infinite Campus, provides a bullying and harassment webpage, and provides training to educators on novice reduction and school learning culture and environment. KDE also provides the Olweus Bullying Prevention Program training and the Positive Behavior Intervention and Supports (PBIS) web-based training on bullying prevention. Ms. Foster added that the Kentucky Center for Instructional Discipline and the Kentucky Center for School Safety offer trainings and numerous resources on bullying prevention.

Morgan Guess, Lone Oak Middle School Student, of Paducah, Kentucky spoke about being bullied by a classmate when she was 8 years old. She said she appreciates the opportunity to serve on the taskforce and be a voice for students suffering in silence. She said Kentucky needs to establish a bullying definition that every citizen understands and every school uses; recognize bullying as a public health issue; and form a culture of kindness that focuses on creating empathy, valuing diversity, and leadership. Miss. Guess added that schools need to welcome parents as partners in the room when students are questioned. She thanked the legislators who served on the Bullying Prevention Task Force and stated that all Kentucky kids are counting on all state legislators to work toward changing the culture of bullying.

In response to Representative Linda Belcher's question about students bullying teachers, Secretary Haynes said that the taskforce focused on student to student bullying and did not look at student-to-teacher bullying.

Senator Julie Raque Adams thanked Morgan Guess for her courage and stated that her son's school implemented the Olweus Bullying Prevention Program that was very effective for the younger kids.

Senator Mike Wilson thanked Morgan Guess for standing up and sounding the alarm that bullying is wrong and must stop. He said he appreciated the opportunity to serve with her on the taskforce.

In response to a question from Senator Danny Carroll, Morgan Guess said that her involvement on the taskforce opened her eyes to how widespread bullying is, which has prompted her to want to make an even bigger difference.

Representative Mary Lou Marzian suggested that the taskforce look into addressing the problem of students using cell phones for bullying.

Representative Rita Smart praised Morgan Guess for her taking a stand for students like Reagan Carter of Bardstown, Kentucky who committed suicide as a result of being bullied. She said we must make it a priority to address this issue to protect students and teachers from bullying.

Representative John Carney said that cyber bullying using Facebook, Twitter, and Snapchat is the biggest issue he deals with in his role as school safety coordinator. He said providing positive adult modeling of how we should treat one another is our number one defense against bullying.

Chairman Derrick Graham thanked Morgan Guess for her testimony and Secretary Haynes for her excellent leadership of the Cabinet for Health and Family Services (CHFS).

#### **STARS for Kids Now**

Terry Tolan, Executive Director of the Governor's Office of Early Childhood gave an update on the expansion of the state's child care quality rating and improvement system, STARS for KIDS NOW. She said all public-funded programs must now participate in the program. A total of 1,431 child care programs are required to participate and 383 programs voluntarily participate. Ms. Tolan stated that participation has increased from 42 percent of licensed and certified programs in October 2013 to 76 percent in September 2015.

Joe Roberts, Race to the Top – Early Learning Challenge Project Manager, Governor's Office of Early Childhood, presented an update on the Tiered Quality Rating and Improvement System (TQRIS) six-month pilot. He said the pilot began in July 2015 to identify barriers and ensure the system has the right standards and indicators in place and in the right sequence to help programs continually improve. Mr. Roberts said the pilot is currently in the data collection phase and obtained a 30 percent response from the first round of surveys. The pilot will run through the end of this year. The first three months of 2016 will be focused on analyzing data and developing incentive and reimbursement strategies before permanent roll out in July 2016.

In response to Senator Danny Carroll's question about Florida based Kaplan Inc., Ms. Tolan said that the Kaplan account was set up for purposes of administering incentives for centers involved in the TQRIS pilot program. The centers receive a credit for purchasing materials and supplies that help them improve the quality of their programs based on their environmental assessment.

Linda Hampton, Race to the Top STARS Coordinator for CHFS, stated that Kaplan was chosen through the University of Kentucky's bid process. The university manages the pilot and the bid process. Materials are available for purchase to centers through their own designated portal on the Kaplan website. Ms. Hampton said the materials are aligned with the environmental rating scale for the centers. The centers also receive technical assistance from coaches in purchasing materials.

In response to Senator Danny Carroll's questions about pilot project staff tenure and long term plan for the STARS for Kids Now program, Ms. Tolan said that House Bill 234 specifies that the tenure of grant-funded staff will end at the end of the grant period. The goal is to make a steep improvement over the grant period in program ratings and quality through the additional targeted staff support creating a support structure that won't require continuous maintenance. Ms. Tolan said that two free on-line modules have been created to offer ongoing support to providers in earning credit toward their required number of professional development hours. A third on-line module will launch in December.

#### **Kindergarten Readiness Camps**

Sam Corbett, Executive Director, Jefferson County Public Education Foundation, provided information about a model public-private partnership kindergarten readiness program in Jefferson County Public Schools (JCPS). He

said three kindergarten readiness camps were successfully implemented in JCPS during the summer of 2015.

Jimmy Wathen, Early Childhood Specialist, JCPS, explained that JCPS partnered with the CE&S Foundation to support the three camp locations that included 20 classrooms, 20 teachers, and 330 incoming kindergarten students. Karen Branham, Assistant Superintendent for Curriculum and Instruction, JCPS, stated that of the students who attended the kindergarten camps regardless of attendance rate, 70.9 percent scored ready to attend kindergarten on the state kindergarten screening test compared to 51.9 percent of all JCPS kindergarten students.

Mr. Corbett said that plans for next year include expanding the program from an approximately \$250,000 program to a \$1 million initiative touching approximately 1,100 children.

Representative Derrick Graham stated that this program is a good example of how the business community can have a major impact on the education community.

In response to Senator Danny Carroll's question about private child development centers and early childhood assistance funds, Ms. Branham stated the program did not tap into any additional funds. She said there were a few children who came from local childcare providers but the majority of the students targeted were in either JCPS head start or JCPS state funded pre-K; who were students either at 100 or 160 percent of poverty level.

#### **Unbridled Learning Assessments and Accountability Results**

Rhonda Sims, Associate Commissioner, Office of Assessment and Accountability, KDE, presented data on the 2015 statewide assessment results. The 2015 four-year cohort graduation rate is 87.9 percent, an increase from the 2014 rate of 87.5. The five-year adjusted cohort rate increased from 88.0 in 2014 to 88.9 in 2015. The percentage of graduates leaving high school college- and/or career-ready increased from 62.5 in 2014 to 66.8 in 2015.

Ms. Simms reported that the percentage of students reading at proficient or distinguished at the elementary level dropped from 54.7 percent in 2014 to 54.2 percent in 2015, while the percentage increased from 53.2 to 53.8 percent at the middle school level and from 55.4 to 56.7 at the high school level. For mathematics, the percentage of students performing at proficient or distinguished dropped from 49.2 in 2014 to 48.8 in 2015 in elementary schools and from 44.8 to 42.8 in middle schools. At the high school level, the proficient/distinguished percentage increased from 37.9 percent to 38.1 percent.

Ms. Simms stated that the percentage of gap group students scoring proficient or distinguished increased from 2014 percentages in the areas of elementary social studies, writing, and language mechanics; middle school reading and language mechanics; and high school reading, mathematics, science, writing, and language mechanics. Gap group student performance dropped from 2014 in the areas of elementary reading mathematics, and



science; middle school mathematics, science, social studies, and writing; and high school social studies.

For 2015, 56 percent of all schools scored as proficient or distinguished, compared to 50 percent in 2014. The performance of school districts also improved to 69 percent in 2015 from 55 percent in 2014.

In response to Representative Mary Lou Marzian's question about non-duplicated gap group proficient/distinguished scores, Ms. Sims stated she would provide information that shows disaggregated scores by individual student groups. She stated that the on-line report card has a feature that disaggregates the scores by individual student groups for reading and math performance.

In response to Representative Mary Lou Marzian's question, Ms. Simms said that data on homeless students' scores is not formally in the school report card but KDE can pull and provide the data to committee members with a breakdown of the schools within their districts. Ms. Foster added that the Office of Next Generation Schools and Districts is looking at the performance of homeless students across the state.

Senator Mike Wilson stated that there are two refugee centers in Kentucky, one of which is in Jefferson County. He said it is unfair that children from these centers are tested at the same level as other students after only one year of ESL classes and that these scores are reported with test performance scores for the schools. Ms. Simms stated that in the past there was a three year limit before ESL student's scores were counted, however No Child Left Behind pushed it to one year. KDE will be asking for an extended waiver. Ms. Simms said a recent change to the accountability coding regulation, 703 KAR 5:240, requires ESL students to be coded to their districts rather than the individual schools they are attending which will help to some degree.

In response to Representative David Givens's question about gap high school level science scores in the non-duplicated gap group, Ms. Simms explained that in the period reported, the difference in test scores from the middle school level to high school level can be attributed to the use of two different assessments used for two different sets of standards.

In response to Representative Givens's question about the program review for next-generation instructional programs and support, Ms. Simms explained that KDE completed a pilot audit of program review and found there is not consistent scoring. KDE required training to improve educators' understanding of what is evidence of strong performance in the program areas so that educators score with more accuracy. Ms. Simms said that KDE will provide a report of the finished audit to the committee.

In response to Senator Danny Carroll's question about the minimal improvement in test scores over the past 4 years as reported on slides 18 and 19 and how that compares to other states, Ms. Simms stated that the pattern does raise concern for the need to ensure that assessment instruments are aligned with standards and that good support of the

teaching and administration of standards is in place. Ms. Simms explained that it is difficult to compare nationally because Kentucky is not a member of the national consortia that gives the same tests. However, the National Assessment of Educational Progress, which can be compared nationally, shows flat performance across the country.

In response to Representative John Carney's question regarding national comparison of ACT scores, Ms. Simms state that the ACT is the same test with the same scale used nationally, however in Kentucky every student who is a junior takes the test, while in many state only students considering college take the ACT.

Ms. Kelly Foster, Associate Commissioner, Office of Next Generation Schools and districts, KDE spoke about priority schools' data, the process of identifying priority schools, and what resources are provided during the turnaround process. A priority school is a school that has an overall score in the lowest 5 percent of all Title 1 or Title 1-eligible schools that failed to make the annual measurable objective (AMO) for the last three consecutive years and has a graduation rate below 80 percent. Ms. Foster reported that the number of priority schools decreased from 36 in 2014 to 29 in 2015. Ten schools met the criteria for exiting priority status, and three schools entered priority status.

In response to Senator Givens's question about successful programs, Ms. Foster stated that leadership is the key factor among successful turnaround efforts. KDE trained over 100 principals, assistant principals, superintendents and district office staff in 2014. This year 130 leaders from targeted priority and focus schools are participating in National Institute for School Leadership (NISL) LEAD Kentucky trainings.

In response to Senator David Givens's question regarding challenges faced in getting the right principal in priority and focus schools and what the general assembly can do to help keep them there, Ms. Foster said that according to research it takes 5-7 years to exit a school, and that since 2010, KDE has exited 16 schools. She explained that the process takes time, and there is a lot of pressure to perform high and to build sustainable systems. Often once the right leader has initial success, they are inclined to move to a school with less pressure that is not low performing rather than see the turnaround process through. Principals who stay, are more likely to have implemented sustainable systems that will continue to move schools forward. She said continued funding from the General Assembly would enable KDE to provide support to beginning principals in low-performing schools through the NISL LEAD Kentucky project and daily coaching from qualified experienced recovery staff, which is crucial to continuing to move our schools forward.

Stephen L. Pruitt, Commissioner of Education addressed the committee stating that he is excited to work with the legislature and the new administration to ensure every Kentucky child graduates college or career ready.

With no further business before the committee,

the meeting adjourned at 3:26 PM.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Subcommittee on Elementary and Secondary Education**

#### **Minutes of the 4th Meeting of the 2015 Interim**

November 9, 2015

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

The 4th meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, November 9, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Danny Carroll, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Julie Raque Adams, and Johnny Ray Turner; Representatives Linda Belcher, John Carney, Hubert Collins, Jeffery Donohue, Marie Rader, and Jim Stewart III.

Guests: Clyde Caudill, Kentucky Association of School Administrators.

LRC Staff: Janet Stevens, Jo Carole Ellis, Joshua Collins, and Daniel Clark.

#### **Standards Setting**

Karen Kidwell, Kentucky Department of Education (KDE), Director, Division of Program Standards, described the process used to develop Kentucky's academic standards. She said standards describe what students should know and be able to do by set points in time. The criteria established for standards are based on desired student outcomes, with the framework for standards established by key shareholders. Standard writing is guided by research and by a review of current standards along with other state, national, and international standards. After this process, writers draft grade level standards and seek comments and feedback from key shareholders and practitioners.

Ms. Kidwell said comments and feedback are sought from shareholders and practitioners, and revisions to the standards are made, as needed, based on credible and defensible comments and feedback. After this process, more comments and feedback are sought from key shareholders and practitioners. At this point, the standards would then be proposed for adoption by the state board. If adopted, the standards would then be introduced to schools and school districts for the implementation process.

Ms. Kidwell spoke about the implementation of the new standards and said the first thing is for all stakeholders to understand the standards and the necessary instructional shifts that are going to be applied. Before full implementation, representatives across all of Kentucky's school districts will try out lessons, analyze students' resulting work, determine if lessons meet the intent of the standards, and revise the lessons as needed. Next, there would be a transition of trying out assessments of and for learning. Student work

would then be analyzed to see if the intent of the standards is met and if evidence of student learning is generated. After this process, the standards would then be translated into coherent curricula to begin systemic identification of instruction and resources to support curricula before full implementation of the standards.

In response to Representative Wilson Stone's questions regarding new standards compared to the old standards and increased rigor, Ms. Kidwell said the biggest difference seen in the standards over the past five to seven years is the focus on relating skills around knowledge and reason. Amanda Ellis, KDE, Associate Commissioner, Office of Next Generation Learners, said there is an increase in rigor with the standards along with a shift in how students think.

In response to Senator Julie Raque Adams' questions regarding standards being uniform across the state and standards not being met, Ms. Kidwell said yes, the standards are uniform across the state. Also, every school district is responsible for ensuring students accessibility to the standards and teachers are responsible for providing adequate support to the students.

In response to Representative John Carney's questions regarding a timeline on the social studies standards, Ms. Kidwell said Senate Bill 1 (2009) called for all standards to be revised and the social studies standards have gone through two public comment periods. KDE's new commissioner will bring the social studies standards forward for review in the near future.

In response to Chairman Danny Carroll's question regarding the standards description of particular events in history, Ms. Kidwell said there has been some misunderstanding between standards and curriculum. The standards focus more on critical thinking and reasoning while the curriculum involves the use of primary source documents.

Representative John Carney said it is important to use military events in the curriculum for thinking and reasoning.

#### **Curriculum Development and Initiatives**

Ronda Harmon, Executive Director, Kentucky Association of School Councils (KASC), said KASC is a not-for-profit membership organization established in 1992. KASC has 830 members from over 1,200 public schools with a focus on school-based decision making (SBDM) councils and improving teaching and learning.

Ms. Harmon spoke about the role of the SBDM council in curriculum and said the council is required to adopt a policy to be implemented by the principal in the following areas: determination of curriculum; inclusion of needs assessment; curriculum development and responsibilities; and planning and resolution of issues regarding instructional practices. The SBDM council also determines which textbooks, instructional materials, and student support services will be provided in the school.

Ms. Harmon spoke about KASC's curriculum support and said KASC has a question and answer service, policy service, and standards and

curriculum updates for council members. Also, KASC provides services to help improve teaching and learning with vocabulary toolkits, standards checklists, and trainings on research-based instructional practices.

In response to Chairman Danny Carroll's questions regarding approval of curriculum and how curriculum is developed, Ms. Harmon said the curriculum is usually developed by each school district, but the school councils work with the districts during this process. The SBDM council approves the curriculum.

Representative Linda Belcher said unless there is a district model of curriculum, it can be difficult for students who change schools within a district to follow the curriculum and meet the standards at a different school.

Representative John Carney thanked KASC for all of their hard work. He said some SBDM councils have allowed student members to serve as non-voting council members.

Representative Linda Belcher said when she served as an SBDM council member in 1990, a classified person was added to the council because of their knowledge about school children.

Bernice Bates, Principal, Woodlawn Elementary School, Boyle County School District, said she is a former teacher of 20 years and has been a principal for the last three years. She has served on the SBDM council as a teacher representative and as a principal. She is currently the chair of the SBDM council at her school. Her SBDM council has 15 members made up of five parents, five classroom teachers, herself, the school's counselor, a classified individual, and two others.

Ms. Bates spoke about her school's curriculum and said Woodlawn Elementary School works with every other school in the district to determine the curriculum for each grade level in the district. The parents and SBDM council at Woodlawn Elementary School review the Consolidated School Improvement Plan (CSIP) every month to check the school's progress and revise the plan as needed.

In response to Chairman Danny Carroll's question regarding CSIP, Ms. Bates said CSIP helps evaluate how students are doing in her school in regards to different assessments and content.

In response to Representative John Carney's question regarding a timeline for assessments, Ms. Bates said the common assessments in the Boyle County School district mirror K-Prep. Kelland Garland, Principal, Hebron Middle School, Bullitt County School District, said the assessments are given the last 14 days of the school year, and the results for individual students are received by the end of July. The overall subject area scores are able to be shared with staff on September 29.

Mr. Garland said Hebron Middle School's SBDM council approved their district curriculum that was worked on by teachers representing each school in the district. Every Friday, Mr. Garland and other teachers meet to review lesson plans to make sure the standards are being addressed and students understand each standard. Also, the SBDM council provides a pacing guide for teachers to help stay on par with the standards and to ensure they are

addressed by their specific timeframe.

Jay Simmons, Superintendent, Carlisle County School District, spoke about Carlisle County's curriculum initiatives. He said his school district emphasizes formative testing, and as an example, he said the district administers the Star Reading and Math benchmark testing three times a year. His teachers have worked with the staff of the area's Educational Cooperative to develop a new curriculum for science and social studies standards. The district has a credit recovery system in place in the schools that allows students to spend extra time on the standards with which they are having difficulty. Also, by using pacing guides and other forms of assessments, the Carlisle County teachers make sure students have the met a standard before moving on to the next standard.

In response to Chairman Danny Carroll's question regarding the role of the curriculum director in a school district, Mr. Simmons said every school district in the state has a curriculum director who oversees the curriculum of the whole district.

In response to Representative Wilson Stone's question regarding students changing schools within the same school district, Ms. Ellis said school districts usually bring together teams that represent all of the schools in the district to have a common pacing map and guide for every school in the district to follow.

Representative Linda Belcher said teachers can do a good job on assessing whether new students are on pace to meet the standards by using the district's curriculum.

In response to Chairman Danny Carroll's question regarding the success rate and primary gauges of the standards, Ms. Kidwell said KDE is in the process of revising some of the standards, but overall there has been positive feedback for the math and language arts standards. Rhonda Sims, KDE, Associate Commissioner, Assessment and Accountability, said one of the most important gauges for the standards in Kentucky is student test scores.

With no further business before the committee, the meeting adjourned at 11:45 a.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION Subcommittee on Postsecondary Education Minutes of the 4th Meeting of the 2015 Interim November 9, 2015**

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

The 4th meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, November 9, 2015, at 10:15 AM, in Room 131 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Reginald Meeks, Co-Chair;



Senators Gerald A. Neal, Stephen West, Mike Wilson, and Max Wise; Representatives George Brown Jr., Leslie Combs, Derrick Graham, Cluster Howard, Jody Richards, Tom Riner, David Watkins, and Addia Wuchner.

LRC Staff: Ben Boggs and Amy Tolliver.

### **Presentation: Computer Science and Computer Coding in Public School**

Joanne Lang of Advance Kentucky led a panel presentation that emphasized computer science as an educational issue that is central to economic opportunities across all of the Commonwealth's industries. Ms. Lang said that in today's economy, every tech company applies coding to produce high value products. Currently, thousands of computer science jobs are available in Kentucky but unfilled due to lack of local talent. She explained that Kentucky is not alone: by 2020 a projected one million more tech jobs will exist nationwide than students coming out of college with computer science training. Moreover, 50 percent of Science, Technology, Engineering, and Math (STEM) jobs are projected to be in the computer science fields.

Ms. Lang said that computer science courses can count towards the required fourth math credit as long as they are taught by a certified math teacher. As this has become better known, Advanced Placement (AP) computer science exams and qualifying scores have risen dramatically – but with more growth possible.

Ms. Lang discussed Kentucky Coders, an initiative of Kentucky Science and Technology Corporation (KSTC) and KDE that register coding events to accelerate student and educator's awareness of the accessibility and use of coding in their daily lives. She said that this campaign feeds Code.org's "Hour of Code" that coincides with national Computer Science Education Week in December. The Hour of Code is a global movement reaching tens of millions of students in 180+ countries. The purpose of Hour of Code is to: broadened participation across gender and ethnic and socioeconomic groups; increase in enrollment and participation in computer science courses at all grade levels; and instill confidence in educators in their ability to teach computer science even though they may not have a college degree as a computer scientist. Ms. Lang explained that in 2013 Kentucky Coders registered 30 schools in coding events. This number grew to 330 in 2014. Kentucky Coders seek to register 600 Hour of Code events in 2015.

In response to Representative Tom Riner's question about achieving the goal of registering 600 Hour of Code school events by executive order, Ms. Lange stated that advance placement growth in Kentucky is based on readiness; therefore, a mandate may or may not be effective, but legislative leadership on this issue would be very valuable.

Amy Patterson, Systems Consultants IT, Division of Learning Services, KDE gave an overview of the high quality curricula, resources, and help services are available to expose more students to the creativity of coding. Among the highlights were a new computer science career pathway, the Kentucky IT Academy curriculum,

and a Kentucky model curriculum framework as the result of Senate Bill 1 passed in 2009.

Jimmy Adams, Executive Director, Kentucky Educational Professional Standards Board (EPSB), said that any teacher with a grade 8-12 mathematics certification can teach coding in these grades. Moreover, EPSB will allow any teacher with a K-12 certification to facilitate computer science instruction if the content comes from a KDE approved on-line course.

In response to Senator Kerr's question about how a school would take advantage of this opportunity, Mr. Adams explained that the school would simply need to insure that the on-line course content is KDE approved then add the course offering into their schedule for the next year.

Susan Weiss, President and CEO of Net Tango a small private web-solutions company based in Louisville, stated that Net Tango is committed to STEM and computer science education. She said that the shortage of computer science talent is a significant issue statewide and nationally and that Net Tango is focused on addressing the issue by raising awareness. Ms. Weiss stated that Net Tango hosts Hour of Code events for underserved populations along with such non-profit organizations as the Louisville Urban League, River City Drum Corp and Louisville Public Library. Ms. Weiss said she also serves on Kentucky Science and Technology Corporation Executive committee and is the incoming Chair of the Kentucky Science Center.

Edward Yohon Jr., Director, Software Applications and Solutions, Imaging Solutions and Services, Lexmark International Inc., gave an overview of what Lexmark's software developers do and the skills they require. He stated that Lexmark has a strong STEM commitment.

In response to Senator Kerr's question about Lexmark employees, Mr. Yohon stated that many of Lexmark's employees are graduates from the University of Kentucky, University of Louisville, and other schools within the state.

Representative Wuchner thanked the presenters and expressed her excitement for the expanded opportunities students that have allowed them to far exceed the capabilities we have now.

In response to Senator Kerr's question about the appropriate age to introduce computer science education, Nick Such, Awesome Inc., stated that students at Cassidy Elementary in Lexington are being introduced at the fourth grade level. Ms. Lang added that critical thinking skills can be imbedded in every grade level.

In response to Senator Max Wise's question about a rural/urban breakdown of the number of schools offering AP courses in computer science, Ms. Lang stated that in one year, offerings were available in as many as 40 schools across the state but she did not have a specific list of these offerings immediately available.

In response to Representative Kluster Howard's question regarding mode of instruction, Monique Morton, Math and Computer Science Director, Advance Kentucky, stated that most schools are attempting to utilize a full-time teacher

to teach computer science, but are finding that there are few teachers with computer science experience available. She stated that Lee County and Madison County schools are participating in the [Technology Education and Literacy in Schools \(TEALS\)](#), a program that helps educators teach computer sciences by bringing professionals into the classroom. Ms. Morton said that the majority of students are taught by a teacher as opposed to on-line. She added that students piloting the Computer Science Principles proposed AP course have on-line support.

Representative Meeks's thanked the presenters and encouraged them to connect with the California based organization, Yes We Code. Ms. Lang stated that she is familiar with that organization's successful Hack-a-thons programs that team local youth with professional developers, innovators, designers and mentors to create Apps to benefit their communities.

### **Presentation: KET Study at Home Adult Education/GED Preparatory Courses**

Shae Hopkins, Julie H. Schmidt, and Nancy Carpenter of KET presented a report on KET's Adult Education Fast Forward program. Ms. Schmidt stated that the program is an on-line GED test preparation program designed to help adults without a high school diploma prepare for college or career advancement.

Ms. Hopkins explained that the program covers mathematics, language arts, science, and social studies, and is designed to not only prepare learners through its educational content, but also to familiarize them with the computer skills necessary to take the GED test.

Ms. Carpenter said the coursework is aligned with college/career readiness standards and includes online instruction, videos, interactives, and practice sessions with pre- and post-assessments. She said the program also includes teacher toolkits to help adult education instructors across the Commonwealth to be better prepared to serve their clients. Fast Forward can be used either independently or in classrooms in all Kentucky adult education and one-stop career centers. Ms. Carpenter noted that there is much KET could do to help promote computer coding.

In response to Representative Derrick Graham's question about changing the term "general education diploma" in the state statutes, Ms. Hopkins said that she did not think a change in statute would negatively impact KET's working relationship with Kentucky Adult Education (KAE). She explained that KET has had a partnership with GED testing centers from the beginning, and deliberately designed Fast Forward for use with any of the three tests that are available nationally.

In response to Representative Derrick Graham's questions about Fast Forward, Ms. Hopkins said that Fast Forward was launched in 2014. She said that the fee for an individual utilizing the program who is not enrolled in GED classes is around \$65, which allows them to participate in four courses for one year. Ms. Hopkins stated

that students who need basic math skills can utilize KET's pre-GED workbooks and e-books to prepare them for entry into the Fast Forward program.

In response to Senator Kerr's question about KET's pre-GED workbooks and e-books, Ms. Hopkins said that both are available on KET's website, as well as with Amazon and Apple iBooks.

With no further business before the committee, the meeting was adjourned by voice vote at 11:51 AM.

## **INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS**

### **Minutes of the 6th Meeting of the 2015 Interim**

November 13, 2015

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

The 6th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, November 13, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Joe Bowen, Tom Buford, Jimmy Higdon, Ray S. Jones II, Christian McDaniel, Dan "Malano" Seum, and Damon Thayer; Representatives Tom Burch, Denver Butler, Larry Clark, Jeffery Donohue, David Floyd, Dennis Horlander, Adam Koenig, Reginald Meeks, Charles Miller, Brad Montell, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, and Susan Westrom.

Guests: Senator Morgan McGarvey; Tina Quire, Assistant Director Electrical Division, Michael Davis, General Counsel, Roger Banks, Director, HVAC Division, Steve Willinghurst, Chairman, Electrical Advisory Committee, Department for Housing, Buildings, and Construction; Adam Watson, President, The Kentucky Guild of Brewers/Owner Against the Grain Brewery; Cynthia Bohn, Owner, Equus Run Vineyard; Shanna Osborne, Elk Creek Vineyard; Mark Simendinger, CEO, Kentucky Motor Speedway; Rhonda Richardson, General Counsel, Kristen Reese, Staff Attorney, Kentucky Real Estate Commission.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Michel Sanderson, and Susan Cunningham.

#### **Department for Housing, Buildings, and Construction 2016 General Assembly Issues.**

Tina Quire, Assistant Director, Electrical Division, told committee members that in 2004 legislation was passed for low-voltage certification. However, since that time changes in the industry now require the statute be updated. Initially the legislation addressed security companies and landscapers and companies such as Direct TV, Time Warner, and Dish that offered cable. Now these companies also offer phone and internet service.

Michael Davis, General Counsel, HBC, told members that low-voltage electrical, under the current code, is considered electrical work subject

to licensure and regulation. This means that people in the low-voltage industry are working without the required electrical license, many without realizing they are in violation of the law. Since the statutes have not kept pace with the evolution of the industry, the existing licensing exceptions are obsolete. Currently telecommunications statutes allow certain types of low-voltage work without a licensed electrician. However, this is limited to 50 volts or less. The National Electrical Code now uses categories of Class II or Class III transformer. Therefore, if a cable company is using a 51 volt system they are now operating as an unlicensed electrician.

The legislation being presented is a collaborative work from the low-voltage industry throughout the state. The language updates terminology, establishes a limited low-voltage exception for wireless home surveillance, security alarms and energy management systems. It will also clarify the National Electrical Code for unlicensed electrical work.

In response to a question from Representative Floyd, Mr. Davis said that AT&T, Windstream, and the Satellite Broadcasting and Communications Association were among those who met to work out the proposed language. Previously there was a list of exceptions; however, there was no definition for low-voltage work. The department has the authority to create an additional exception for certain types of low-voltage if they were certified. Because the certification has not been established there is some confusion as to who is exempt. Local jurisdictions have authority to enforce applicable rules.

In response to a question from Representative Clark, Mr. Davis said there is no opposition to the proposed legislation at this point.

In response to a question from Representative Montell, Mr. Davis replied that there will be a multi-tiered classification system. Most trade groups self-certify. The department will require certification, similar to an electrician license, for \$25. Currently under the law anyone installing low-voltage is required to have an electrical license. The certification will be issued in the same department.

In response to a question from Senator Buford, Mr. Davis said currently people subject to certification are required to pay \$50 annually for an electrical license. The new language applies to people who should be licensed but are not and makes available to them the certification at a lower cost.

Roger Bank, Director of HVAC Division, said permitting and inspection for the HVAC Division was first introduced in 2003 to allow for permitting of all new installations and major repairs. In 2007, SB 10 was amended to remove major repairs language and allow permitting of new installations only. The division is now proposing to expand the permitting and inspection authority to include equipment replacement or change outs, defined as major repairs in all buildings covered in the Kentucky Building Code. The bill does not cover permitting and inspection in the Kentucky Residential Code.

In response to a question from Representative

Osborne, Mr. Davis said HBC has not consulted with the Associated General Contractors or the Kentucky Home Builders regarding the electrical bill. The Home Builders are represented on the HVAC Board.

Representative Donohue commented that if inspections are going to be done they should be as a follow-up for safety reasons.

#### **Kentucky Microbreweries Statutes.**

Adam Watson, President of the Kentucky Guild of Brewers and owner of Against the Grain Brewery in Louisville said that 100% of their beer is craft beer, and the industry has experienced phenomenal growth. In 2009 Kentucky had only five breweries producing under 15,000 barrels of beer. Today there are 33 active breweries. In 2014, production increased to 71,640 barrels generating approximately \$45 million. Kentucky brewed beer is available in 38 states, Washington D.C. and in foreign countries. Nationally craft beer makes up about 12% of the beer volume sold.

Tax monies generated by Kentucky breweries include \$2.50 per barrel in excise tax, plus 10% wholesale and 6% retail tax in addition to local and federal tax. The guild is not asking for any tax reduction. In 2014 malt beverages generated over \$57 million in wholesale tax revenue and over \$6 million in retail sales tax for the state of Kentucky. A poll of some of the guild's members shows the creation of over 460 jobs. Approximately \$23 million has been spent in start-up and infrastructure with plans for expansions and upgrades of \$16 million.

The KGB is asking the general assembly to raise the volume cap from the current 25,000 barrels to 50,000 barrels. This allows Kentucky to stay competitive with surrounding states who have recently raised their caps. Taprooms are important to brewers for economic reasons they are also employers and add to economic growth in the community. The guild would also ask that the general assembly copy the language in legislation for the small farm wineries into the microbrewery statutes. This would allow those licensees to sell their products directly to consumers at "fairs, festivals, and other similar types of events. This will allow smaller brewers to gain recognition in their communities. These changes will not require funding from the legislature, but will increase tax revenues.

Representative Keene commented that he would be interested to know what the average annual income of the 460 jobs are.

In response to a question from Representative Koenig, Mr. Watson said the acceleration of growth has been unexpected. The number of breweries has more than doubled in the last year. Against The Grain Brewery produced 1,300 barrels and expanded to 9,000 barrels in 2015. West Sixth, and Country Boy are near the cap and Eight Ball is installing an expansion that will enable them to reach the cap quickly.

In response to a question from Representative Owens, Mr. Watson replied that at the federal level taxation is different for different levels. The big difference between being below or above the cap is



the ability to operate a taproom.

In response to a question from Senator Bowen, Mr. Watson said currently, the advantage to being under the cap is being allowed to operate a taproom or restaurant. There is a lower tax rate at the federal level under the 25,000 barrel cap, the federal cap level for barrels is 2 million. All microbrewers have the right to operate a taproom, however, not all brewers take advantage of that privilege.

Senator Thayer opined that the caps were an artificial restriction on commerce, adding that it should not be up to government to set these caps, rather the free market should dictate the amount of beer produced.

Representative Burch commented that he was glad to see the comeback of the taprooms in local communities.

#### **Extended hours supplemental license.**

Mark Simendinger, General Manager, Kentucky Motor Speedway thanked the General Assembly for its help in growing the speedway. The speedway is allowed to sell alcohol on Sunday after 1:00 PM. If a race is cancelled Saturday evening due to weather then rescheduled on Sunday at noon, the track would not be able to sell to patrons until 1:00 PM. The facility is also used for other venues which have activities that are scheduled past midnight on Saturday. The speedway is asking for legislation that would allow for the sale of alcohol at an event on Sunday before 1:00 PM.

In response to a question from Senator Schickel, Mr. Simendinger said legislation says alcohol sales are restricted to facilities of 75,000 seats or greater. The speedway is the only venue with that seating capacity.

In response to a question from Representative Montell, Mr. Simendinger said he has not talked to the Alcoholic Beverage Control about this legislative request.

#### **Kentucky Winery Association.**

Cynthia Bohn, owner of Equus Run Vineyards, President of Kentucky Wineries Association, told members there are now 68 small farm wineries in Kentucky and the industry is growing. Legislation that was proposed last year, but not passed, would allow wineries to do custom crushing of grapes other farmers have grown but have not able to process themselves. Another key issue is the cap on annual gallons set at 50,000 gallons. There are five wineries who are at this cap and are unable to move forward. Also, the ability to store wine offsite, in a bonded facility, will help wineries who are at capacity.

Ms. Bohn said that some products are not marketable. Wineries would like to either sell these products as a brandy, sherry, port, or madeira; or be able to sell these unmarketable products to a distiller for further production.

In response to a question from Representative Owens, Ms. Bohn replied that at the federal taxation level there is a tax break at 100,000 gallons but she was unsure why there was a state cap.

Shanna Osborne, General Manager of Elk Creek Vineyard, added that in her opinion it was prohibition.

Senator Schickel commented that the history

of alcohol regulation does go back to prohibition. Kentucky has a three tier system that works well. The alcohol industry currently is a highly regulated industry.

In response to a question from Representative Keene, Ms. Bohn said currently small farm wineries are exempt from wholesale tax. However, if licensed as wineries, paying the wholesale tax should be considered.

Representative Clark commented that small farm winery legislation was first introduced the Department of Agriculture, and interested parties worked together to give small farm wineries advantages to start up. Looking at the total picture to make the whole industry competitive, changes in the tax structure will have to be made.

Shanna Osborne commented that the wineries would propose a tiered tax system, as gallon production increased the amount of whole sale tax would increase.

Senator Thayer opined that legislators recognized the growth of the industry. Raising the production cap is a necessary consideration. Also, working with the KDA is critical so that while helping the wine industry with unmarketable products, the distillery industry is not harmed.

In response to a question from Senator Higdon, Ms. Bohn commented that currently wineries are not permitted to sell their unmarketable wine products to distilleries.

#### **Malt beverages as a prize at a special charity event.**

Senator Morgan McGarvey said his bill would help the Catholic Church picnics and other churches that hold events on their grounds. Currently distilled spirits and wine are permitted to be raffled at charitable events. ABC has said that because allowing churches to raffle warm six packs of beer was not in the statute, they would have to stop offering this at their events.

Thurman Senn, President of the Board of Trustees of St. Joseph Children's Home spoke on the history of the children's home. It was originally formed to take care of orphans after a cholera epidemic. Today it is a treatment facility, primarily for wards of the state. Fundraisers are necessary in order to help fund this facility. A beer raffle was a popular piece of the fundraising event. However, it was brought to their attention that this was not legal, therefore it was stopped. Hence the request for legislation to make it legal to offer a beer raffle at the church picnic.

Under Other Business: Review of Administrative Regulation 201 KAR 11:235, Kentucky Real Estate Commission.

Rhonda Richardson, General Counsel and Kristen Reese, Director of Education and Licensing were present to explain a new fee.

Ms. Richardson said during the last session KRS 324.085 was amended to add post licensing education. The fee is the same fee being charged for other instructors, it is new because it is in a new regulation.

In response to a question from Senator Higdon, Ms. Reese said the fee goes to the Education, Research and Recovery Fund.

In response to a question from Senator Buford, Ms. Richardson responded there is no language regarding fees being swept.

In response to a question from Representative Westrom, Ms. Reese said by statute the commission is required to hold \$400,000 in the fund. This year there was a sweep of \$100,000. If there is a complaint against a realtor involving fraud and the complainant is unable to recover the funds from the licensee, a claim to recover the funds can be filed with the Real Estate Commission to be compensated.

Senator Schickel said there was no need to vote on the regulation, rather he wanted to hear why there was a new fee.

There being no further business to come before the committee the meeting was adjourned at 11:19 AM.

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

### **Minutes of the 6th Meeting of the 2015 Interim**

November 16, 2015

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

The 6th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 16, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Rick Rand, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Chris Girdler, David P. Givens, Denise Harper Angel, Stan Humphries, Morgan McGarvey, Dennis Parrett, Wil Schroder, Brandon Smith, Robin L. Webb, and Max Wise; Representatives Denver Butler, Larry Clark, Leslie Combs, Ron Crimm, Mike Denham, Bob M. DeWeese, Jeffery Donohue, Myron Dossett, Kelly Flood, Joni L. Jenkins, Terry Mills, Tanya Pullin, Marie Rader, Steven Rudy, Sal Santoro, Arnold Simpson, Rita Smart, Fitz Steele, Wilson Stone, Tommy Turner, Jim Wayne, Susan Westrom, Addia Wuchner, and Jill York.

Guests: Chief Justice John D. Minton Jr, Administrative Office of the Courts; Ron White, Board Member, Kentucky Automatic Merchandising Council; Herbert E. Newman, President, Dennis Boyd, Board Member, Kentucky Council on Problem Gambling; Mary Rose Evans, Mayor, City of Parkway Village; Skip Miller, Executive Director, Louisville Regional Airport Authority; Representative Russell Webber.

LRC Staff: Pam Thomas, Charlotte Quarles, Eric Kennedy, Jennifer Hays, and Jennifer Beeler.

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

Senator Parrett made a motion, seconded by Senator McGarvey, to approve the minutes of the October 22, 2015 meeting. The motion carried.

#### **Discussion of Judicial Compensation**

Chief Justice John D. Minton Jr, Administrative Office of the Courts (AOC) presented a proposal for increased judicial compensation, referencing

the report of the Kentucky Judicial Compensation Commission which was provided to members as part of their meeting materials.

Chief Justice Minton stated that Kentucky justices and judges earn less than their counterparts in almost every state. The impact of low salaries has been compounded by the recent reduction in pension benefits for new judges. The decline, if left unchecked, could have a long-term effect on Kentucky's ability to continue to attract well qualified lawyers to serve as judges.

In elaborating on the findings of the Judicial Compensation Commission, Chief Justice Minton noted that the Commission found that a chronic failure to address judicial compensation during budgetary planning has jeopardized the strength, reputation, and performance of the judiciary. Judicial compensation must be sufficiently adequate to encourage lawyers with appropriate experience, ability, and temperament to join and remain in the judiciary.

Chief Justice Minton said that statutory changes are required to increase judicial compensation and that he therefore does not have the authority to provide for the increases on his own. Based on the Commission recommendations, the Chief Justice requested a five percent increase in judicial salaries in each of the next two fiscal years. The requested increases would cost \$1.8 million in FY 2017 and \$3.8 million in FY 2018.

In response to a question from Senator Schroder, Chief Justice Minton explained that during the last budget session funding was included in the judicial branch budget plan for a significant salary increase for circuit court clerks and deputy clerks.

In response to a question from Senator Schroder concerning the 2012 order of the Court increasing bar membership dues, and the dissent in that order authored by the late Justice Schroder, which argued that members of the judiciary should pay the same dues as other attorneys, Chief Justice Minton stated that as the pay gap widens between judicial pay and salaries for private practice attorneys, and in order to attract and maintain well qualified judges, the current dues structure is justified and necessary.

In response to a question from Representative Wayne regarding court staff pay, Chief Justice Minton explained that during the past several budget sessions, there has been a focus on increasing salaries for the deputy clerks, pretrial officers, and court designated workers. As a result of those efforts, there has been significant improvement in employee salaries.

In response to a question from Chairman McDaniel, the Chief Justice explained that the commitment that has been made for salary adjustments for all AOC employees has been accomplished within the existing appropriation through restructuring. Statutory changes are required to provide additional compensation for judges.

In response to a question from Representative Simpson related to payment to attorneys serving as guardians ad litem, Chief Justice Minton stated

that with the advent of the family court and an increased number of cases involving children, the use of guardians ad litem has increased. Guardians ad litem are paid by the Finance and Administration Cabinet. Due to the volume of work performed by some guardians ad litem, it is possible that some might get paid more than some judges.

In response to a question from Senator Webb relating to judicial redistricting and family courts, Chief Justice Minton explained that there are a myriad of issues and considerations with regard to redistricting, and that one of the goals remains making family court available across the Commonwealth.

#### **Sales tax exemption for food sold through vending machines**

Ron White, Board Member, Kentucky Automatic Merchandising Council testified regarding an exemption from sales tax on food sold through vending machines. In statute, certain foods are exempted from sales tax, but within that same statute, food sold in vending machines is specifically excluded from that exemption. Those provisions were enacted during a time when taxable and non-taxable items were unable to be individually identified for reporting purposes. The vending industry has evolved to the point that individual identification of products is now possible electronically.

In response to a question from Representative Stone relating to the cost of the proposed exemption, Mr. White stated that the impact on General Fund revenues would be between \$1.8-\$2.1 million annually.

In response to a question from Representative Dosset, Mr. White explained that each vending machine costs between \$4,200 and \$6,000 depending on the type and complexity of the machine.

#### **Discussion of 2016 RS BR 37 relating to problem gambling**

Representative Terry Mills, Herbert Newman, President, and Dennis Boyd, Board Member, Kentucky Council on Problem Gambling discussed 2016 RS BR 37 which establishes a Problem and Addicted Gambler Awareness and Treatment Program. Mr. Boyd noted that passage of the program would align Kentucky with 39 other states with legal gambling that provide publicly funded services for problem and addicted gamblers.

In response to a question from Representative Wuchner related to whether brain receptors that were triggered for someone addicted to drugs were the same receptors that were triggered to someone addicted to gambling, Mr. Newman explained that there are receptors in the brain that react and are responsible for human enjoyment in basic activities such as pleasure in eating or entertainment and that during a scan of someone who is addicted to drugs, alcohol or gambling, those same receptors are observed releasing endorphins and opiates.

In response to a question from Senator Alvarado on how often there are instances of cross-reactive addictions, Mr. Newman stated that approximately one-third of individuals will present signs of co-existing disorders and addictions.

#### **Discussion of 2016 RS BR 442 relating to a tax credit for airport noise mitigation**

Representative Jim Wayne, Representative Russell Webber, Mary Rose Evans, Mayor, City of Parkway Village, and Skip Miller, Executive Director, Louisville Regional Airport Authority discussed 2016 RS BR 442, which creates a refundable tax credit for individuals who do not qualify for the federal Quieter Home Program to insulate their homes against airport noise. This credit would be capped annually at \$3 million.

In response to a question from Representative Clark, Representative Wayne explained that there are 9,000 homes in Louisville that are impacted by airport noise and that fall outside of the guidelines for the federal program. The bill will cap the annual allocation of this tax credit at \$3 million and would continue to be available each year until each home was insulated. Mr. Miller noted that it would cost approximately \$30,000 per home, multiplied by the 9,000 homes that need the insulation for a total cost of \$27 million.

With no further business before the committee, the meeting adjourned at 2:33 p.m.

### **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on General Government, Finance, and Public Protection Minutes of the 5th Meeting of the 2015 Interim**

November 16, 2015

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

The fifth meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 16, 2015, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Rita Smart, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Rita Smart, Co-Chair; Senator Dennis Parrett; Representatives Adam Koenig, Tom McKee, Brad Montell, and Tom Riner.

Guests: Marcella Wright, Director, Division of Data Management Services, Commonwealth Office of Technology and James Fowler, Chief Information Officer, Commonwealth Office of Technology.

LRC Staff: Joe Lancaster, Frank Willey, Katie Comstock, Ray Griffith, Stephanie Rich, and Jennifer Beeler.

#### **Data Accuracy**

Ms. Wright provided an overview of Kentucky Data Accuracy Initiatives within the Commonwealth Office of Technology (COT).

In response to questions from Representative McKee, Ms. Wright said some agency forms do not require the use of an individual Social Security number, even though if used more accurate data would result. Mr. Fowler added that businesses will be using a unique identification number by 2018.



Ms. Wright said businesses using the Kentucky One Stop Portal will be identified by that number.

In response to questions from Representative Riner, Ms. Wright said a unique citizen identifier has been and continues to be discussed, with the possibility of the drivers' license number or some other identifier rather than the Social Security number. Mr. Fowler said the system was constructed with that capability, but that evolution is three to five years away.

In response to a question from Senator Parrett, Ms. Wright said the system would be able to accommodate either the federal or state number.

In response to a question from Representative Koenig, Ms. Wright said the data is very secure within the current systems. Mr. Fowler said that most of the newer systems include encryption to eliminate security breaches. He said the data populating each information silo broadens the attack surface, but once master record consolidation occurs, the data can be protected with state of the art security tools.

In response to questions from Chair Smart, Mr. Fowler said COT subscribes to the National Institute for Cyber Security Standards, which requires annual compliance evaluation and rating. He said cyber security funding is sufficient, adding that cyber insurance is retained for data compromise events.

In response to a question from Representative Riner, Ms. Wright said each citizen must determine the address they use for security purposes when data is entered, such as a business rather than a home address.

#### **Mobile Application Governance**

Mr. Fowler provided an overview of Program Specific Mobile Applications and how mobile technology affects our world.

There being no further business before the subcommittee, the meeting was adjourned at 10:56 AM.

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

### **Minutes of the 5th Meeting of the 2015 Interim**

November 18, 2015

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

The fifth meeting of the Interim Joint Committee on Local Government was held on Wednesday, November 18, 2015, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Stan Humphries, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Dan "Malano" Seum; Representatives Linda Belcher, Ron Crimm, Mike Denham, Jim DuPlessis, Adam Koenig, Stan Lee, Brian Linder, Tom McKee, Michael Meredith, Russ A. Meyer, Phil Moffett, Jody Richards, Jonathan Shell, Arnold

Simpson, Rita Smart, and James Tipton.

Guests: State Representative Wilson Stone; Simpson County Judge/Executive Jim Henderson; Denny Nunnolley and Shellie Hampton, Kentucky Association; Tim Vaughn and Patrick Jennings, Kentucky 811; Rodney Kirtley, Sharon Woods, Gene Becker, and Amy Carroll, Barren River Area Development District; Jack Coleman and Winnie Blythe, Department of Housing, Buildings and Construction; Bob Weiss, Home Builders Association of Kentucky; J.D. Chaney and Bert May, Kentucky League of Cities; Jack Couch, KIPDA Area Development District; Darren Sammons and Tammy Vernon, Department for Local Government; Ron Wolf, Associated General Contractors of Kentucky; Prentice Harvey, State Farm Insurance; Ritchie Sanders, Bowling Green Area Chamber of Commerce; and Karen Lentz, Commonwealth Alliances.

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

#### **Approval of Minutes**

Upon the motion of Representative Simpson, seconded by Representative Crimm, the minutes of the October 28, 2015 meeting were approved.

#### **Kentucky Association of Counties' Legislative Platform for 2016 Session of the General Assembly**

Ms. Shellie Hampton, Director of Governmental Relations for the Kentucky Association of Counties (KACo), introduced KACo President-Elect and Simpson County Judge/Executive Jim Henderson who presented the legislative agenda.

Judge Henderson said that there were four topics of concern for counties:

**E911** is the biggest issue for counties. There are 114 certified Public Safety Answering Points (PSAP) in the Commonwealth. Sixteen are Kentucky State Police (KSP) Post PSAPs and 98 are local government PSAPs. Of the 98 local government PSAPs, 89 dispatch for all local governments within that county; two are multi-county PSAPs (Barren-Metcalf/Garrard-Lincoln); and four are single city PSAPs (Providence, Erlanger, Murray and Prestonsburg).

KACo will partner with the Kentucky League of Cities (KLC) on legislation to: increase the current Commercial Mobile Radio Services (CMRS) wireless fee of .70 to capture the current purchasing power of the fee when originally enacted in 1998; increase transparency by explicitly stating the authorized expenditures for 911 monies. This will be the main focus of KACo for the upcoming session; require pre-paid phone providers to remit an equitable amount of fees currently borne by contract "post-paid" subscribers; change the composition of the CMRS Board to include more representation by local governments; and reallocate distribution of the CMRS fee to incentive further consolidation of PSAPs and eliminate cost recovery for phone companies.

**Budget.** KACo represents many affiliates that are funded by the state, and will lobby on

their behalf to have state funding increased. Those include: (1) funding for Property Valuation Administrators (PVAs). PVAs are interested in seeing more funding for deputies who assist in the assessment of property valuation; and (2) road aid funding. KACo opposes KLC's proposal, in its present form, to change the road aid formula. KACo looks forward to working with KLC for a solution that helps cities without harming counties.

In response to a question from Representative Riggs, Judge Henderson stated that counties are not statutorily allowed to spend road aid money on cities. Representative Riggs commented that county residents who live in the city would be penalized.

**Local Investment for Transformation (LIFT).** KACo continues to support a Constitutional Amendment creating a new tool for local project funding, which allows voters to directly determine if their local governments should have this option.

**Public Pension Crisis.** KACo supports funding KERS above and beyond the Actuarially Required Contribution (ARC) established for the upcoming biennium. KACo encourages the General Assembly to explore a dedicated revenue stream for funding the future needs of the state retirement system; KACo supports the exploration of completely separating the County Employees Retirement System (CERS) from the Kentucky Retirement System (KRS); and KACo supports codifying legitimate compensation increases, such as leave allowed under Worker's Compensation and the Family and Medical Leave Act (FMLA), while preserving the intent of the 2012 reforms already in place to prevent spiking.

In response to a question from Representative Riggs, Judge Henderson said that KACo is monitoring the most recent court decision allowing a local fee to be used to raise emergency telephone revenue. Ms. Hampton added that there is a possibility of an appeal that is still available before the courts before the matter is completely settled.

Senator Bowen commented that the E911 Public Private Partnership (P3) concept should be kept simple and precise. It needs to return to its original concept.

In response to a question from Representative Belcher, Judge Henderson stated that Emergency Medical Service (EMS) benefits for police and fire are locally determined by the jurisdiction in part and by the statutes in part.

In response to a question from Senator McDaniel, Ms. Hampton said that KACo believes the Kentucky State Police taking over 911 dispatching is a good idea. Judge Henderson added that KACo is willing to explore the idea.

Representative Moffett commented that the committee needs feedback from KACo regarding regional, rather than local, service provision.

Representative Lee commented that the present would be an opportune time to look at ways to be efficient. In response to a question from Representative Lee, Judge Henderson stated that KACo is just asking for the ARC to be funded, and that decision is up to the legislature.

Representative Riggs commented that the consolidation of counties is never going to occur

so services need to be merged. Also, the affiliate members of KACo should work with the committee.

#### **Kentucky 811 Update**

Mr. Tim Vaughn, Vice-President of Public Affairs for Kentucky 811 told the committee that Kentucky 811 and Indiana 811 merged operations in 2006. Kentucky 811 was established in 1987 (incorporated as Kentucky Underground Protection, Inc.). Located in Jeffersontown, Kentucky 811 has 438 members and is governed by a board of directors as described in state statute.

Kentucky 811 operates in the following manner: (1) excavator plans to dig; (2) excavator calls Kentucky 811; (3) Kentucky 811 notifies member utilities; (4) excavator contacts Kentucky 811 non-members; (5) utilities locate and mark their facilities; and (6) excavator digs with care.

Kentucky 811 lead the nation in almost all categories of a nationwide awareness survey. Fifty-seven percent of Kentuckians are aware of 811, with the national average being 44 percent. Ninety-five percent say they plan to use 811 before starting a project involving excavation.

Kentucky 811 is fully funded by member utility operators. There is no state or federal funds, nor are there any membership or annual fees. The only cost to members is based on usage.

KRS 367.4901 to 367.4917 was created by the 1994 General Assembly for Kentucky 811 and was amended in 2000, 2008, 2012, 2014, 2015, and probably for 2016. The statutes authorize fire departments to cite violators and give the ability to perform investigations.

With regard to training and education, Kentucky 811 conducts over 100 training sessions annually and it partners with pipeline operators on outreach to emergency responders. Over 50,000 radio spots are held annually promoting public safety. Kentucky 811's website is [www.Kentucky811.org](http://www.Kentucky811.org).

In response to a question from Representative Meredith, Mr. Vaughn stated that membership to 811 is voluntary by utilities with the exception of petroleum and gas utilities.

In response to a question from Representative Shell, Mr. Vaughn said if a utility or excavator hits a line without complying with the law to find infrastructure locations, it would be subject to penalty. If a utility is not participating in Kentucky 811, then it must operate its own call center.

#### **Role and Function of Barren River Area Development District**

Mr. Rodney Kirtley, Executive Director of the Barren River Area Development District (BRADD), Metcalfe County Judge/Executive and BRADD Board of Directors Chair Greg Wilson, and Ms. Sharon Woods, BRADD Workforce Development Director, addressed criticisms that BRADD had received.

In response to a question from Senator Bowen, Mr. Kirtley said bonuses were given to employees across the board at the end of the year, not based on individual performance. It was a way to bring employees' income up. That practice has been stopped.

In response to a question from Senator Bowen,

Mr. Kirtley said the salary schedule is set by the Board of Directors.

In response to a question from Senator Bowen, Mr. Kirtley stated that 10 percent of workforce development funds was used for administrative purposes which is permitted by federal law.

In response to a question from Senator Bowen, Mr. Kirtley said that all board meetings, records, and audits of BRADD are open to the public.

In response to a question from Senator Bowen, Ms. Woods replied that BRADD's workforce development provided 23,000 services with over 800 people.

In response to a question from Senator Bowen, Ms. Woods said the state measures workforce performance using nine categories. The state gave BRADD the highest marks in all but one category, and for that category, one relating to how much money the customers receive, which was out of BRADD's control, BRADD met the performance standard.

In response to a question from Representative Riggs, Mr. Kirtley said BRADD's performance is not measured on a scale but they do meet regularly with the employers and survey their members.

In response to a question from Representative Moffett, Ms. Woods said that all funding to workforce development is federal funding.

In response to a question from Representative Smart, Mr. Kirtley stated that BRADD board members benefit professionally from attending conferences.

Representative Meyer commented that area development districts play a huge role in several communities and applauded their efforts.

Regarding workforce development, Representative Denham commented that drug use continues to be a big problem.

#### **Report of 2015 HJR 134: Kentucky Single Family Inspection Task Force**

Mr. Jack Coleman, Deputy Commissioner for the Department of Housing, Buildings and Construction (DHBC), told the committee that 2015 HJR 134 required the formation of the Kentucky Single Family Inspection Task Force which was composed of the Commissioner of the DHBC and various stakeholders of the industry, local governments, and interest groups.

Ms. Winnie Blythe, Assistant Director for the Division of Building Codes Enforcement with DHBC, informed the committee that 7,819 new homes were constructed in Kentucky in 2014. Of those, 748 were built in counties wherein there are no inspections either on the county or city level. 1,094 homes were built in a county where one or more of its cities operated a local inspection program. Local jurisdictions currently must pass an ordinance to begin inspections of new home inspections. The state does not have the statutory authority to inspect new homes. An amendment to statute would be required to authorize DHBC to inspect new homes in areas that do not have local inspections. To begin the inspection program, DHBC estimates the annual cost to be \$500,000 to initiate and staff the program. An appropriation would be required initially with inspection fees

offsetting costs once the program is operational.

There are several anticipated effects from required statewide new home inspection, which include: increased consumer protection for quality construction; potentially lower insurance premiums based upon the belief that better built homes suffer less damage in natural catastrophes; lender confidence in the quality of the product; potential delays in one or more phases of construction at least in areas where enforcement is currently absent; and potential increases in buildings costs at least in areas where enforcement is currently absent. There are similar programs in other states.

Mr. Bob Weiss, Executive Director of the Home Builders Association of Kentucky, told the committee that DHBC should be given more leeway to inspect homes.

In response to a question from Representative Belcher, Mr. Weiss said that buildings could be required to be inspected again if there is a change in use that requires the application of a different building code than the one used for its original construction.

There being no further business, the meeting was adjourned at 12:05 p.m.

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

### **Minutes of the 4th Meeting of the 2015 Interim**

November 18, 2015

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

The fourth meeting of the Interim Joint Committee on State Government was held on Wednesday, November 18, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Joe Bowen, Co-Chair; Senators Morgan McGarvey, Dorsey Ridley, and Albert Robinson; Representatives John Carney, Joseph M. Fischer, Derrick Graham, Mike Harmon, Kenny Imes, James Kay, David Meade, Suzanne Miles, Phil Moffett, Brad Montell, Sannie Overly, Tanya Pullin, Jody Richards, Tom Riner, Steven Rudy, Kevin Sinnette, and Tommy Turner.

**Guests:** J. D. Chaney, Kentucky League of Cities; David Adkisson, Kentucky Chamber of Commerce; Frank Kubala and Gerald Ross, Department of Criminal Justice Training; and Ken Schwendeman, Kentucky Law Enforcement Council.

**LRC Staff:** Judy Fritz, Alisha Miller, Karen Powell, Greg Woosley, Kevin Devlin, and Peggy Sciantarelli.

#### **Approval of Minutes**

The minutes of the October 28 meeting were not approved because a quorum of members was not present.

#### **Recognitions**

The committee observed a moment of silence for Lynda Thomas, Senator Reginald Thomas's wife who died recently. The committee also congratulated Representative Harmon for his recent



election as Kentucky Auditor of Public Accounts and extended birthday wishes to Representative Miles.

### **Basic Requirements for Police Officer Training**

J. D. Chaney, Deputy Executive Director, Kentucky League of Cities (KLC), discussed that organization's concerns about the process used to establish law enforcement training requirements for police officers. He said that state law—KRS 15.404 and 15.440—requires every police officer in the state to receive at least 640 hours basic training within one year of being hired in order to participate in KLEFPF (Kentucky Law Enforcement Foundation Program Fund). The law also allows the Kentucky Law Enforcement Council (KLEC, hereinafter referred to as the Council) to increase the number of hours beyond 640 by the promulgation of an administrative regulation. The Council has done that with administrative regulation 503 KAR 1:110. It was amended in July to provide that a candidate for graduation from the Department of Criminal Justice Training (DOCJT, hereinafter referred to as the Department) should achieve a minimum of 888 hours. KLC's position is that the governing statute provides that the regulation should set a specific numbers of training hours rather than a minimum number of hours that would be subject to increase outside the regulatory process. Mr. Chaney said that the State Government Committee, by putting the issue on today's agenda, has prompted a dialog between KLC and the two executive branch agencies. It was KLC's original intent to testify that legislation would be necessary to ensure that training requirements would be established through collaboration between the Department, the Council, cities, and taxpayers. KLC is now hopeful that the issue can be resolved through cooperation; if not, the KLC board of directors will pursue legislation.

Responding to questions from Senator Bowen, Mr. Chaney said that he has been told that after an updated job task analysis that included a survey of police officers, the Department increased the basic training course from 18 weeks to 22 weeks on January 1, 2015; in September it was increased to 23 weeks. The Council, through the Department, proposed an administrative regulation that eliminated any reference to the number of hours required. KLC objected to that administrative regulation and urged inclusion of a specific number of hours. The regulation was later amended and adopted through the regulatory process to specify a minimum of 888 hours. By stating a minimum, the Department would have the option of increasing the hours outside the regulatory process.

Representative Carney said he had been meeting with the family of slain Richmond police officer Daniel Ellis. He believes that the perpetrator and others involved in attacks on law enforcement officers may have "fallen through the cracks" in the criminal justice system. He hopes to work with members of the General Assembly and others to revisit House Bill 463, relevant legislation that was enacted in 2011. He would like to know of others in the Richmond community who may be interested in the issue, and Mr. Chaney said he would be glad to

pass that information along.

Senator Bowen recognized the following persons who asked to testify: Gerald Ross, Assistant General Counsel for the Kentucky Department of Criminal Justice Training and the Kentucky Law Enforcement Council; Frank Kubala, Assistant Director of the Department's Training Operations Division; and Ken Schwendeman, Executive Director of the Kentucky Law Enforcement Council.

Mr. Kubala said the Department has a long standing relationship with KLC. They are willing to work with Mr. Chaney and KLC in an effort to resolve their differences.

Responding to questions from Representative Graham, Mr. Wells indicated that the Department at this time is not in full agreement with KLC. He said he drafted the final version of the administrative regulation to specify a minimum of 888 hours training. The role of law enforcement officers throughout the country continues to evolve, and this would allow needed flexibility in providing the mandatory training. Proposed training curricula are submitted for approval to the Council, which includes police chiefs, sheriffs, mayors and county judges as members. The Department requires fewer basic training hours than the commonwealth's three other academies—Kentucky State Police, Lexington Police Department, and Louisville Metro Police Department. The current curriculum is based on needs approved by the Council, as well as job task analyses and recommendations of instructors. The training was expanded from 18 to 22 weeks because trainees were being paid 120 to 160 hours overtime weekly while at the academy. Mr. Wells questioned whether it is fair to pay overtime to someone who is not on active duty.

Mr. Kubala said the training was increased from 22 to 23 weeks in response to the nationwide climate in law enforcement and the 2014 job task analysis. The Department is proud that Kentucky has not had to deal with use-of-force issues such as those recently experienced in other parts of the country.

Mr. Chaney said that KLC is not questioning the law enforcement expertise of the Council or the Department. KLC's position is that the Council and the Department, as executive branch agencies, should not make decisions that have a cost impact without first collaborating with the city governments that bear the cost. KLC and its members want those involved to work together and to consider the financial consequences of decisions.

Mr. Schwendeman said the Council serves city and county governments and state agencies. Its role is to make public service providers in Kentucky more professional and efficient. The administrative regulation sets a floor rather than a cap on training hours to allow flexibility to respond to emerging issues like those in Ferguson, Missouri, and Baltimore, Maryland. All four Kentucky academies in 2015 increased their required training in response to those events. Lexington requires 1,000 training hours, State Police 969, and Louisville 970. The Department requires fewer hours partly because it does not represent a specific home jurisdiction.

Representative Riner said he has talked to several police officers who plan to retire early because of concern about use-of-force issues and the future of the profession. He asked how the training helps officers deal with the problems and pressures of the job. Mr. Kubala said that the academy provides a stress and wellness course to help officers understand the difficulties of the job. It also focuses on fitness and nutrition. There is a significant rate of divorce, alcoholism, and suicide in the law enforcement profession, especially among older officers. Representative Riner said it is encouraging that the training uses a holistic approach.

Responding to questions from Representative Carney, Mr. Wells said that costs for a first time recruit are paid to the academy through the disburser of the KLEFPF funds. City governments do not pay for housing or meals. Mr. Schwendeman said that part of the training cost is an overhead allocation that is included in debt service payments. The current hourly tuition rate is about \$27.64. The true variable cost for students would probably be about \$20/day.

Senator Bowen said that police officer training is a timely and important topic. Hopefully, everyone will be able to work together in a collaborative manner to resolve the problems without the need for legislation. He thanked the speakers and said the committee appreciates their comments and their positions on the issue.

### **Kentucky Chamber of Commerce Perspective on the KTRS Funding Work Group**

David Adkisson, Kentucky Chamber of Commerce President and member of the Kentucky Teachers' Retirement System (KTRS) Funding Work Group created by Governor Steve Beshear, presented his observations and the Chamber's perspective on the work group's progress.

Mr. Adkisson said the Chamber, which has represented more than 60,000 Kentucky employers, has been consistently outspoken about the state's pension problems and has tried to be a constructive voice in solving those problems. The legislature has made positive moves in recent years, but more attention and diligence are needed. The Chamber has embraced the call for a comprehensive performance audit of Kentucky Retirement Systems (KRS) and will be working with the State Auditor to see that the audit begins as soon as possible. The Chamber also has concerns about the use of placement agents by KRS and has encouraged the Public Pension Oversight Board to look at the proper role and payment of agents.

Mr. Adkisson said that KTRS Funding Work Group Chairman David Karem has done an outstanding job moderating a broad range of opinions. Consultant William Fonia has been responsive to the group and seems to be objective. Although nearing the end of the process, the work group has not achieved a consensus. At the November meeting a draft set of principles was discussed but not adopted. A revised version was subsequently transmitted to the members with a request for input. The final report due in

December will likely present a set of options with the consultant's best estimate of projected costs or savings and the pros and cons of each.

There is a broad range of opinions among the group. Some feel the legislature should pay the bill, which would involve new revenue and a probable tax increase. Others favor borrowing \$3.3 billion to leverage the market and take advantage of low interest rates, and some propose converting teachers to a 401k system.

The shared responsibility approach worked well in 2010 when legislation was enacted to save retired teachers' health insurance and when labor and business reached a compromise on unemployment insurance. The Chamber has asked the consultant to estimate cost for a 50/50 plan in which half of the solution would come from additional revenue and half from restructuring benefits for future teachers.

The inviolable contract has not been seriously contested in work group proceedings. Outside the inviolable contract, the inclusion of accumulated sick leave when calculating final pay is one item that could be considered for change, but the cost savings would be relatively small. The most significant cost savings would come from structural change relating to future teachers—for example, extending the eligible retirement age. The Chamber does not have a solid proposal for a defined contribution plan but has requested an estimate of the cost to convert future teachers to a 401k plan. Because teachers are not covered by social security, however, the state and school boards would have to begin paying social security. This would be in addition to the amount needed to address the current underfunding of the system.

At the November meeting, the consultant presented a new proposal for 30-year additional funding, beginning in FY 2017, with graduated payments the first 12 years and a static payment each of the remaining 18 years. He said he would provide specific cost data to KTRS, the Kentucky Education Association, and the Chamber. Under this plan the state would simply pay more, and it would not involve shared responsibility. The state of the economy, the condition of the state budget in future years, demographic change, and opinion of the bond rating agencies would be concerns under this plan.

The required years of service for retirement was previously reduced from 30 to 27, and people are living an average 16 years longer than when KTRS was established. This also adds strain to a defined benefit system. The calculation of sick leave as compensation in the last year of service produces an expensive benefit spiking and cost to the state. Minimum retirement age also should be examined. The Chamber feels that structural change will be needed, regardless of any graduated or phase-in plan that might be considered.

Mr. Adkisson said that everyone involved needs to be mindful of how structural change might impact the teaching profession. There is already concern about attracting new teachers, especially in the education community. The funding problem is so massive and expensive that, however it is solved, there will be significant ramifications on the ability

of future teachers to receive salary increases. He said a Morgan Stanley bond expert advised that the legislature needs to take action in the 2016 regular session; if not, he is confident that the state's bond rating would again decline. The Chamber agrees that something must be done in the next session of the General Assembly.

Mr. Adkisson emphasized that the legislature has two retirement systems to protect and that KRS is in an especially precariously condition. He stated that if bonding is considered as a funding option, it might be needed more for KRS than to provide relief for KTRS.

Senator Bowen said that changes outside the inviolable contract could help reduce the unfunded liability. He believes that the General Assembly will be looking at the sick leave component, the high-3 benefit factor, and the 3 percent multiplier after 30 years of service.

Representative Fischer inquired whether the inviolable contract automatically applied to the reduction in required years of service. Mr. Adkisson said he did not have the legal expertise to answer that question but would try to get that information.

Representative Moffett said he finds it hard to understand from a logical standpoint why sweeteners to the inviolable contract might not be viewed as changing the contract, while changes that lessen benefits would be termed a violation. He also stated that he appreciates the work of the KTRS work group but that the Kentucky Employees Retirement System is a dying system with problems that must be addressed.

Senator McGarvey said that switching to a 401k system would not be easy when factoring in the state contribution for social security that it would require. Teachers currently put more than 13 percent of their pay into the pension system. Since they do not receive social security, they also are not eligible for survivor benefits. How a 401k system would impact teacher retention and recruitment and whether it would necessitate increasing teacher starting salaries are questions that need to be answered.

Representative Graham said there will be unintended consequences for local school districts if sick days cannot be counted when calculating retirement benefits. That would prompt teachers to use their sick leave before they retire, and school districts would incur the additional cost of hiring substitutes.

Senator Bowen said it is important to note that the KTRS asset base has actually increased in spite of the unfunded liability, whereas the opposite is true for KRS. He thanked Mr. Adkisson for an excellent and thorough overview. There being no further business, the meeting was adjourned at 2:18 p.m.

## **INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

### **Minutes of the 3rd Meeting of the 2015 Interim**

November 18, 2015

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

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Wednesday, November 18, 2015, at 12:00 PM, in Room 149 of the Capitol Annex. Representative Jeff Greer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Jeff Greer, Co-Chair; Senators Jared Carpenter, Chris Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, and Albert Robinson; Representatives Will Coursey, Ron Crimm, Mike Denham, Joseph M. Fischer, Jim Gooch Jr., Mike Harmon, Chris Harris, Dennis Horlander, James Kay, Dennis Keene, Adam Koenig, David Meade, Michael Meredith, Russ A. Meyer, Brad Montell, David Osborne, Ruth Ann Palumbo, Ryan Quarles, Jody Richards, Steve Riggs, Bart Rowland, Jonathan Shell, Kevin Sinnette, Fitz Steele, and Wilson Stone.

Guests: Charles Vice, Commissioner, Kentucky Department of Financial Institutions; DJ Wasson, Administrative Coordinator, Kentucky Department of Insurance; Peggy Porter, President, and Mike Johnson, Vice Chair, Independent Insurance Agents of Kentucky.

LRC Staff: Sean Donaldson, Dale Hardy, and Dawn Johnson.

#### **Approval of Minutes**

A motion by Senator Buford and second by Representative Horlander to approve the minutes of the September 22, 2015, meeting carried by voice vote.

#### **Discussion of the state of the banking and financial industry in Kentucky**

Commissioner Charles Vice, Kentucky Department of Financial Institutions, noted that three Kentucky banks were recognized in American Banker's 2015 "Best Banks to Work For." The Commissioner spoke on the condition of the state's chartered banks. While the number of banks declined from 2011 to 2014, total bank assets and total portfolio saw approximately six percent growth. Commissioner Vice reviewed financial ratios through June 30, 2015. He noted the state's banking industry employs 11,961 people.

Commissioner Vice reviewed two reports submitted at the September 2015 Community Banking and the 21<sup>st</sup> Century Conference. The Roisin McCord and Edwards Simpson Prescott records the status of the banking industry from 2007 to 2013. The report reflects a decrease in the number of smaller banks due to increased business costs because of increased regulation while larger banks are becoming more numerous. He noted that banks are also less expensive to buy. Referring to the Marshall Lux and Robert Greene paper, he said community banking assets have declined by 50 percent the last two decades. However, community banks are responsible for 77 percent of agricultural lending and over 50 percent of small business lending. During the recession, community banks reported positive return on average assets and low mortgage default rates.

#### **Discussion of consumer loan legislation the Kentucky Department of Financial Institutions**



## **will propose**

Commissioner Vice explained that the department will request the same regulatory authority over the consumer loan industry as exists for other industries regulated by the department including banking, payday lenders, mortgage and money transmitters. Currently, the department is limited to examining entities and license revocation if problems are found--the least desirable option. Proposed legislation would allow the authority to fine between \$500 to \$2,500 per violation; rescission, refund, or disgorgement if a consumer has been harmed, and the ability to either enter into an emergency order or a cease or desist order. The department may also request additional consumer protection provisions such as additional grounds for suspending, revoking or placing conditions on a license; address unfair and deceptive acts or practices; clarification of subpoena powers, and consumer notification and wind-down procedures if a company does cease to operate. Commissioner Vice said the department will not present a bill until differences with the industry have been addressed.

Responding to Representative Riggs' question Commissioner Vice said the agency does not receive many complaints about the consumer loan industry. The commissioner said any fines collected would go back into the department. Representative Riggs suggested a portion go toward economic education councils for financial education.

Responding to Representative Crimm's question about what defines a community bank, Commissioner Vice explained that the department considers how the bank operates within their community.

Responding to Representative Meredith's question the commissioner said for an institution to be fined the maximum proposed \$2,500 the offense would have to be repetitive and extremely egregious. In response to Representative Meredith's concerns about increased oversight, the commissioner noted that the request is in line with the other industries the department regulates.

In response to Representative Denham's question about a recent Harvard study on increased regulations, Commissioner Vice said the department periodically meets with federal regulators and noted that no state charter banks have failed in Kentucky since 1987. Representative Denham said as a banker he has seen a tremendous impact of increased federal regulation on community banks. The commissioner said he supports "right size regulation" based on the size and business model of an institution.

## **Discussion of the state of the insurance industry in Kentucky**

DJ Wasson, Administrative Coordinator, Kentucky Department of Insurance said the department's primary goal is to protect consumers by ensuring companies are solvent to pay policy obligations. With an increasing international presence in the insurance industry the department is focusing on specific areas relating to capital insolvency of companies, smoothing out differences in national and international law, and having a better understanding of how international markets

work.

Following the financial crisis, states collectively decided to make changes to the solvency model. So far, Kentucky has instituted three of the five recommendations: supervisory colleges for regulators, Own Risk Solvency Assessment for strategic analysis, and addressing reserves dynamically based on risk and products issued. Two other area include reviewing corporate governance of companies that impact solvency of companies and reinsurance collateral.

Ms. Wasson said currently, international companies doing business in the United States must post additional capital which can be a barrier. The industry is considering ways to loosen requirements while still providing needed protections for policy holders.

Ms. Wasson said the department is also monitoring mergers, including those between Aetna and Humana and Anthem and Cigna, cyber insurance and cyber security issues, service products in sharing economies like Uber, Lyft, and Airbnb; price optimization, and health insurance issues that are network related including consumer education. The department is considering whether a separate license is needed for pharmacy benefits managers and other areas so consumers can better understand how pharmacy benefits work.

Ms. Wasson said the department is also working on life insurance suitability standards due to an existing loophole in the non-forfeiture benefit.

Representative Harris expressed concern about insurers requiring patients to purchase prescriptions via mail order from out-of-state pharmacies. Ms. Wasson said the agency has been asked to review this issue under the Any Willing Provider law. Currently, no state law exist to prohibit that type of arrangement. For the 2017 plan year federal regulation will prohibit the requirement.

Representative Meredith also expressed concern and urged an immediate solution. Co-chairman Greer agreed and suggested there would be proposed legislation in the coming legislative session.

Responding to Representative Fischer's urged maintaining state-based regulation and capital standards while opposing federal and international bank-centric standards being proposed. Ms. Wasson said the department is a proponent of state-based standards and consumer protection.

## **Discussion of Cyber Security Insurance**

Ms. Wasson said the explosion of cyber activity presents a tremendous opportunity for regulatory growth in the insurance and financial sectors. Regulators want to address protection of stored information and identity theft protection. In 2014, the industry created a cybersecurity task force to provide best practices guidelines by assisting consumers when information is compromised, monitoring activities of insurers and producers to protect data, ensuring own databases are secure, and exercising regulatory authority over cybersecurity insurance products sold in the marketplace. Peggy Porter, President, and Mike Johnson, Vice Chairman, Independent Insurance Agents of Kentucky spoke on cybersecurity issues.

Mr. Johnson explained that several carriers offer products to help insulate business and individuals from this type of exposure. Because of the newness of the product, there is no standardization that improves an agent's perspective.

Responding to Representative Fisher's question Ms. Wasson said the consumer bill of rights dictates the consumer's right to know how information is protected, consumer rights if a breach occurs, and outline what should happen in the event of a breach.

Ms. Porter explained a program offered by the organization that funds veterans through the licensing process to become insurance agents.

There being no further business, the meeting was adjourned at 1:16 PM.

## **SPECIAL SUBCOMMITTEE ON ENERGY**

### **Minutes of the 6th Meeting of the 2015 Interim**

November 20, 2015

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

The 6th meeting of the Special Subcommittee on Energy was held on Friday, November 20, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Ernie Harris, Jimmy Higdon, Ray S. Jones II, Brandon Smith, Johnny Ray Turner, and Robin L. Webb; Representatives Rocky Adkins, Hubert Collins, Tim Couch, Jim Gooch Jr., Thomas Kerr, Jerry T. Miller, Sannie Overly, Tom Riner, Dean Schamore, John Short, Kevin Sinnette, Fitz Steele, and Brent Yonts.

Guests: Danielle S. Powers, Vice President, Concentric Energy Advisors; Stephanie Bell and Aaron Greenwell, Deputy Executive Directors, Kentucky Public Service Commission, Richard Raff, General Counsel, and Daryl Newby, Division Director for Financial Analysis, Public Service Commission, and Robert Berry, President and CEO, Big Rivers Electric Corporation.

LRC Staff: D. Todd Littlefield, Janine Coy-Geeslin, and Susan Spoonamore, Committee Assistant.

The August 21, September 18 and October 16, 2015 minutes were approved, by voice vote, upon motion made by Representative Couch and second by Representative Collins.

#### **The Kentucky PSC Management Audit Process**

Stephanie Bell and Aaron Greenwell, Deputy Executive Directors, Kentucky Public Service Commission (PSC) talked about the management audit process. Mr. Greenwell stated that management audits are authorized by KRS 278.255. The Commission is allowed to investigate most any portion of the management or operations of a jurisdictional public utility. He said that audits may be conducted by an independent consultant selected by the PSC, and the cost of the audit is borne by the jurisdictional public utility and the cost of the audit is allowed to be recovered through

rates.

Mr. Greenwell explained that a recent focused management audit of the Big Rivers Electric Corporation by Concentric was the result of the loss of two smelters (850 megawatts load) that resulted in two rate increases for remaining customers. He said that in 2013 the rate increase amounted to \$54 million and \$36 million in 2014. The PSC ordered an audit to examine “the steps that Big Rivers has undertaken or should undertake to mitigate any further financial impact” from the loss of the smelters, as well as “the strategic planning, management and decision making of Big Rivers relating to its mitigation efforts.” Concentric and the PSC developed a work plan whereby Concentric reviewed the records, interviewed utility personnel and stakeholders. Concentric issued a final report on October 6, 2015 that included 23 findings and five recommendations. Mr. Greenwell explained that the next step would be to develop an action plan in response to the findings and recommendations of the report. Those plans are due in early December.

#### **Focused Management Audit of Big Rivers Electric Corporation**

Danielle Powers, Vice President, Concentric Energy Advisors, presented a summary of the Final Audit Report of the Big Rivers Electric Corporation. She said the audit required the evaluation of Big Rivers’ efforts to mitigate the impact of the loss of the smelter loads; Concentric reviewed the steps that Big Rivers has undertaken to implement the mitigation plan; and recommended steps that should be undertaken in the future to mitigate any further financial impact relating to the loss of the smelter loads. The audit was divided into two separate tasks, a backward-looking analysis and a forward-looking analysis. The work plan consisted of information from data requests, interviews with several interested parties, a thorough analysis of information provided by Big Rivers and sought to provide an unbiased and objective assessment of Big Rivers’ actions in implementing the mitigation plan and the reasonableness of the mitigation plan going forward. The audit includes recommendations and action plans for each recommendation. She noted the findings for strategic considerations, backward-looking analysis, and forward-looking analysis. She explained the following recommendations:

Recommendation 1: Big Rivers should consider adding a member with energy expertise to the Board of Directors.

Recommendation 2: Big Rivers should continue to develop in-house expertise in terms of price forecasting and Midcontinent Independent System Operator MISO market knowledge to develop more informed price forecasts, but only to the degree that it supports Big Rivers’ mission and core business.

Recommendation 3: Big Rivers should commence a study on the sale, retirement or redevelopment of the Coleman facility, maintain the optionality around Wilson at this time and revisit strategic options for the facility in the next two to three years.

Recommendation 4: Big Rivers should continue to pursue increased sales to existing and

new load, including new members.

Recommendation 5: Big Rivers should pursue discussions with lenders and the Commission to address restrictions around the sale of Coleman and commence a study on the strategic options for the facility. (a copy of the audit can be found in the LRC Library folder)

In response to Senator Harris, Ms. Powers said that Big Rivers had not strayed from its core mission, and Concentric would not recommend it because the market is too volatile.

In response to questions from Representative Adkins, Mr. Greenwell said that the Wilson plant produces 417 megawatts. 850 megawatts is the excess power capacity following the loss of the smelters. Big Rivers owns approximately 1,400 megawatts of power which is mostly in the regulated market. Big Rivers provides power for the three member cooperatives. He said the 850 megawatts is sold to either the MISO market or to a plant in Nebraska. Ms. Powers stated that the Coleman plant is a less efficient unit. In terms of moving to PJM, she said that moving the power and getting the transmission over to PJM would be an issue. It is a grid challenge and a market reality as well.

In response to Representative Schamore, Ms. Powers said that timelines were placed on each recommendation in the report. She said that the report encourages Big Rivers to explore different options in either leasing or selling the Coleman facility.

In response to Senator Carpenter, Mr. Greenwell said that the Coleman facility produces 443 megawatts.

In response to Representative Gooch, Ms. Powers said that Concentric was not recommending that the Coleman facility be sold for less than book value. The report recommends that Big Rivers look to see what their debt instruments will allow them to do. In the past five years, the selling prices for coal plants has been very low.

In response to Senator Smith, Ms. Powers said that Concentric did meet with the Sierra Club. Ms. Bell said that the Sierra Club was a stakeholder in the group because they were an intervener in the rate cases, therefore allowing them to be interviewed during the audit process.

In response to questions from Representative Adkins, Mr. Berry indicated that the Coleman plant has been equipped with scrubbers. Representative Adkins expressed his concern over mothballing and/or tearing down these types of facilities. He believes this would be a critical mistake. Ms. Powers stated that clean power plants are one of the many uncertainties on the market.

Representative Riner stated that mothballing coal-fired power plants is a national security issue and a bad decision.

Senator Webb stated that it is important to have a fuel generation source that the United States produces and owns within the boundaries of the United States. Diversity in Kentucky’s energy portfolio is what will keep Kentucky going.

Senator Carpenter invited Mr. Robert Berry, President and CEO, Big Rivers Electric Corporation

to speak to some of the issues contained in the report. He said that Big River’s core mission is to provide reliable and low priced power to the three member distribution cooperatives. Mr. Berry said that if the power from the Wilson facility could be sold in the wholesale market or to a different entity, it would help to keep rates lower. He also clarified the amount of generation. He said that the two smelters took in a total of 850 megawatts which almost equals the volume of Coleman and Wilson added together. At this time, Big Rivers is selling approximately 400 megawatts to other utilities. Out of that 400 megawatts, Big Rivers has a nine year contract with Nebraska for 67 megawatts. Out of the 400 megawatts, he said that over 100 megawatts has been sold on mid to long-term contracts.

Senator Smith wanted the committee to know that Perry County recently lost another 100 mining jobs. He also noted that the Sixth Circuit Court issued a stay on certain water permits, but the Army Corp of Engineers and the Environmental Protection Agency (EPA) are refusing to honor the stay. He expressed his displeasure with the Army Corp of Engineers and the EPA for ignoring the Court’s ruling.

The meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

### **Minutes of the 6th Meeting of the 2015 Interim**

December 1, 2015

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

The 6th meeting of the Interim Joint Committee on Transportation was held on Tuesday, December 1, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes from the committee’s November 5, 2015 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Joe Bowen, Jared Carpenter, C.B. Embry Jr., Jimmy Higdon, Dorsey Ridley, Albert Robinson, Johnny Ray Turner, Whitney Westerfield, and Mike Wilson; Representatives Leslie Combs, Tim Couch, David Floyd, Donna Mayfield, Tom McKee, Russ A. Meyer, Charles Miller, Jerry T. Miller, Terry Mills, Rick G. Nelson, Tanya Pullin, Steve Riggs, John Short, Arnold Simpson, Diane St. Onge, Fitz Steele, Jim Stewart III, Tommy Turner, David Watkins, and Addia Wuchner.

Guests: Mike Hancock, Secretary, Kentucky Transportation Cabinet (KYTC); Russ Romine, Deputy Secretary, KYTC; Mike Helton, Government Strategies.

LRC Staff: John Snyder, Dana Fugazzi, and Christina Williams.

#### **Fees for Electric Vehicles**

Senator Joe Bowen presented BR 61, a bill that has been prefiled for the 2016 Regular Session of the General Assembly for discussion. The bill defines the term “plug-in electric vehicle” and



establishes an initial and renewal registration fee of \$100.00 for these vehicles. This fee would go directly to the state Road Fund in lieu of the fuel taxes these vehicles would otherwise pay.

Owners of gasoline and diesel powered vehicles pay local, state, and federal fuel taxes at the pump however, owners of electric vehicles that rely only on electric power do not. Gasoline taxes are the most important source of transportation funding, making up nearly 55 percent of all state highway revenues and more than 90 percent at the federal level.

States are addressing concerns regarding the effect that the growing use of electric vehicles may have on transportation infrastructure, by exploring new fees for ownership of electric and hybrid vehicles to help make-up for lost gasoline tax revenues. Georgia, Idaho, and Wyoming enacted legislation in 2015 requiring new fees on certain hybrid and electric vehicles. Colorado, Nebraska, North Carolina, Virginia, and Washington have adopted fees for electric vehicles. These fees range from \$50 to \$200 annually.

Kentucky's gasoline tax is 26 cents per gallon, and the federal gasoline tax is 18.4 cents per gallon. Drivers of gasoline cars that average 35 miles per gallon will pay \$86.75 in state fuel taxes and \$60.06 in federal fuel taxes each year, based on the 2013 Federal Highway Administration (FHWA) average miles traveled per vehicle of 11,674. Federal gasoline tax revenues are placed in the Highway Trust Fund and then distributed to the states based on formulas provided in federal legislation. On average, Kentucky receives about a dollar back from the Highway Trust Fund for every dollar sent to Washington, D.C.

Based on the 2013 FHWA average miles traveled per vehicle, Kentucky is losing \$146.81 per year in state fuel tax revenue and in Highway Trust Fund revenue for each electric car driven on its roadways. Electric vehicles currently make-up a small portion of the number of vehicles on the roadway. However, this is an emerging market as evidenced by annual increases in the sale of electric cars in the United States since they first went on sale in December 2010. For example, there was a 27 percent increase in electric car sales in 2014 over 2013. Establishing fees on electric vehicles would ensure that the growing number of electric vehicle drivers pay their fair share for using the roadways. Electric car advocates claim these fees work against efforts to get more people to drive electric vehicles. Policy makers and some experts argue that taxing hybrid and electric vehicle owners is a matter of making sure all drivers help maintain and construct roads they use.

In response to a question asked by Chairman Collins concerning possible action by Congress on electric vehicle use and non-payment of gasoline taxes, Senator Bowen stated he has not been made aware of any action taken, and that enacting this bill would be a proactive move on Kentucky's part to address the situation and to make the payment of roads that all drivers use fair.

In response to a question asked by Representative Floyd, Senator Bowen stated he

has not considered eliminating the gas tax and making an across the board usage fee for all types of vehicles.

In response to a question asked by Representative Floyd, Senator Bowen stated the proposed idea has been discussed with the individuals who build roads, and it has been met with positive feedback.

#### **December Road Fund/ Federal Highway Trust Fund (FHTF) Update**

Russ Romine, Deputy Secretary, KYTC, gave an update on the status of the Road Fund for FY 2016 and beyond, and the future of the Federal Highway Trust Fund (FHTF).

The FY 2016 budget is based off of the Consensus Forecasting Group (CFG) estimate from December of 2013 of approximately \$1.56 billion. The CFG met in October of 2015 and their preliminary estimate for FY 2016 is \$1.43 billion, a total estimated decline of approximately \$125 million. The estimated motor fuels decline is \$127 million, which is the cause of the overall decline in Road Fund collections.

If the preliminary estimate of \$1.43 billion is realized that would result in a 6.1 percent decline from FY 2015 receipts. If the motor fuels tax is down \$127 million, that would result in a 17 percent reduction in what the County Road Aid Program and the Municipal Road Aid Programs received in FY 2015. The first quarter receipts for FY 2016 show that the total Road Fund receipts are down 8.3 percent, and the motor fuels tax receipts are down 16.1 percent.

In projecting future revenues, CFG's preliminary Road Fund estimates made in October of 2015, show that the FY 2017 projections are essentially flat. Fiscal Year 2018 is projected to see a slight growth, with an estimate of \$1.46 billion. If that growth is realized, that would place Kentucky roughly back to FY 2012 collections. Long range estimates show that it would take until 2020 to get back to 2015 numbers if estimations are accurate.

Mr. Romine discussed the FHTF program. The last fully funded transportation bill to pass Congress on time was TEA-21 in 1998. It expired on September 30, 2003. SAFETEA-LU was the successor to TEA-21, and it passed in 2005. After TEA-21 expired in 2009, it took 33 months to pass MAP-21. The current authorization, MAP-21, originally was set to expire on September 30, 2014, but subsequent extensions mean the bill will now expire on December 14, 2015.

Congress has passed 35 short-term extensions in the past six years. The reason it is so difficult to pass a long-term bill is due to FHTF insolvency. There has been a funding gap since 2006 and revenues have essentially been flat. There has been slight growth that has only counted for inflationary adjustments. The average gap is \$16.9 billion a year between 2015 and 2023. Since 2008, most of the extensions have required additional deposits into the FHTF. Since 2008, a little over \$73 billion has actually had to come in from other sources, mostly from the General Fund to support the FHTF spending. The primary source for the FHTF is the

federal gas tax. The gas tax was levied in 1932. In 1983 the tax increased from 4 cents per gallon to 9 cents per gallon. In 1990 the gas tax increased to 14.1 cents per gallon. The last increase in the gas tax occurred in 1993, increasing to 18.4 cents per gallon. The needs continue to mount and the purchasing power of that 18.4 cents per gallon and has continued to erode since 1993. Because of inflation, the federal motor fuels tax has lost approximately 2/5 of its purchasing power since 1993, and without an increase will soon lose over ½ its 1993 value. There is no long term solution absent Congressional action.

As Congress has been unable to find the funds to meet the needs of the FHTF, more pressure is placed upon the states. States either increase their funding, or in some instances, tolls are being imposed. There has been no change in the funding for highway surface transportation at the federal level and as a result, tolls have become more of part of the equation.

The United States House of Representatives just passed its version of a long term transportation bill which is similar to what was passed by the United States Senate in July of 2015. The Drive Act (Developing Roadway Infrastructure for a Vibrant Economy) is the U.S. Senate's bill. The STRR Act (Surface Transportation Reauthorization Reform) is the U.S. House of Representative's bill. Both are six year bills, but so far only contain three years of actual funding. Unless the additional three years are funded, it will only be a three year funded bill. The U.S. Senate and U.S. House of Representatives have named their conferees and are working out differences between the two bills. Both bills give slight increases for total spending (\$44 - \$46 billion per year as opposed to the current \$41 billion). This current level translates into a federal share for Kentucky of \$650 million per year. Both bills move discretion from the states to the locals in some degree, primarily in the Surface Transportation Program (STP), which is the most flexible federal program.

The current split for the STP program is 50/50. Both the Senate and the House bills move that split to 45 percent state and 55 percent local split control, but the change in the House version takes place more gradually over the next six years.

In MAP 21 there was a program called the Programs of National and Regional Significance, which is something the Cabinet is interested in when funding searches are conducted for large projects such as bridge projects, however, that program was never funded. The DRIVE act creates an assistance for major projects and in 2016 they proposed \$250 million annually and are increasing that to \$400 million in FY 2019, FY 2020 and FY 2021, with a competitive grant application process with the FHWA helping pick those projects. In the STRR act they create something called the Nationally Significant Freight and Highway Projects Program. The funding level for that program would be \$725 million in 2016 growing to \$750 million in FY 2018 through FY 2021 and would also be a competitive grant program, where the USDOT would pick the projects, but then Congress through the passage of

a resolution could disapprove of a project USDOT selected.

In response to a question asked by Chairman Collins, Mr. Romine stated after the gas tax decrease to 26 cents, \$32.9 million in revenue was lost in FY 2015. The CFG estimate from their October 2015 meeting showed a loss of \$127 million due to the decrease. In response to a second question asked by Chairman Collins, Mr. Romine stated he believes with lower gas prices consumers will be more apt to travel, and if there are more vehicle miles traveled, people will consume more fuel which would help offset the lower tax rate. However, there is no way to predict exactly how the gas tax revenues will be affected in the future. He added when the CFG reconvenes at their December meeting, they will provide an official estimate for the gas tax.

In response to a question asked by Senator Embry, Mr. Romine stated advertisements that KYTC participates in are funded by the Federal Government and the money received is going to support Office of Highway Safety Programs

In response to a question asked by Senator Ridley, Mr. Romine stated the category as "other" includes such things as weight distance tax, motor vehicle license tax and licensing fees, and the auto registration tax.

Chairman Harris reiterated that because of the loss of revenue due to the current gas tax, the SPP in the two year road plan went from being 26 percent underfunded to now 33 percent underfunded. He encouraged members to be mindful as the 2016 Regular Session gets underway to refrain from adding any projects to the SPP portion of the plan because that will delay projects even farther.

Chairman Harris cautioned the committee that, during the 2018 Regular Session, the legislature must be mindful that the practice of using toll credits to match federal highway funds will no longer be an option due to the exhaustion of all of those credits. SPP funds will have to be utilized instead.

In response to a question asked by Representative Simpson concerning the priority of projects that are funded and completed, Secretary Hancock stated there are varying ways of defining needs for projects and there is legislative input into that process however, often times the determining factor on which projects are completed and when they are completed is the result of which projects are ready to go to the construction phase meaning the project has been designed, right-of-ways have been acquired, and utilities relocated.

Representative Mills and Representative McKee urged members to be mindful that Road Fund dollars are used to pay salaries of transportation employees and therefore there is a human aspect to the Road Fund dollars.

#### **Road Fund and Transportation Infrastructure Enhancements**

Mike Helton, Government Strategies, discussed suggestions on Road Fund and transportation infrastructure enhancements. One suggestion is to utilize a portion of the 1.4 cents per gallon Underground Storage Tank (UST) fee to help offset road funds that were lost when gas prices

fell in December of 2014. It was also suggested that a portion of the UST fee be used to create a dedicated source of funding for public transit, and to create a separate dedicated source of funding for waterways.

It was also proposed that additional measures be taken to stabilize and replace lost road funds such as increasing the use of the Road Fund for the Kentucky State Police budget, developing a gasoline equivalent fee for electric vehicles, exploring a methodology for factoring in CAFE standards in the gas tax formula, and developing a more stable index like the CPI for calculating the gas tax.

Mr. Helton stated the Underground Storage Tank Fee is a .4 cents per gallon financial responsibility account that currently has a \$12 million balance and is used by retail facilities to meet the federal requirement for financial assurance. One cent per gallon goes into the Petroleum Storage Tank Assistance (PSTA) account which currently contains approximately \$30 million and is generally used for abandoned tanks.

The Financial Responsibility Account includes .4 of a cent and was enacted in 1990 to assist petroleum marketers with federal requirements. There was a one cent increase in the Petroleum Storage Tank (PST) account in 1994 to supplement the cleanup of abandoned tanks. There was a statute that was amended in 2002 to separate the two accounts and provide for a phase out of the PST account. The PST account has been extended for varying periods since then and registration is set to expire for the PST account in July of 2016.

Mr. Helton stated with the drop in fuel prices, the Road Fund is set to lose approximately \$125 million each of the next few years. A portion of the penny from the UST fund could be used as debt service for a bond issue to supplement the lost Road Fund dollars. The proceeds of the bond issue would be revenue shared with cities and counties according to the formula. The balance would go to the state construction account.

The second suggestion was to create a dedicated public transit fund. Mr. Helton stated there are three primary urban public transit systems across Kentucky such as TARC, TANK, and LEXTRAN, however there are other sub-urban systems in places such as Bowling Green, Owensboro, Paducah, Frankfort, and Ashland among others. The current state General Fund budget for transit is approximately \$2 million per year. State funds can be used to match federal dollars. A \$5 million fund could be used to match \$40-\$50 million in federal dollars.

The third suggestion is to create a dedicated fund for river ports. Mr. Helton stated additional funds are needed to establish a River Port Financial Assistance Trust and suggested providing grants to river port authorities for new construction and major replacement or repair of projects. The current state funds for this is approximately \$500,000 each fiscal year. He added that more than \$1.3 million in projects were submitted during the 2015 FY.

Mr. Helton suggested the additional measures that needed to be taken to replace lost Road Fund

dollars include a State Police Fund transfer that has grown since the mid 90s and currently is \$96 million annually of the \$207 million State Police budget. Mr. Helton proposed an annual vehicle usage fee for electric cars based on an equivalent rate with a gasoline engine using methodology to factor in CAFE levels to the fuel tax. He added as federal CAFE standards increase, fuel consumption decreases. A proposal was also made to replace the AWP index with a CPI index.

Mr. Helton stated fuel prices remain low and could continue to do so. A road bond issue will help further stabilize the Road Fund to close to 2014 levels. Portions of the UST fee could be used as a dedicated source of funds for the debt service. Public transit and waterways could use a dedicated source of funding and can multiply whatever they receive with federal funds. The continued drop in road fund revenues due to the CAFE standards much be accounted for. Finally, Mr. Helton stated the State Police diversion of Road Fund dollars grows larger and larger.

In response to a question asked by Representative Simpson, Mr. Helton stated the proposals mentioned have not yet been presented to the Governor-elect's administration.

In response to a question asked by Chairman Collins, Mr. Helton stated the total Kentucky State Police budget is approximately \$207 million, of which \$97 million comes from the Road Fund. He added he would like for a portion of their budget to be taken out of the General Fund, but no set amount has been proposed.

Chairman Harris thanked members and guests and adjourned the meeting at 2:22 P.M.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE Minutes**

November 12, 2015

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

The Program Review and Investigations Committee met on Thursday, November 12, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order. The Pledge of Allegiance was recited followed by an opening prayer by Senator Westerfield. The secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Martha Jane King, Co-Chair; Senators Tom Buford, Perry B. Clark, Christian McDaniel, Stephen West, and Whitney Westerfield; Representatives Tim Couch, David Meade, Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Legislative Guest: Representative Denver Butler.

Guests: J. Michael Brown, Secretary, and John Bizzack, Commissioner of Department of Criminal Justice Training, Justice and Public Safety Cabinet; William Theilen, Executive Director, and Brian Thomas, General Counsel, Kentucky Retirement Systems.

Special Guest: Attorney General-Elect Andy



Beshear.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall; Colleen Kennedy; Van Knowles; Jean Ann Myatt; Chris Riley; William Spears; Shane Stevens; Joel Thomas; Ashleigh Hayes, Graduate Fellow; and Kate Talley, Committee Assistant.

#### **Minutes for October 8, 2015**

Upon motion by Senator McDaniel and second by Representative Palumbo, the minutes for the October 8, 2015, meeting were approved by voice vote, without objection.

#### **Staff Report: Kentucky Law Enforcement Foundation Program And Kentucky Firefighter Foundation Program Funds**

Jean Ann Myatt said the sole source of revenue for the Kentucky Law Enforcement Foundation Program and Kentucky Firefighter Foundation Program Funds is a surcharge on specified types of insurance premiums. In fiscal year 2014, surcharge revenue was \$103 million. On average, the surcharge collected from Kentucky-based insurers accounts for 17 percent of total revenue collected each year. The Commissioner of Revenue is responsible for annually reviewing the financial needs of the two funds and adjusting the surcharge rate as needed. The rate has been changed once when it was increased from 1.5 percent to 1.8 percent in 2010. Surcharge revenue is deposited in a State Treasury account specifically dedicated to the law enforcement and firefighter funds. Surcharge receipts collected from Kentucky-based insurance companies are allocated to the firefighter fund. Receipts collected from other insurance companies are divided between the two funds by the Finance and Administration Cabinet. Statute requires the cabinet to request quarterly cost projections from the Department of Criminal Justice Training (DOCJT) and the Commission on Fire Protection, Personnel, Standards, and Education and use these projections to determine the division. Cabinet officials no longer make these quarterly requests because they already have sufficient historical information to determine if changes in allocations are required. Since 2000, the law enforcement fund has received 72 percent of the non-Kentucky based surcharge revenue, and the firefighter fund has received 28 percent. As a percentage of all receipts collected, the split is typically 60 percent to the law enforcement fund and 40 percent to the firefighter fund. DOCJT and Fire Commission staff work with the Office of State Budget Director staff to produce expense projections, which are used to set quarterly allotments in eMARS.

According to statute, the Commissioner of Revenue should base calculations on the number of eligible local government units participating in the funds when considering the surcharge rate. Officials with the Office of State Budget Director said this is no longer the most accurate way to calculate financial needs. The long-term trends of law enforcement officers and firefighters participating in each fund are more useful. Recommendation 1.1 is that the General Assembly may wish to consider changing the statutory language for surcharge rate calculation to use as its base trends of participating

law enforcement officers and firefighters and budget bill appropriations instead of the number of local government units participating in each fund.

With the advent of eMARS, the quarterly reporting requirements may be unnecessary. Recommendation 1.2 is that the General Assembly may wish to consider updating the quarterly reporting requirement in KRS 42.190(1) to account for information available through Kentucky's financial reporting system.

William Spears said that the law enforcement fund supports DOCJT, which is responsible for training and certifying law enforcement officers. The department uses the fund to provide training incentives to officers and to support the Criminal Justice Council and the Kentucky Law Enforcement Council.

In FY 2014, the fund was appropriated \$61 million and \$18 million was transferred to the general fund. In FY 2014, almost all spending went toward incentive pay and training. DOCJT uses the fund to operate its facility, providing basic and in-service training for law enforcement officers.

Historically, budget language explicitly authorized the use of fund revenue for training. However, since at least 2000, budget language has not specified that fund revenue can be used to operate the department. Recommendation 2.1 is if it is the intent of the General Assembly that the Law Enforcement Foundation Program Fund be used for operating the DOCJT facility, it may wish to consider revising the statute or resume adopting budgetary language to authorize this.

Officers are not charged for training and course expenditures are supported by the law enforcement fund. In FY 2014, the total cost of hourly training was \$15.6 million. The cost per hour was \$27.49. The Kentucky State Police and the Lexington and Louisville agencies conduct most of their own training. Moving all training to DOCJT's facility would cost an additional \$2.8 million per year. Department staff indicated the facility does not currently have sufficient personnel or space to accommodate potential trainees from these agencies.

Department staff monitor training through a database documenting each officer's training hours and personnel records. The system is used during site audits to confirm the accuracy of agency records and whether officers have met annual minimum training hours. The department's spending activities are monitored through weekly expenditure analyses delivered to executive staff. The analyses include the amount spent in the fiscal year, average spending, and project spending.

Revenue from the law enforcement fund is used for a training incentive pay program for officers. Officers meeting specified requirements receive \$3,100 per year for completing training. Officers must be a full-time member of a local government or university that participates in the program. Officers complete 640 hours of training within the first year of employment and 40 hours each year thereafter. DOCJT reimburses local agencies for the extra pay. Law enforcement agencies pay officers the stipend in equal portions each pay period. DOCJT confirms

incentive pay amounts by issuing monthly roster reports. Law enforcement agency staff must verify the information and return the report. Payments are halted if rosters are not submitted. DOCJT distributes the amount due to the local fiscal officer, who reimburses the law enforcement agency. From July 2009 to June 2014, participation remained stable, averaging approximately 7,300 officers per month.

Eight groups of officers meet the same standards as eligible officers but cannot participate because they are not associated with a local government. As of May 2015, extending eligibility to them would cost \$1.3 million per year. The Department of Fish and Wildlife Resources currently uses its own funds to provide an identical stipend for its officers.

DOCJT's Compliance and Auditing Section audits participating agencies on a 3-year cycle. Payroll records are checked to ensure officers receive the incentive, retirement participation is checked to ensure contributions are sent to the correct system, training records are compared against department records, time cards are checked to see if agencies are including time when officers are working with other government agencies, and overtime rates are examined to see if the incentive is included in overtime rate calculation. Compliance staff conduct yearly checks to determine if officers have met training requirements. Officers may request an extension, but if the officer does not complete training by a specified time the officer's incentive payments are stopped and law enforcement authority is revoked. If an officer received incentive payments when ineligible, DOCJT initiates a recovery. Over the past 3 years, recoveries have decreased by 53 percent. Individual recoveries are relatively small, averaging \$420. DOCJT is audited annually as part of the statewide single audit. The Auditor of Public Accounts conducts a digital review of department finances and requests additional information if potential issues are discovered. From FY 2010 to FY 2014, the audit contained no recommendations for the department.

The Criminal Justice Council is a 14-member board that guides state law enforcement policies through research and coordinating the efforts of stakeholders. The council and staff were originally funded with law enforcement fund revenue via budget language. Budgets have not included this language since the 2002-2004 biennial budgets. The council continues to be funded with law enforcement fund revenue. Other than budget language, Program Review staff could find no statutory or regulatory authority for the council to receive restricted law enforcement fund revenue. Recommendation 2.2 is if it is the intent of the General Assembly that the Criminal Justice Council receive Kentucky Law Enforcement Foundation Program Fund revenue, it may wish to consider revising the statute or biennially adopting budgetary language to authorize this. The council's sole source of income is a transfer from DOCJT.

Statute authorizes law enforcement fund revenue to be used to operate the Kentucky Law

Enforcement Council. The council's responsibilities are to set standards for and certify law enforcement training schools, facilities, faculty, curriculum, and police officers and to monitor the law enforcement fund. Current annual expenses for the council are approximately \$12,000. The council approves curriculum and certification standards required for law enforcement fund pay incentive eligibility. It also monitors the fund by receiving copies of all officer hiring documents and coordinating with department personnel to confirm training hours and certification. Other than statutory reporting requirements, no formal oversight measures are in place for the council. The council meets one reporting requirement by providing reports to the General Assembly on mandatory training courses established in the previous year and future training under consideration. The council also reports activities in DOCJT's annual reports.

Chris Hall said that the firefighter fund is similar to the law enforcement fund, but there are important differences. Unlike the law enforcement fund, only a small portion of the firefighter fund is used for training; most of it is spent on programs that provide financial assistance to fire departments.

The firefighter fund is administered by the Fire Commission, which is attached to the Kentucky Community and Technical College System for administrative purposes. The Fire Commission, which is governed by a 19-member board, is charged with establishing the state's minimum education standards and training requirements for all firefighters. It also sets certification criteria for volunteer and professional firefighters and State Fire Rescue Training (SFRT) instructors. Daily operations are overseen by an executive director and staff, whose salaries are paid with firefighter fund revenue. KRS 95A.040 mandates that the Fire Commission promulgate administrative regulations to require that "each volunteer firefighter be able to read, write and understand the English language... is a person of sobriety and integrity... is and has been an orderly, law-abiding citizen... is a citizen of the United States, or otherwise lawfully present in the United States... and has reached the age of 18." Recommendation 3.1 is that the Fire Commission should promulgate administrative regulations in compliance with KRS 95A.040 (1)(d).

Almost all new revenue in any given year comes from the insurance surcharge. Such revenue in FY 2014 was \$42 million, up from more than \$37 million in FY 2011 and FY 2012. Over time, carryforward represents a larger portion of the fund's revenue, but the commission does not typically receive spending authority for this money. More than \$7 million in FY 2013 and more than \$9 million in FY 2014 was transferred to the general fund. Firefighter fund revenue is used to reimburse the SFRT division's budget for teaching the classes the commission requires all firefighters to take. This reimbursement is paid at a rate of \$21 per instructional hour. The annual cost of paying for these classes varies from year to year, but typically represents less than 6 percent of all expenditures. The administrative cost category includes operational expense of the Fire Commission, and

includes salaries and rent for the Lexington office. Typically, 70 percent of annual firefighter fund expenditures are for programs administered by the commission to assist fire departments.

To become a certified professional firefighter in Kentucky, a person must have a minimum education of a high school degree and complete a basic training course of at least 400 hours within one year of employment. To maintain certification, a professional firefighter must complete each calendar year an in-service training program appropriate to their rank and responsibility of at least 100 hours. To become a certified volunteer firefighter, a person must complete at least 150 hours of training within the first 2 years. Maintaining certification requires the successful completion each calendar year of at least 20 hours of in-service training. KRS 95A.090 mandates that the Fire Commission promulgate administrative regulations relating to the process of reviewing and applying candidate's US military training as a firefighter toward their Kentucky certification. To date, no such administrative regulation exists. Recommendation 3.2 is that in accordance with KRS 95A.090, the Fire Commission should promulgate administrative regulations to govern the policy and procedures for reviewing and accepting US military service as a firefighter toward certification as a firefighter in Kentucky.

As of September 2015, the commission recognized 835 fire departments in Kentucky: 58 professional and 777 volunteer. To be classified as professional, at least 50 percent of the department's firefighters must be full-time employees earning at least \$8,000. A department is classified as volunteer when it has at least 12 members plus a chief, has at least one operational fire apparatus, and less than 50 percent of its firefighters are full-time paid employees. More than 80 percent of fire departments in Kentucky are staffed only by volunteer firefighters and slightly less than 5 percent are staffed only by professional firefighters. The State Fire Rescue Training division is funded with general fund appropriations and offers 20 hours of free training to each fire department. Fire Commission staff use a database to track training and run monthly reports to check that individual firefighters get the required training hours. The commission uses firefighter fund revenue to allot \$8,250 annually to volunteer fire departments. Eligible departments may use this aid to purchase items from a commission-approved list, which includes extinguishers, personal protective gear, rescue equipment, ladders, and hoses. A department may hold its aid check for up to 5 years to purchase costlier items. Fire departments must submit to the commission proof of purchases made with the previous year's aid money. Fire Commission auditors check for each item purchased when visiting departments every 4 years. Statute requires the commission to promulgate administrative regulations relating to how the \$8,250 state aid will be distributed if two or more volunteer fire departments merge or one splits into multiple departments. The commission has in-house policies and procedures related to this process, but there is

no administrative regulation. Recommendation 3.3 is that in accordance with KRS 95A.530, the Fire Commission should promulgate an administrative regulation describing the manner in which volunteer fire districts should notify the commission of a merger or splitting of a volunteer fire district.

Statute authorizes the commission to use firefighter fund revenue to provide low-interest loans of up to \$75,000 to volunteer fire departments. A department must remain qualified to receive state aid for the duration of the loan because the commission deducts the annual loan payment from the aid check, making the program self-sustaining. Over the past 5 years, the commission has made 57 loans for a total of more than \$3 million. Fire Commission auditors check that loan money was used for its intended purpose when they visit a fire department.

By statute, eligible local governments are entitled to receive a \$3,100 annual stipend for each qualified professional firefighter they employ plus an amount equal to the required employer's contribution to the defined-benefit pension plan. Fire departments must submit a request for funds to the commission every month that includes a list of all active professional firefighters on their roster. The commission checks these data with its records and ensures that each firefighter is up-to-date on required training before sending the incentive check. The number of firefighters participating in the training incentive program has remained relatively constant over the past 5 years, averaging about 3,700 participants per month.

Officials with the Kentucky Board of Emergency Medical Services estimate that approximately 8,000 EMS providers would be eligible for the training incentive program. Adding them would cost nearly \$25 million annually, not including pension contributions.

Statute allows the Fire Commission to use firefighter fund revenue for a voluntary hepatitis B inoculation program, which allows professional and volunteer firefighters to receive the vaccine at no cost. The commission reimburses local health departments for the cost of each vaccine administered plus a \$22 administrative fee. Over the past 5 years, the commission has spent on average \$8,900 per year on this program.

The commission uses firefighter fund revenue to provide \$3,200 competitive grants to volunteer and professional fire departments for purchasing thermal vision cameras. In FY 2014, 153 thermal vision grants were awarded for a total of nearly \$490,000. Commission auditors check for the thermal vision cameras when they visit the firehouse. Statute mandates that the commission have administrative regulations to govern the grant program, but none exist. Recommendation 3.4 is that the Fire Commission should promulgate administrative regulations to govern the Thermal Vision Grant Program. These regulations should include eligibility requirements, funding levels, reporting requirements, and whether approval of grant applications requires approval of the full commission.

Each year, the commission budgets \$500,000 of



the firefighter fund to provide training facility grants to volunteer and professional fire departments. Fire departments have one year to complete the projects or to show considerable progress. If this condition is not met, the commission reserves the right to request the funds back. Of the applications received over the past 4 fiscal years, the commission funded 39 for a total of \$2.1 million.

The Fire Commission is statutorily required to maintain a uniform standard of physical ability to ensure firefighters are able to do their jobs efficiently and safely. The commission holds a license to administer the eight-event Candidate Physical Ability Test program (CPAT). All new firefighter candidates applying after Jan 1, 2013 must successfully complete CPAT. The Fire Commission also certifies approximately 80 peer fitness instructors who conduct fitness evaluations in fire departments. The commission sometimes has funds available to purchase exercise equipment for fire departments, typically treadmills. If fire commission auditors determine that a treadmill is not being used, the equipment will be transferred to another firehouse that has requested one.

Other expenditures of the firefighter fund include paying worker's compensation premiums for nearly 800 volunteer fire departments. Mobile facilities funds are used to purchase and maintain fleet vehicles and other equipment used by SFRT instructors. The Fire Commission also uses firefighter fund revenue to purchase protective gear for approximately 450 instructors.

The Fire Commission is included in KCTCS's annual audit, which is performed by an outside firm. The audits have had no major findings regarding the commission. Much of the oversight by the Fire Commission comes from reporting requirements and monitoring of the programs it administers. For example, volunteer fire departments receiving state aid must meet yearly training requirements, must submit receipts for any items purchased off a commission-approved list, and must be able to show those items to Fire Commission auditors. Many of the programs require board approval and are monitored for compliance during bimonthly meetings.

In response to questions from Senator Carroll, Mr. Spears clarified that in the case of law enforcement agencies, training stipends are included in overtime rate calculations for scheduled and unscheduled overtime.

In response to a question from Senator McDaniel, Mr. Spears said that a somewhat different calculation method is used by firefighter agencies.

In response to a question from Senator Carroll as to the impact of an increase in stipends on Kentucky's retirement system, Mr. Hall clarified that the salary figures used in the report are rough estimates used to provide a general idea of the dollar amounts involved.

In response to questions from Senator McDaniel, Mr. Spears said firefighters' incentive stipends are included when calculating overtime rates for unscheduled overtime. Overtime rate

calculations for scheduled overtime do not include incentive stipends.

In response to a question from Representative Palumbo, Mr. Hall clarified that adding eligible EMS providers would cost nearly \$25 million annually, but it was an estimate because it was not possible to determine exactly which EMS providers were eligible.

Senator McDaniel noted that the General Assembly must use caution and not expand the uses to which foundation program funds may be used.

A question from Senator McDaniel as to why administrative costs for the firefighter fund doubled in 2013 was referred to the Fire Commission.

Senator Buford noted that in his district, the family of an emergency medical services provider who died did not receive the same benefits that the family of a law enforcement officer or firefighter would have received. He requested a list of counties that do not provide death benefits for emergency medical services personnel.

Secretary Brown noted that for a number of years, all audits of the criminal justice training program have not made any recommendations. He has asked the General Assembly to note that Peace Officer Professional Standards (POPS) certification for officers is a rigorous training standard, much of the law enforcement fund's revenue is moved to the general fund each year, many POPS-certified officers are not receiving proficiency pay, reserves should be set in the fund before any money is moved into the general fund., and the stipend amount should be increased.

In response to questions from Senator McDaniel, Secretary Brown said when the hours of cadet training is aggregated with in-service training, Kentucky has the most training in the United States. There is no independent audit of the law enforcement fund.

In response to a questions from Senator Carroll, Mr. Bizzack said that training courses have not been eliminated from the program. Some courses have been consolidated as training needs changed. State Police dispatchers are covered through the budget, not the law enforcement fund.

In response to a question from Representative Butler, Secretary Brown said that State Police dispatchers receive the same training as troopers.

Rep. Palumbo extended her thanks to Secretary Brown and Mr. Bizzack for a job well done during their time in the Justice and Public Safety Cabinet.

Upon motion by Senator McDaniel and second by Representative Palumbo, the *Kentucky Law Enforcement Foundation Program And Kentucky Firefighter Foundation Program Funds* report was adopted by a roll call vote.

#### **Staff Report: *Quasi-Governmental Entities In The Kentucky Retirement Systems***

Ashleigh Hayes said that quasi-governmental entities (QGE) are not defined in Kentucky statute. The working definition for the report is that QGEs are created by governments to serve public interests but maintain a legally separate status. Board members of QGEs are often appointed by government officials, and government officials

may serve on the governing boards. According to the US Census Bureau, special districts are special purpose governments that carry out one or a limited number of functions while maintaining administrative and fiscal autonomy. For the report, special districts are classified as QGEs based on their quasi-independent status and characteristics of their boards.

There are 602 QGEs, divided into 18 classifications in the report, which participate in the Kentucky Retirement Systems (KRS). All the QGEs participate in the Kentucky Employees Retirement System-Nonhazardous (KERS-NH) or County Employees Retirement System-Nonhazardous (CERS-NH) or -Hazardous (CERS-H) retirement plans. The Kentucky Horse Park has nine employees and two retirees in the KERS-Hazardous plan as of FY 2014. For simplicity, these employees and retirees are counted as KERS-NH in the report. Participation in KERS requires approval of the KRS Board and an executive order. Participation in CERS requires approval of the KRS board, followed by an order received from the county fiscal court or a school board. Entities can seek a determination letter from the US Internal Revenue Service to qualify to participate in KRS. The Kentucky League of Cities and Kentucky Association of Counties became participants in this manner.

Chris Riley said that more than 26,000 active QGE members and more than 12,000 QGE retirees participated in the three retirement plans as of FY 2014. QGE active members accounted for 20 percent of the total active members for the three retirement plans. QGE retirees accounted for nearly 13 percent of the total for the three plans. From FY 2007 to FY 2014, the ratios of active members per retiree declined by more than 30 percent for each plan: CERS-NH went from 2.39 to 1.62, CERS-H went from 1.95 to 1.20, and KERS-NH went from 1.42 to 0.98. Trend data for only QGE employees and retirees were unavailable, but as of FY 2014 their employee to retiree ratios were higher for all three plans.

The average age of QGE active members was 44.5, and the average age for QGE retirees was 65.9 in FY 2014. Housing authorities had the highest average active member age at 49.2. Tourist commissions, libraries, and development authorities all had average retiree ages higher than 69. Ambulance services and fire departments had the lowest active member and retiree average ages.

In FY 2014, nearly \$238 million in retirement benefits were paid to QGE retirees. The average annual benefit was just more than \$19,000. Benefits paid to utility boards, health departments, and regional mental health units accounted for 65 percent of benefits paid to QGE retirees. Average retirement benefits per QGE retiree ranged from just more than \$6,000 for conservation districts to more than \$30,000 for retirees from airport boards. Overall, QGEs accounted for nearly \$2.8 billion in net pension liabilities, which represents nearly 21 percent of net pension liabilities of the three plans. Regional mental health units, health departments, other services, and utility boards each had net

pension liabilities of more than \$300 million. QGEs in these classifications accounted for nearly 71 percent of total active QGE members, more than 77 percent of QGE retirees, more than 78 percent of QGE retirement benefits, and more than 83 percent of net pension liabilities for QGEs in FY 2014.

Ms. Hayes summarized information on two legal actions involving community mental health centers and KRS. Kentucky River Community Care (KRCC) terminated the employment of more than 400 employees in March 2011 and rehired most of them through an employment agency it created called Go Hire. KRCC claimed that the rehired employees were no longer employed by a participating agency in KRS. KRS filed a declaratory judgment action against KRCC/Go Hire in May 2011. KRCC/Go Hire has been ordered to produce discovery materials. According to KRS, KRCC has not reported active employees or paid any contributions to KRS since FY 2014. KRCC has approximately 139 retirees with service credit earned remaining in KRS.

In April 2013, Seven Counties Services filed for Chapter 11 bankruptcy citing the cost of rising employer contribution rates for participation in KERS-NH. Seven Counties stopped making payments for all but approximately 300 employees and terminated the status of 900 employees. KERS challenged these actions. A bankruptcy court permitted Seven Counties to file Chapter 11 bankruptcy, with KERS being its primary creditor. A financial impact analysis prepared for KERS determined that the lack of contributions by Seven Counties and its employees will increase employer contributions for the remaining employers in KERS-NH by nearly \$1 billion over 20 years.

William Thielen said a concern is that it is possible that some entities participating in the retirement systems should not be. A particular concern is nonstock, nonprofit corporations, which includes community mental health agencies. Some state agencies, such as the Personnel Cabinet, contract out many jobs. This results in an erosion of the number of participating members who contribute to the retirement systems.

In response to questions from Senator Carroll, Mr. Thielen said that some agencies find the cost of contributions a heavy burden. Entities that do not participate in KRS can offer another retirement plan to employees. Brian Thomas said that many are not offering KRS as an option.

In response to questions from Senator McDaniel, Mr. Thielen said that when agencies are in bankruptcy, the remaining agencies participating in KRS pick up the liability. Not all agencies classified as quasi-governmental entities are covered by House Bill 62. Mr. Thomas said the employees of the two community mental health services entities involved in litigation for leaving KRS have not been participating in KRS. Seven Counties has not participated since May 2014 and left a \$93 million liability. Mr. Thielen said it is a hardship for employees who had already put a lot of service years into KRS.

In response to questions from Representative Simpson, Mr. Thielen said only one additional

quasi-governmental entity has been approved for participation in KRS since 2003. Mr. Thomas said that if an agency requests participation, the board determines its eligibility and evaluates the agency's ability to pay. If approved, the governor issues an executive order. Mr. Thielen said that the board is now reluctant to allow nonstock, nonprofit agencies to participate. Mr. Thomas said the cases involving the two community mental health services agencies are in the discovery process. It is unknown how soon the cases might be resolved.

In response to a question from Senator Carroll, Mr. Thielen said the Affordable Care Act requires insurers to cover dependents aged 22 to 26, but Kentucky statute only allows KRS contributions for insurance for dependents age 21 and younger who are full-time students. The KRS board eventually decided it was not allowed to contribute toward insurance for dependents aged 22 to 26 but that it would be an unfair burden to participants to halt the contributions during the fiscal year. The contributions will end in FY 2016. KRS will then recover amounts totaling \$18 million to \$27 million per year.

Upon motion by Senator McDaniel and second by Senator Westerfield, the *Quasi-Governmental Entities In The Kentucky Retirement Systems* report was adopted by a roll call vote.

Senator Carroll announced that the next meeting will be held December 10, 2015, at which time the committee will vote on study topics for 2016. He said that members may send possible topics to staff or the co-chairs before the meeting.

The meeting adjourned at 11:37 AM.

## **SB 192 IMPLEMENTATION OVERSIGHT COMMITTEE**

### **Minutes of the 6th Meeting of the 2015 Interim**

November 9, 2015

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

The 6th meeting of the SB 192 Implementation Oversight Committee was held on Monday, November 9, 2015, at 10:00 AM, in Room 169 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Denver Butler, Co-Chair; Senator Morgan McGarvey; Representatives David Floyd and Joni L. Jenkins.

Guests: Justice and Public Safety Cabinet Secretary J. Michael Brown, Executive Director of Kentucky Office of Drug Control Policy Van Ingram, Commonwealth Attorney of the 16<sup>th</sup> Judicial Circuit Hon. Rob Sanders, Kentucky Health Departments Association Director Scott Lockard, Lexington-Fayette County Health Department Director Dr. Rice Leach, Northern Kentucky Independent Health District Director Dr. Lynne Sadler, Louisville Metro Department of Public Health & Wellness Interim Director Dr. Sarah Moyer, Three Rivers District Health Department Public Health Director Georgia Heise, DrPH, St.

Elizabeth Healthcare Emergency Department Nurse Manager Ashel Kreutzkamp, Ridge Behavioral Health Services CEO Nina Eisner, and Department of Criminal Justice Training Assistant Director for Training Operations Frank Kubala.

LRC Staff: Jon Grate, Jonathan Scott, Sarah Kidder, and Alice Lyon.

#### **SB 192 Appropriations Report**

Secretary J. Michael Brown of the Justice and Public Safety Cabinet and Executive Director Van Ingram of the Kentucky Office of Drug Control Policy discussed spending of \$10 million in one-time funding through SB 192 for programs to combat prescription drug and heroin abuse in the state. \$1 million has been allocated to provide or contract for substance abuse treatment or medically assisted treatment for non-state inmates with substance abuse disorders. Secretary Brown reported that the Cabinet has not received many applications from county jails, but four jails have been awarded funding of \$500,000. \$500,000 has been allocated to KY-ASAP programs in county jails or in facilities under the supervision of county jails that employ evidence-based behavioral health treatment or medically assisted treatment for inmates with substance abuse disorders. So far, the Justice Cabinet has transferred \$250,000 to DOC for programming for state inmates in county detention centers, expanding two jail programs and opening six new programs.

SB 192 also allocated \$1.5 million for the purchase of the extended-release opioid antagonist Vivitrol for use by inmates. A Vivitrol pilot program offered in four jails and estimated to serve 2,000 state and non-state inmates will also assist offenders in signing up with Medicaid or private insurance. Secretary Brown mentioned nine county detention centers which will be opening and expanding substance abuse programs, and through this funding, there will be 763 beds available in state prison substance abuse programs.

Secretary Brown also discussed the \$2.6 million allocated to KY-ASAP through SB 192 to provide supplemental grant funding to community mental health centers (CMHCs) to offer additional substance abuse treatment resources. Ten out of fourteen CMHCs have been awarded funding for this purpose. KY-ASAP entered into a memorandum of agreement with the Cabinet for Health and Family Services' Department of Behavioral Health to develop and evaluate Requests for Proposals and award funding. KY-ASAP was also provided \$1 million to address neonatal abstinence syndrome through community substance abuse treatment providers which offer residential treatment services to pregnant women through programs that employ evidence-based behavioral health treatment or medically assisted treatment. Four programs in Louisville, Lexington, Northern Kentucky, and Eastern Kentucky received awards at \$250,000 each.

SB 192 also specified \$1.2 million for the Department of Public Advocacy's Social Worker Program to create additional social worker positions to develop individualized alternative sentencing plans. This would create 22 social



worker positions, a branch manager position, and administrative staff support position. So far, \$600,000 has been transferred from the Justice Cabinet to the Department of Public Advocacy. SB 192 also allocated \$1.2 million to the Prosecutors Advisory Council to enhance the use of rocket docket prosecutions in controlled substance cases, of which \$600,000 has been transferred.

One million dollars was provided in SB 192 for KY-ASAP local boards. About \$375,000 in competitive grants has been awarded to 37 local boards for opioid overdose prevention and treatment. The rest of the funds were used to supplement the budgets of each county's local board, raising budget funds for each county to \$15,500.

Secretary Brown stated that the projected estimates for the overdose rate in 2015 look grim based on high mid-year numbers. In the first half of 2015, there were 501 total overdose deaths reported, 154 of which involved heroin and 152 of which involved Fentanyl. The prevalence of Fentanyl has grown, and while it is often seen in combination with heroin, there are a growing number of cases where Fentanyl was the only substance used. Furthermore, although there has been a decline in the number of prescriptions for Fentanyl issued in Kentucky, the abuse rates remain high, indicating that it is being shipped in.

#### **Aggravated Trafficking and Importation Crimes Created in SB 192**

Honorable Rob Sanders, Commonwealth Attorney for the 16<sup>th</sup> Judicial Circuit, joined Mr. Ingram and Secretary Brown to discuss heroin-specific offenses created in SB 192. Mr. Ingram stated that between January 1, 2015 and October 20, 2015 the following cases relating to heroin were filed:

Importing heroin: 49 charges, 44 cases

Complicity to import heroin: one charge, one case

Aggravated trafficking in a controlled substance, 1<sup>st</sup> degree: two charges, one case

Complicity to aggravated trafficking in a controlled substance, 1<sup>st</sup> degree: three charges, three cases

Enhanced aggravated trafficking in a controlled substance, 1<sup>st</sup> degree: two charges, two cases.

Overall, there were 57 total charges and 51 cases. As prosecutors and police officers become more familiar with these charges, Mr. Ingram stated that he expects to see an increase in their use.

Hon. Sanders spoke about some of the challenges faced when attempting to charge or prosecute in heroin trafficking. In cases of such crimes, charges might be dismissed in favor of federal charges because the 1000 gram amount for aggravated trafficking is set so high in Kentucky. The price to purchase heroin is also very high at \$3,000 per ounce, and narcotics units have financial limitations in conducting operations; it is more likely that a federal narcotics unit would be better able to finance such operations. Furthermore, federal penalties of such crimes are higher than Kentucky penalties. Hon. Sanders recommended that, to make

Kentucky law stronger, legislators should consider lowering the threshold for aggravated trafficking in a controlled substance. Another challenge is that it is difficult to prove a crime of importing a controlled substance. This could be ameliorated by greater surveillance on bridges. Responding to a question from Representative Floyd, Hon. Sanders spoke of the importance of training patrol officers on these charges.

#### **Implementation of Needle Exchanges**

Director Scott Lockard of the Kentucky Health Departments Association spoke about the growing needle exchange programs in Kentucky. He emphasized that there have been many community forums on implementing needle exchange, and there are currently three jurisdictions where needle exchange programs are fully operational in conjunction with public health officials and local government.

Dr. Rice Leach, Commissioner of Health at the Lexington-Fayette County Health Department, stated that a key issue at the Lexington needle exchange program is getting people into treatment. In an attempt to address this, everyone who comes to the program is provided a list of referral options. Since the beginning of the program on September 4, 2015, 104 total persons have been served with 52 return visits, 2,104 needles collected, 1,976 needles dispensed, five persons screened for HIV, and nine persons referred to clinics for STD/hepatitis testing. The program has had many successes, including community participation and donations, gradual growth, general acceptance by participants, and no behavioral incidents. Challenges are establishing on-site drug abuse consultation, coordinating with local substance abuse providers, increasing service sites, and finding resources to expand the program.

Dr. Lynne Sadler, Director of the Northern Kentucky Independent Health District, said a program is ready to execute upon the SB 192 mandated approval of one of the local governments in the area, but no fiscal court in the area has taken a vote to authorize needle exchanges. She stressed the importance of community support and the need for local education of the issue and the program.

Dr. Sarah Moyer, Interim Director of the Louisville Metro Department of Public Health and Wellness, provided testimony on the successes of the Louisville needle exchange program in its first four and a half months. Since June, the program has had 1,102 participants with 42 percent returning, 133 tested for HIV, 65 tested for Hepatitis C in the last 45 days, and 64 referred for drug treatment. The mobile site is not currently mobile, but a community site was opened two weeks ago.

Georgia Heise, DrPH, Public Health Director at Three Rivers District Health Department, said fiscal court approval in Pendleton County was easily achieved because everyone in the community has been affected by substance abuse in some way. Pendleton County's program has been fully operational since September, but no one has participated yet. Ms. Heise attributed the lack of participants to poor education and misinformation about the program, and she stated that the three other counties in her district with pending programs are

facing the same issues. Responding to a question from Representative Butler, Ms. Heise emphasized the importance of local boards and district boards in countering bad press and misinformation on the needle exchange programs.

#### **Referrals to Treatment After Overdose**

SB 192 requires hospitals which treat overdose victims to inform the person of local treatment options, and to make contact with providers on the patients' behalf with the patients' permission. Nina Eisner, CEO of Ridge Behavioral Health Services in Lexington, praised SB 192 for its emphasis on implementing care. However, she stated that providing local referrals for substance abuse treatment to is an issue because local treatment is not always available. Other barriers for treatment include: lack of transportation to treatment programs or facilities; lack of insurance coverage; and long waiting lists for treatment options. Furthermore, Ms. Eisner stated that treatment providers often face delays in receiving credentials from Medicaid managed care organizations, and when combined with other challenges, this can make providers reluctant to expand care.

Ashel Kreutzkamp, Emergency Department Nurse Manager at St. Elizabeth Healthcare, testified on the difficulties of getting patients from the emergency room (ER) to treatment facilities. Oftentimes heroin users come from families struggling with the same addictions which complicates treatment. St. Elizabeth Healthcare is conducting a research study which follows those treated at the ER for substance abuse to better individualize treatment options.

SB 192 also requires local health departments to follow up with those who call emergency services for help with overdoses when contact information is available. Mr. Lockard spoke on how to provide information to bystanders of overdose. Furthermore, he spoke about the low number of referrals to treatment in Northern Kentucky with only five referrals in two jurisdictions and three outreach attempts. One of the major challenges to increasing the number of referrals is the lack of clarity on which agency is to report the contact information.

#### **DOCJT Trainings on Heroin**

Frank Kubala, Assistant Director for Training Operations at the Department of Criminal Justice Training (DOCJT), spoke about the successes of heroin training in criminal justice. DOCJT provides entry-level and in-service training to about 11,000 students each year, including city and county police officers, sheriffs, deputy sheriffs, university police, airport police, law enforcement telecommunications, court security, and coroners. There are four Kentucky Law Enforcement Council approved Academies throughout the state located at the Kentucky State Police, Louisville Metro Police, Lexington Police, and DOCJT. Heroin-specific training began in 2013 and expanded in 2014 prior to SB 192. From 2013 to 2015, 4,716 officers received in-service heroin training, and 700 received heroin training in basic training. Upon passage of SB 192, an 8-hour course was created, and it has been taught 15 times across the state,

once in each Area Development District. Topics of the course include detection and interdiction of heroin trafficking, the dynamics of heroin abuse, and treatment options for addicts. At the request of Mr. Ingram, psychological impacts of substance abuse and a legal overview were included. DOCJT has partnered with the University of Kentucky Injury Prevention and Research Center to obtain a four-year grant to provide additional training to officers on heroin and naloxone administration. This will include a four-hour embedded block on heroin topics and will be taught 20 times a year across the state for each of the next four years. This grant program will impact about 2,400 officers.

There being no further business, the meeting was adjourned at 10:57 AM.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the November Meeting November 10, 2015**

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

The November meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, November 10, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Perry B. Clark, Alice Forgy Kerr; Representatives Denver Butler, and Tommy Turner.

Guests: Sharron Burton, Personnel Cabinet; Steve Hart, Cheryl LaLonde, Board of Pharmacy; Karalee Oldenkamp, Board of Chiropractic Examiners; Louis Kelly, Board of Physical Therapy; Nicole Biddle, Robert Levine, Board of Podiatry; Brian Judy, Dr. Owen Nichols, Board of Examiners of Psychology; Nicole Biddle, Larry Disney, Tom Veit, Board of Real Estate Appraisers; Mary Badami, Nicole Biddle, Board of Marriage and Family Therapy; Matt Jones, Board of Licensed Diabetes Educators; Ron Brook, Karen Waldrop, David Wicker, Department of Fish and Wildlife Resources; John Enochs, Katie Smith, Cabinet for Economic Development; Amy Barker, Department of Corrections; Mark Cook, Miranda Denney, LaDonna Koebel, Veronica Koontz, Kris Mann, Kristie Stutler, Department of Juvenile Justice; Ann Dangelo, Rodney Kuhl, Rick Taylor, Transportation Cabinet; David Couch, Bob Hackworth, Lisa Moore, Amy Peabody, Department of Education; Paul Gannoe, Barry Poynter, Eastern Kentucky University; Charles Lowther, Department of Workers' Claims; Steve Humphress, Melissa McQueen, Department of Alcoholic Beverage Control; Mark Guilfoil, Dr. Mary Scollay, Susan Speckert, Horse Racing Commission; Noelle Bailey, Scott Jones, Department of Charitable Gaming; Diona Mullins, Office of Health Policy; Deborah Anderson, Victoria Elridge, Phyllis Sosa, Bob White, Department for Aging and Independent Living; Raymond Trybus, Walden College; Vanessa Paddy, Kentucky Coordinating Body of American

Association of Diabetes Educators.

LRC Staff: Sarah Amburgey, Ange Bertholf, Emily Caudill, Betsy Cupp, Emily Harkenrider, Karen Howard, Carrie Klaber, and Donna Little.

Present were:

Members: Senators, Perry Clark, Ernie Harris, Alice Forgy Kerr and Representatives Denver Butler, Mary Lou Marzian and Tommy Turner.

LRC Staff: Sarah Amburgey, Ange Bertholf, Emily Caudill, Betsy Cupp, Emily Harkenrider, Karen Howard, Carrie Klaber, and Donna Little.

Guests: Sharron Burton, Personnel Cabinet; Steve Hart, Cheryl LaLonde, Board of Pharmacy; Karalee Oldenkamp, Board of Chiropractic Examiners; Louis Kelly, Board of Physical Therapy; Nicole Biddle, Robert Levine, Board of Podiatry; Brian Judy, Dr. Owen Nichols; Board of Examiners of Psychology; Nicole Biddle, Larry Disney, Tom Veit, Board of Real Estate Appraisers; Mary Badami, Nicole Biddle, Board of Marriage and Family Therapy; Matt Jones, Board of Licensed Diabetes Educators; Ron Brook, Karen Waldrop, David Wicker, Department of Fish and Wildlife Resources; John Enochs, Katie Smith, Cabinet for Economic Development; Amy Barker, Department of Corrections; Mark Cook, Miranda Denney, LaDonna Koebel, Veronica Koontz, Kris Mann, Kristie Stutler, Department of Juvenile Justice; Ann Dangelo, Rodney Kuhl, Rick Taylor, Department of Transportation; David Couch, Bob Hackworth, Lisa Moore, Amy Peabody, Department of Education; Paul Gannoe, Barry Poynter, Eastern Kentucky University; Charles Lowther, Department of Workers' Claims; Steve Humphress, Melissa McQueen, Department of Alcoholic Beverage Control; Mark Guilfoil, Dr. Mary Scollay, Susan Speckert, Kentucky Horse Racing Commission; Noelle Bailey, Scott Jones, Department of Charitable Gaming; Diona Mullins, Office of Health Policy; Deborah Anderson, Victoria Elridge, Phyllis Sosa, Bob White, Department for Aging and Independent Living; Raymond Trybus, Walden College; Vanessa Paddy, Kentucky Coordinating Body of American Association of Diabetes Educators.

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL CABINET: Office of the Secretary: Personnel Cabinet; Classified

101 KAR 2:210 & E. 2016 Plan Year Handbook for the public employee health insurance program. Sharron Burton, deputy executive director, Office of Legal Services, represented the cabinet.

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:220. Collaborative care agreements. Steve Hart, executive director, and Cheryl LaLonde, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Chiropractic Examiners: Board

201 KAR 21:015. Code of ethical conduct and standards of practice. Karalee Oldenkamp, D.C., executive director, represented the board.

In response to a question by Co-Chair Harris, Dr. Oldenkamp stated that a U.S. District Court upheld 2015 House Bill 153, which prohibited licensees from contacting or causing to be contacted an injured person; however, the commensurate provision in this administrative regulation was questionable because a time limit was not established. In order to prevent further loss of board funds through litigation, the board opted to delete the provision from this administrative regulation and rely on the statutory provisions alone.

Board of Physical Therapy: Board

201 KAR 22:020. Eligibility and credentialing procedure. Louis Kelly, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clarify that retakes of the examination and the remediation provisions shall only apply to an applicant for licensure or certification; (2) to amend Section 4 to clarify that retakes of an examination or remediation shall not apply to an applicant for a temporary permit; and (3) to amend Sections 5 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 22:040. Procedure for renewal or reinstatement of a credential for a physical therapist or physical therapist assistant.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to add the edition date on both forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 22:070. Requirements for foreign-educated physical therapists.

A motion was made and seconded to approve the following amendments: to amend Section 3 to update the edition dates of the material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Board of Podiatry: Board

201 KAR 25:011. Approved schools; examination application; fees. Nicole Biddle, assistant attorney general, and Robert Levine, chair, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE, RELATES TO paragraph, and Sections 1, 2, 3, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to require both a state and federal background check to be consistent with KRS 218A.205(7). Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 25:021. Annual renewal of licenses, fees.



A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 25:031. Continuing education.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Examiners of Psychology: Board

201 KAR 26:121. Scope of practice and dual licensure. Brian Judy, assistant attorney general, and Dr. Owen Nichols, board chair and psychologist, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:175. Continuing education.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1, 2, 3, 5, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 26:200. Definitions of terms used by the Board of Examiners of Psychology for meeting education requirements for licensure as a licensed psychologist.

In response to a question by Co-Chair Harris, Mr. Judy stated that education requirements for licensure varied from state to state. Some states allowed online courses. This administrative regulation established a blended requirement mixing hours obtained traditionally on campus as well as online. This standard benefited patients by increasing access through increased licensure. Dr. Nichols stated that licensees still received extensive practicum in the educational programs prior to licensure. Licensees still had doctoral training and supervised experiences.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Appraisers Board: Board

201 KAR 30:050. Examination and experience

requirement. Nicole Biddle, assistant attorney general; Larry Disney, executive director; and Tom Veit, executive assistant, represented the board.

In response to a question by Co-Chair Harris, Mr. Disney stated that this administrative regulation allowed more hands-on experience, rather than evaluation of the experience of others.

201 KAR 30:380. Individual appraiser license renewal and fee.

Board of Licensure of Marriage and Family Therapists: Board

201 KAR 32:025. Marriage and family therapist associate. Mary Badami, LMFT, chair, and Nicole Biddle, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 32:035. Supervision of marriage and family therapist associates.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 32:045. Examination.

A motion was made and seconded to approve the following amendment: to amend Section 1 to include a cross-reference citation to 201 KAR 32:030, which establishes the referenced fees. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 32:060. Continuing education requirements.

In response to questions by Co-Chair Harris, Ms. Badami stated that continuing education requirements pertaining to suicide were added to comply with the authorizing statute. The requirement was one (1), six (6) hour course, rather than six (6), one (1) hour courses, every six (6) years. Licensed marriage and family therapists were required to obtain at least fifteen (15) continuing education hours annually, and associates were required to obtain at least ten (10) continuing education hours annually.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Fish

301 KAR 1:161. Repeal of 301 KAR 1:160. Ron Brooks, fisheries director; Karen Waldrop, deputy commissioner; and David Wicker, general counsel, represented the department.

In response to a question by Co-Chair Harris,

Mr. Brooks stated that the Farm Pond Stocking program was being terminated in order to reallocate those funds to the Fishing in Neighborhoods program, which was very successful and provided opportunities for fishing to many who would not normally have an opportunity, such as those who live in inner-city areas, senior citizens, and those who need ADA accommodations. The department would still assist those seeking to stock farm ponds; however, the actual suppliers would now tend to be private suppliers.

301 KAR 1:410. Taking of fish by nontraditional fishing methods.

Game

301 KAR 2:225 & E. Dove, wood duck, teal, and other migratory game bird hunting.

CABINET FOR ECONOMIC DEVELOPMENT: Economic Development Finance Authority: Authority

307 KAR 1:005. Applications for Kentucky Incentive Programs. John Enochs, senior attorney, and Katie Smith, executive director, represented the authority.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (2) to amend Section 9 for clarity and consistency. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:050. Luther Luckett Correctional Complex. Amy Barker, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) correct a policy number; (2) clarify behavior watch procedures; and (3) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Juvenile Justice: Child Welfare

505 KAR 1:100 & E. Department of Juvenile Justice Policies and Procedures: admissions. Miranda Denney, deputy commissioner; LaDonna Koebel, assistant general counsel; and Kristie Stutler, administrative coordinator, represented the department.

505 KAR 1:110 & E. Department of Juvenile Justice Policy and Procedures Manual: program services.

505 KAR 1:130 & E. Department of Juvenile Justice Policies and Procedures: juvenile services in community.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Carriers: Motor Carriers

601 KAR 1:113 & E. Transportation network company. Ann D'Angelo, assistant general counsel; Rodney Kuhl, commissioner; and Rick Taylor, deputy commissioner, represented the division.

Co-Chair Harris thanked the cabinet for working with the industry to reach an agreement regarding this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 2 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Board of Education: Department of Education: General Admission

702 KAR 1:170. School district data security and breach procedures. David Couch, chief information officer; Robert Hackworth, chief information security officer; and Amy Peabody, assistant general counsel, represented the department.

In response to questions by Co-Chair Harris, Mr. Hackworth stated that this administrative regulation established education on how to prevent and manage a security breach. Each year, each school board would consider security measures regarding preventing and managing a security breach. The boards would consider how to reach a board-specific balance between risk and cost, using best practices guidelines.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, these amendments were approved.

**EASTERN KENTUCKY UNIVERSITY:** Board of Regents

775 KAR 1:070. Capital construction procedures. Paul Gannoe, director of capital construction, and Barry Poynter, vice president of finance, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Section 1 to clarify that the ECU Board of Regents is electing to perform these duties and subsequently, delegating these duties to the President of ECU, which is more consistent with the authorizing language in KRS 164A.630. Without objection, and with agreement of the agency, the amendments were approved.

**LABOR CABINET:** Department of Workers' Claims: Workers' Claims

803 KAR 25:185. Procedure for e-mail notification of cancellation or removal of location of specific workers' compensation coverage. Dwight Lovan, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET:** Department of Alcoholic Beverage Control: Licensing

804 KAR 4:015 & E. Interlocking substantial interest between licensees prohibited. Steve Humphress, general counsel, and Melissa McQueen, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Local Administrators**

804 KAR 10:031. Local government regulatory license fees.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 2 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Horse Racing Commission: Thoroughbred Racing**

810 KAR 1:018. Medication; testing procedures; prohibited practices. Marc Guilfoil, director of racing; Dr. Mary Scollay, equine medical director; and Susan Speckert, general counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (2) to amend Sections 1, 2, 6, 12, and 20 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:028. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: to amend Section 1 to correct the proper name of the withdrawal guidelines. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:040. Drug, medication, and substance classification schedule and withdrawal guidelines.

**Harness Racing**

811 KAR 1:090. Medication; testing procedures; prohibited practices.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (2) to amend Sections 1, 2, 6, 12, and 20 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:093. Drug, medication, and

substance classification schedule and withdrawal guidelines.

811 KAR 1:095. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct the proper name of the withdrawal guidelines; and (2) to amend Sections 1, 2, 4, 9, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Quarter Horse, Appaloosa and Arabian Racing**

811 KAR 2:093. Drug, medication, and substance classification schedule and withdrawal guidelines.

811 KAR 2:096. Medication; testing procedures; prohibited practices.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (2) to amend Sections 1, 2, 6, 12, and 20 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 2:100. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: to amend Section 1 to correct the proper name of the withdrawal guidelines. Without objection, and with agreement of the agency, the amendments were approved.

**Department of Charitable Gaming: Charitable Gaming**

820 KAR 1:005. Exempt Organizations. Noelle Bailey, general counsel, and Scott Jones, commissioner, represented the department.

820 KAR 1:015. Issuance of annual license for a charitable organization.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; and (2) to amend Section 4 to clarify that a lease shall be submitted if required because sessions may be held at the organization's building so there is not a lease. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:016. Distributor and manufacturer licensees.

820 KAR 1:017. Licensing inspections.

820 KAR 1:025. Financial reports of a licensed charitable organization.

820 KAR 1:027. Quarterly reports of a licensed distributor and a licensed manufacturer.

820 KAR 1:029. Facility licensees.

820 KAR 1:034. Pulltab dispenser construction and use.

820 KAR 1:036. Pulltab rules of play.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were



approved.

820 KAR 1:046. Bingo rules of play.

820 KAR 1:050. Raffle standards.

820 KAR 1:055. Charity fundraising event standards.

820 KAR 1:056. Special limited charity fundraising event standards.

820 KAR 1:057. Accurate records.

820 KAR 1:058. Gaming occasion records.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:120. Allowable expenses.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:125. Gaming inspections.

A motion was made and seconded to approve the following amendment: to amend Section 3 to delete the provision that required a manufacturer or distributor to pay for the cost of the audit or inspection. Without objection, and with agreement of the agency, the amendment was approved.

820 KAR 1:130. Administrative actions.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:055. Certificate of need forms. Diona Mullins, policy advisor, represented the office.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:075. Certificate of need nonsubstantive review.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

900 KAR 6:090. Certificate of need filing, hearing, and show cause hearing.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Aging and Independent Living: Division of Quality Living: Aging Services  
910 KAR 1:240. Certification of assisted-living communities. Deborah Anderson, commissioner;

Victoria Elridge, deputy commissioner; and Bob White, executive director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 6, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the December 9, 2015, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET:  
Board of Veterinary Examiners: Board

201 KAR 16:050. Continuing education.

Board of Alcohol and Drug Counselors: Board

201 KAR 35:010 & E. Definitions for 201 KAR Chapter 35.

201 KAR 35:015 & E. Grandparenting of certification to licensure.

201 KAR 35:020 & E. Fees.

201 KAR 35:030 & E. Code of ethics.

201 KAR 35:040 & E. Continuing education requirements.

201 KAR 35:050 & E. Curriculum of study.

201 KAR 35:055 & E. Temporary registration or certification.

201 KAR 35:060 & E. Complaint procedure.

201 KAR 35:075 & E. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

201 KAR 35:080. Voluntary inactive status.

201 KAR 35:090 & E. Appeal from a denial of or refusal to renew or reinstate a registration, certificate, or license, or denial of continuing education hours by the board.

Board of Licensed Diabetes Educators: Board  
201 KAR 45:110. Supervision and work experience. Matt James, assistant attorney general, represented the board. Vanessa Paddy, diabetes educator, appeared in opposition to this administrative regulation.

In response to questions by Co-Chair Harris, Mr. James stated that the standard for in-person, supervisor – apprentice diabetes educator interactions was being eased because it was overburdensome and was impacting access. Educators were geographically isolated in some rural areas, so that in-person interaction requirements discouraged eligible supervisors from taking on apprentices. Co-Chair Harris stated that this administrative regulation seemed to focus on making requirements easier for the supervisors, rather than ensuring quality for the patients and the diabetes problem in Kentucky. Mr. James stated that if supervisor requirements were onerous, the board would not have enough licensed diabetes educators.

Ms. Paddy stated that, although she was a member of the Kentucky State Coordinating Body of the American Association of Diabetes Educators (AADE), she appeared in opposition to this administrative regulation on behalf of Kentucky diabetes patients, not diabetes educators or the AADE. The AADE submitted comments during the public comment period; however, the board chose not to amend this administrative regulation

as a response to the public comments. The AADE, during the public comment period, requested that this administrative regulation be amended to require that an apprentice diabetes educator shall interact with the supervisor no less than two (2) hours quarterly, both of which shall be during direct observation of a patient – apprentice education interaction encompassing comprehensive diabetes education as established in the Scope of Practice, 201 KAR 45:160. The board declined the request because of privacy concerns; burdensome travel time, which resulted in fewer supervisors willing to take on apprentices, thus negatively impacting access; the interaction time being a minimum requirement, but supervisors were not prohibited from meeting with apprentices more often; and apprentices being allowed to provide diabetes education without direct observation other than this proposed minimum requirement.

Regarding the board's concern pertaining to patient privacy, Ms. Paddy stated that supervisors were health professionals, accountable by employers and licensing bodies to know and adhere to privacy and HIPAA requirements. Because a supervisor was limited to no more than four (4) apprentices, a two (2) hour quarterly requirement for an in-person interaction was not overburdensome. Direct observation may be via teleconference, and costs may be offset through patient fees. One (1) hour was insufficient, especially because the one (1) hour was not required to include patient interaction. It was crucial to maintain quality as this program progressed, and this administrative regulation was a step backward. Care should be of high quality and should include baseline knowledge of at least the established Scope of Practice. Licensees were not required to pass a national examination, which was unique among most professional boards; therefore, a minimum requirement of at least two (2) hours was necessary to establish quality in this program.

Senator Kerr stated that it was necessary to have access and quality.

In response to questions by Co-Chair Marzian, Mr. James stated that this administrative regulation would promote more licensed diabetes educators, which would then improve patient access. Licensees were not required to pass a national examination. The board agreed to defer consideration of this administrative regulation to the December 9 meeting of the Subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred to the December 9 meeting of the Subcommittee.

Department of Agriculture: Office of Consumer and Environmental Protection: Division of Environmental Services: Structural Pest Control  
302 KAR 29:010. Definitions for 302 KAR Chapter 29.

302 KAR 29:020. General provisions for structural pest control.

302 KAR 29:040. Settlement proceedings.

302 KAR 29:050. Commercial structural pest control and fumigation.

302 KAR 29:060. Certification.

PUBLIC PROTECTION CABINET:  
Department of Charitable Gaming: Charitable

Gaming

820 KAR 1:044. Bingo equipment.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General

Division of Health Care: Health Services and Facilities

902 KAR 20:091. Facilities specifications, operation and services; community mental health center.

902 KAR 20:180. Psychiatric hospitals; operation and services.

902 KAR 20:200. Tuberculosis (TB) testing for residents in long-term care settings.

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:026. Dental services' coverage provisions and requirements.

Division of Community Alternatives: Medicaid Services

907 KAR 1:045. Reimbursement provisions and requirements regarding community mental health center services.

Division of Policy and Operations: Medicaid Services

907 KAR 1:046. Community mental health center primary care services.

Division of Community Alternatives: Medicaid Services

907 KAR 1:595. Model Waiver II service coverage and reimbursement policies and requirements.

907 KAR 1:626. Reimbursement of dental services.

Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:020. Coverage provisions and requirement regarding outpatient psychiatric hospital services.

907 KAR 10:025. Reimbursement provisions and requirements regarding outpatient psychiatric hospital services.

The Subcommittee adjourned at 2:05 p.m. until December 9, 2015, at 1 p.m.

## EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

### Minutes

November 17, 2015

#### Call to Order and Roll Call

The Education Assessment and Accountability Review Subcommittee met on Tuesday, November 17, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Representative James Kay, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative James Kay, Co-Chair; Senator Mike Wilson, Co-Chair; Senator Gerald A. Neal; Representatives Linda Belcher and Mary Lou Marzian.

Legislative Guest: Representative Derrick Graham

Guests: Clyde Caudill.

LRC Staff: Joshua Collins, Jo Carole Ellis, Janet Stevens, and Amy Tolliver.

## Office of Education Accountability (OEA) Recess and Physical Education Research Report

Gerald Hoppmann, Research Division manager, OEA and Dr. Deborah Nelson, Analyst, OEA, presented OEA's Recess and Physical Education Study report to determine the number of schools in the Commonwealth that provide students with recess and physical education. The report analyzes school and district practices relating to recess, physical education, and classroom physical activity, in the context of relevant literature and legal requirements.

Mr. Hoppmann summarized study methods and data sources utilized and gave a national context on children's physical health. He also reviewed state and federal requirements associated with K-5 physical activity.

Dr. Nelson gave an overview of the amount and types of physical activity provided in the 2014-2015 school year by Kentucky schools containing grades kindergarten through five (K-5) schools. She presented data on educators' views about whether time provided is sufficient and their views on challenges associated with increasing physical activity time.

Dr. Nelson said the report found that almost all Kentucky K-5 schools regularly schedule time for recess and physical education (PE), and about one quarter of schools regularly incorporate physical activity into the classroom. About two thirds of schools schedule the CDC-recommended minimum of 20 minutes per day of recess but few (about five percent) provide the recommended 30 minutes per day of PE. Based on the last available national data (2005), it appears that, on average, Kentucky K-5 students may have less scheduled physical activity time than their national peers.

Mr. Hoppmann explained that Kentucky has no requirements for K-5 schools to schedule set amounts of time for recess, PE, or other types of physical activity. State and federal laws related to physical activity in K-5 schools require: districts and schools to enact wellness policies that promote physical activity; local school boards to provide physical activity reports to the public; the Kentucky Department of Education (KDE) to report physical activity in K-5 schools annually to the Legislative Research Commission; and schools to adopt assessment tools to assess each child's level of physical activity.

Dr. Nelson said the report includes a recommendation that the legislature consider clarifying the General Assembly's intent in KRS 160.345 (11), which outlines requirements of K-5 schools related to physical activity. The report also includes eight recommendations aimed at increasing compliance with existing requirements, improving the quality of data that are reported to the public and to the General Assembly, and linking performance designations in the physical education component of the Practical Living and Career Studies (PLCS) program review with the time scheduled by schools for physical education. It is currently possible for a school to score distinguished in physical education even if it schedules minimal time for physical education. A full list of recommendations and

matters for legislative consideration can be found on page ix of the summary section of the report.

In response to a question from Representative Belcher regarding the inclusion of recess in instructional minutes, Dr. Nelson stated that according to KDE, up to 150 minutes of recess per week can now be considered as instructional minutes. Mr. Jamie Sparks, Coordinated School Health Project Director, KDE, affirmed that some schools are unclear about how the 150 minutes of required physical activity relates to recess and that KDE needs to provide clarification in its guidance.

In response to a question from Representative Belcher about space as a barrier to physical education, Dr. Nelson stated that 10 percent of physical education teachers reported space as a barrier in relationship to physical education classes. In the classrooms OEA observed, students successfully completed classroom physical activity standing at their desks.

In response to questions from Representative James Kay about the correlation between the amount of physical activity in schools and obesity across districts or states, Dr. Nelson explained that OEA was unable to find any state-level data on physical activity in elementary schools. However, it was found that Kentucky is one of the more obese states and provides less than the national average in terms of physical activity. Mr. Hoppmann added that the high rate of obesity in Kentucky and in other states, has refocused policy makers' attention on physical activity being provided in schools.

Representative James Kay said that he has read studies indicating that physical activity is important to learning in children and adults because it relieves levels of the stress hormone cortisol, enhancing brain function and cognitive abilities. He stated that he hopes KDE and others will take note of the findings of this study and use them to address the obesity situation in Kentucky.

Representative Derrick Graham expressed the need for a balanced approach to education that respects the mental and physical needs of children. An overemphasis on test scores can compromise children's need for physical education in the classroom and on the playground.

Mr. Jamie Sparks of KDE stated that a paradigm shift is taking place relating to the connection between health and academics performance. To enhance staff productivity, KDE recently changed its staff fitness policy to allow up to 90 minutes weekly (three 30 minute segments) during the work day.

#### OEA's Proposed 2016 Research Agenda

Karen Timmel, Acting Director, OEA, presented the proposed 2016 Research Agenda for OEA. The agenda contains three topics: school safety, low-performing schools, and special education.

Ms. Timmel explained that the school safety study examines how well local and state officials are carrying out their statutory duties related to coordinated services, the adoption of assessments, codes, safety and emergency plans; as well as notification, reporting, and tracking of student offences, past and present.



Ms. Timmel said that the study of low performing school would consider the effects of current methods used to identify low achieving schools and the supports provided to the schools through District 180.

The final item on the study agenda related to special education. Ms. Timmel explained that OEA would update two reports published in 2008 and 2011 and look at how some of the assessments are administered in accordance with the federal regulations.

Representative James Kay expressed that addressing our low-performing schools is vital, and information is needed to articulate the issue and draft legislation towards improvement.

Representative Derrick Graham stated that he would like to see data gathered and analysis performed on the achievement gap in all schools, even distinguished districts, for use in closing the gap and providing equal opportunity for all students.

Ms. Timmel stated that addressing the achievement gap may not fit directly into the low performing schools study. If time permits, OEA will provide an issue or scoping paper on the topic, which may lead to an additional study next year.

Representative Belcher stated that she hears regularly from principals and teachers in her district who have observed that the assessments--even alternative assessments--are too difficult for some special education students. She requested that this concern be explored in the special education study.

#### **Approval of October 20, 2015 Minutes**

Upon motion from Senator Wilson and a second by Representative Linda Belcher, the minutes were approved by voice vote.

#### **Acceptance of the OEA Recess and Physical Education (K-5) Research Report**

Upon motion from Senator Wilson and a second by Representative Linda Belcher, the report was accepted by voice vote.

With no further business before the committee, the meeting was adjourned at 11:19 AM.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE Minutes**

November 17, 2015

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

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, November 17, 2015, at 1:00 p.m., in Room 169 of the Capitol Annex. Senator Chris Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Linda Belcher, Co-Chair; Senators Stan Humphries and Christian McDaniel; Representatives Will Coursey and Steven Rudy.

Guests: Mitchell Payne, J.D., Senior Associate Vice President for Business Affairs, University of Louisville; Elizabeth Baker, Planning Director, University of Kentucky; Steve Nienaber, Architect, Northern Kentucky University; Scott Aubrey,

Director, Real Properties; John Hicks, Deputy State Budget Director; Jamie Johnson, Financial Analyst, Kentucky Infrastructure Authority; Adam Scott, Staff Assistant, Kentucky Infrastructure Authority; Katie Smith, Executive Director, Office of Financial Services, Cabinet for Economic Development; Sandy Williams, Deputy Executive Director, Office of Financial Management; Kristi Culpepper, Executive Director, School Facilities Construction Commission.

LRC Staff: Josh Nacey, Committee Staff Administrator; Katherine Halloran, Analyst; and Maurya Allen, Committee Assistant.

### **Approval of Minutes**

Representative Rudy moved to approve the minutes of the October 20, 2015 meeting. The motion was seconded by Senator McDaniel and approved by voice vote.

### **Information Items**

Mr. Nacey presented four information items to the committee. The first was the annual report from the Cabinet for Economic Development which details the status of previously approved Economic Development Bond grant projects. The report is an update on the extent to which the grant recipients have complied with the job creation and wage requirements of the grants. Of the 17 grants listed, three projects are still in the process of executing an agreement, two have withdrawn from the program, two have completed the requirements, four have reported employment, and six have not yet reached a reporting date.

The second and third items were advertisements for leased space. One for the Auditor of Public Accounts in Franklin County and one for the Department of Corrections in Fayette County.

The last information item was a follow-up from a question raised at the October meeting. During that meeting, it was asked whether emergency vehicles crossing the new downtown Ohio River bridge would be required to pay a toll. The Transportation Cabinet had informed committee staff that emergency vehicles will be exempted from the tolls.

### **Project Reports from the Universities**

Mr. Mitchell Payne, J.D., Senior Associate Vice President for Business Affairs, University of Louisville presented two items for the University of Louisville. The first was a scope increase for the Expand and Renovate Student Activities Center project. Mr. Payne stated that the initial scope was for \$9.6 million and will be increased to \$40 million due to the project being reevaluated to renovate all three levels of the building, including infrastructure and an addition to the west wing. The funding source for the scope increase will be private funds.

The second item was a scope increase for the Athletic Academic Support Facility project. The scope will be increasing from \$17 million to \$19 million due to the building size increasing from 37,000 sq. ft. to 40,000 sq. ft. to accommodate a more open floor plan and larger kitchen.

Senator McDaniel asked for more detail regarding the increase to the Student Activity Center project, specifically why it was increasing

so dramatically and from where the funds were originating. Mr. Payne answered that the funds were mostly private and that the initial proposal was for renovation to one wing and to some of the practice courts and offices, however, the decision has been made to expand the renovation to all three floors of the building concentrating on the infrastructure of the building including accessibility, HVAC, and some asbestos abatement. Senator McDaniel asked if any of this had been anticipated when the initial budget request was made. Mr. Payne stated that the change was unanticipated and was partly due to significant changes to the university over time. At this time, 40 percent of students live on campus and use the facilities more. The main sources of funding will be two RFPs that are currently outstanding, one for food services operation and one for the bookstore. Representative Belcher asked if the funds were not in hand and if construction would begin before funds were available. Mr. Payne clarified that capital investment is part of the RFPs coming from vendors to fund the project. He assured the committee there will be no construction until funding is in hand.

Senator Girdler informed the committee that the two scope increases would be voted on separately. Representative Belcher made a motion to approve the Scope Increase for the Expand and Renovate Student Activities Center project. Representative Coursey seconded the motion and the motion passed by a roll call vote of 6 yeas, 0 nays.

Regarding the Scope Increase for the Construct Athletic Academic Support Facility project, Senator McDaniel asked again if this had been anticipated prior to the initial budget request, stating that this was reminiscent of the difficulties caused to the Fair Board by the Yum! Center lease arrangement. Mr. Payne answered that this was a different situation because the academic center was not in an agreement with another agency. He couldn't comment on the Yum! Center and its relationship with the Fair Board. Senator McDaniel understood but expressed reservations about continuing to approve money for the University of Louisville athletics program when it seemed to be doing very well with the income from the Yum! Center. From his perspective, it presented a very unfavorable public perception situation. With there being no further discussion, Representative Belcher made a motion to approve the scope increase, seconded by Representative Coursey. The motion passed by a roll call vote of 5 yeas, 1 nays.

Ms. Elizabeth Baker, Planning Director, University of Kentucky presented one item, a scope increase for the Renovate/Expand Student Center project. The increase would be \$26.25 million of which \$6 million would be private funds. The funding increase allows for the incorporation of the alumni gym and the 1936 section of the student center into the design and preservation of the historical integrity of the structures, which was more costly than originally anticipated. Additionally, several other elements are being expanded to better meet student needs, including expanding the visitor center, food retail services,

performance center, landscaping, and parking.

Senator McDaniel stated that at a time when budgets are already strained, it seemed odd to him for the universities to be approaching the committee with such large scope increases. For more clarification, he asked the origin of the \$20 million in restricted funds. Ms. Baker stated that those were cash funds that the university had been saving for a considerable time to put toward renovation of the student center. Senator McDaniel stated that if there were funds available at the time of the initial budget request, it might have changed the initial allocation from the General Assembly. He added that universities should be more understanding of the overall financial situation of the Commonwealth when they bring projects and that legislators should look more closely at university budget requests going forward. Chairman Girdler echoed many of the sentiments expressed by Senator McDaniel. Representative Belcher asked if it would be desirable for the committee to send a letter to the universities regarding project funding and project scope increases. Chairman Girdler stated that it would be the prerogative of the committee and he would entertain a motion to that effect. Representative Belcher made a motion to send a letter to universities to express their concerns regarding budget requests and scope increases. Senator McDaniel seconded the motion and it passed by voice vote.

Senator McDaniel made a motion to approve the Scope Increase for the Renovate/Expand Student Center project, seconded by Representative Rudy. The motion passed by a roll call vote of 6 yeas, 0 nays.

Mr. Steve Nienaber, Architect, Northern Kentucky University presented two items. The first was a scope increase for the Renovate Old Science/Construct Health Innovation Center. The increase will be funded primarily with private funds, \$15 million of the \$17 million requested. The rest are university restricted funds. This will bring the scope of the project from \$97 million to \$114 million. Senator McDaniel asked if this increase was for the building or for equipment costs. Mr. Nienaber answered that it was for equipment and the technology necessary to support the equipment. Senator McDaniel made a motion to approve, seconded by Representative Belcher. The motion passed by a roll call vote of 6 yeas, 0 nays.

Mr. Nienaber then presented an informational item, an emergency maintenance project to repair and replace HVAC in Kentucky and Commonwealth residence halls. It was discovered earlier in the year that there were humidity issues that require the systems to be replaced. The project cost is \$1.7 million. Chairman Girdler asked what the age of the current system was. Mr. Nienaber answered that the system is 32 years old. No action was required on this item.

#### **Lease Reports from the Finance and Administration Cabinet**

Chairman Girdler stated that the lease reports would be heard and voted upon as a single item unless there were any objections. Hearing none, Mr. Scott Aubrey, Director, Real Properties presented

five items.

The first item was a lease renewal exceeding \$100,000 for the Cabinet for Health and Family Services in Franklin County under the same terms and conditions through June 30, 2017. The second item was a lease renewal for the Unified Prosecutorial System in Fayette County under the same terms and conditions through June 30, 2020. The third item was a lease renewal for the Cabinet for Health and Family Services in Fayette County under the same terms and conditions through June 30, 2017.

The fourth item was a lease modification exceeding \$50,000 for the Department of Workers Claims in Fayette County. The lease is being modified to reduce the amount of square footage under lease by 6,602 sq. ft. resulting in occupation of 4,220 sq. ft. at a total annual rent cost of \$55,619 including janitorial services through June 30, 2015. The final item was a lease modification for the Department of Corrections in Fayette County. The lease is being modified to change using agencies to the Cabinet for Health and Family Services and reduce the leased space to 13,979 sq. ft., reduce number of parking spaces to 55, and reduce rental rate by \$1.90 per sq. ft. This will result in the lease being reduced from \$322,449 to \$262,106. Additionally, the rental term will be extended one additional period through June 30, 2023. Senator McDaniel asked why the square footage was being reduced for the Department of Workers Claims rental space. Mr. Aubrey answered that recent renovations divided the office, relocating some staff to Franklin County, so they no longer need the additional space. Representative Rudy moved to approve the lease reports as given. The motion was seconded by Senator Humphries. The motion passed by a roll call vote of 6 yeas, 0 nays.

#### **Project Reports from the Finance and Administration Cabinet**

Mr. John Hicks, Deputy State Budget Director presented two items. The first was an emergency repair, maintenance, or replacement project for the Kentucky State Fair Board. The project appropriation is \$4,286,800 for the South Wing, A, B, and East Hall Roof repair. The funds will come from insurance proceeds from the Fire and Tornado Fund. The damage was a result of a hail storm in April 2012. No action was required on this item.

The second item was an appropriation increase for the Kentucky Education Television (KET) DTV Antenna Upgrades project. KET received federal funds to upgrade two transmitter site areas in eastern Kentucky. The project requires an additional \$73,000 to fund the low bid on the project. The increase will be funded from KET's 2014-16 Maintenance Pool funds which are used to maintain the transmitter sites. The total appropriation will be \$763,200. Senator McDaniel moved to approve the project, seconded by Representative Rudy. The motion passed by a roll call vote of 6 yeas, 0 nays.

#### **Kentucky Infrastructure Authority**

Ms. Jamie Johnson, Financial Analyst, Kentucky Infrastructure Authority and Mr. Adam Scott, Staff Assistant, Kentucky Infrastructure Authority presented four items to the committee.

The first two items were a Fund A Loan and Fund A Loan increase for Lincoln County Sanitation District in Lincoln County. Mr. Scott stated that this project was unique in that it was seeking retroactive approval for the initial \$2,000,000 loan because the wastewater system received piecemeal funding. The project is now ready to proceed and needs approval from the committee. The Lincoln County Sanitation District was therefore requesting a total \$4,365,793 Fund A loan to provide wastewater collection and treatment to approximately 593 unserved residential and commercial customers in western Lincoln County and portions of the City of Hustonville, including Hustonville Elementary School. The loan will have a 30-year term, an interest rate of 0.75 percent, and a debt service payment of \$116,514. The loan will receive principal forgiveness in the amount of \$1,400,000 based on financial statements spanning from 2012 to 2014. Representative Coursey made a motion to approve the initial project, seconded by Senator McDaniel. The motion passed by a roll call vote of 6 yeas, 0 nays. Senator McDaniel made a motion to approve the scope increase of \$2,365,793 from the initial \$2,000,000 Fund A loan. Senator Humphries seconded the motion and it passed by a roll call vote of 6 yeas, 0 nays.

The third item was a Fund F loan for the Cumberland Falls Highway Water District in Whitley County. The request was for \$1,720,500 for the CFHWD-Line Replacement and Reinforcement project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of \$72,825. The project qualifies for principal forgiveness in the amount of \$430,125 based on financial statements spanning from 2012-2014. Senator McDaniel made a motion to approve the loan, seconded by Representative Belcher. The motion passed by roll call vote of 6 yeas, 0 nays.

The fourth item was a Fund F loan for the Western Pulaski County Water District in Pulaski County. The request was for \$3,304,000 for the Water System Improvements and Replacement project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of \$204,767. Senator McDaniel made a motion to approve the project, seconded by Senator Humphries. The motion passed by a roll call vote of 6 yeas, 0 nays.

#### **Office of Financial Management**

Ms. Katie Smith, Executive Director, Office of Financial Services, Cabinet for Economic Development presented an Economic Development Bond (EDB) fund grant for the City of Morgantown for the benefit of ARC Automotive, Inc. The grant will be for \$325,000 to offset expenses of installing new equipment to produce airbag inflators at ARC Automotive, Inc.'s existing space in Butler County. The company agrees to create 129 new permanent full-time Kentucky resident jobs, paying an average hourly wage of \$13 including benefits, within three years of Kentucky Economic Development Finance Authority (KEDFA) approval and maintain those jobs for three additional year. Senator McDaniel made a motion to approve the grant. Representative Coursey seconded the motion. The motion passed



by a roll call vote of 6 yeas, 0 nays.

Ms. Sandy Williams, Deputy Executive Director, Office of Financial Management presented six items. The first item was a new bond issue for Kentucky Economic Development Finance Authority (KEDFA) Healthcare Facilities Revenue Bonds Series 2015 for the benefit of Christian Care Communities, Inc. Obligated Group. The proceeds from this bond issue will refinance nine transactions to consolidate the Issuer's, and its affiliates, debt and pay associated costs of issuance. They are expected to be issued in one or two series in an aggregate amount not to exceed \$50 million with a tax-exempt component not to exceed \$41 million and a taxable component not to exceed \$9 million. As a conduit bond issue, the Commonwealth is not responsible for its repayment. Senator McDaniel made a motion to approve, seconded by Representative Rudy. The motion passed by a roll call vote of 6 yeas, 0 nays.

The second item was a new bond issue for the University of Kentucky General Receipts Bonds, 2016 Series A (Tax-Exempt) and Series B (Taxable). The estimated \$160 million in bond proceeds will fund the renovation and expansion of the university student center as authorized by House Bill 235 of the 2014 Regular Session and to pay associated costs of issuance. The proposed date of sale will be January 20, 2016 on a competitive basis. Representative Rudy made a motion to approve the bond issue. Senator Humphries seconded the motion and it passed by roll call vote of 6 yeas, 0 nays.

The third item was a follow-up report on the Kentucky Asset/Liability Commission (ALCo) Project Notes, 2015 Federal Highway Trust Fund First Series A bond issue. The \$106,850,000 of project notes will provide permanent tax-exempt financing of grant anticipation revenue vehicles (GARVEEs) authorized, but unissued, by House Bill 3 of the 2010 Extraordinary Session. No action was required on this item.

The fourth item was a follow-up report on the State Properties and Buildings Commission (SPBC) Judicial Branch Agency Fund Revenue Bonds, Project No. 109. The \$20,075,000 will provide permanent, tax-exempt, Agency Fund financing for Phase I of the Administrative Office of the Courts' E-Case and Docket Management system. No action was required on this item.

The fifth item was a follow-up report on the Kentucky Economic Development Finance Authority (KEDFA) Healthcare Facilities Revenue and Refunding Revenue Bonds, Series 2015 Kenton Housing for the Rosedale Green Project. The \$48,700,000 of bond proceeds will finance and refinance the acquisition and construction of healthcare and health related facilities consisting of long-term care beds, skilled-care nursing beds, short-term inpatient rehabilitation, outpatient rehabilitation, and dementia care facilities. As a conduit bond issue, the Commonwealth is not responsible for its repayment. No action was required on this item.

The final item was a follow-up report on Western Kentucky University General Receipts

Refunding Bonds, 2015 Series A sold on September 22, 2015. The \$5,960,000 of bond proceeds will advance refund outstanding General Receipts Bonds, 2006 Series A maturing on and after September 1, 2017 and pay associated costs of issuance for a net present value savings of 5.56 percent (\$328,484). No action was required on this item.

Representative Belcher asked if states had to have permission from the federal government to use GARVEE funds. Ms. Williams answered that the Transportation Cabinet has an agreement with the federal government outlining the project for which the GARVEE funds are used.

#### **New School Bond Issues with School Facilities Construction Commission Debt Service Participation**

Ms. Kristi Culpepper, Executive Director, School Facilities Construction Commission (SFCC), reported seven school bond issues with SFCC debt service participation with a total par amount of \$51,809,000. The state portion of the annual debt service payment was \$699,669 and the local contribution was \$3,775,233. Four of these issues will refund outstanding debt to achieve a net present value savings and three will finance the construction and improvement of school facilities. There were no local tax increases associated with these projects. Senator McDaniel made a motion to approve the school bond issues. The motion was seconded by Representative Belcher. The motion passed by a roll call vote of 6 yeas, 0 nays.

#### **New School Bond Issues with 100 Percent Locally Funded Debt Service Participation**

Mr. Nacey said ten local school bond issues were reported to the committee. Each bond issue had 100 percent local debt service support and involved no School Facilities Construction Commission participation. No tax increases were required for these issues. Of these bond issues, six will refund previous issues, one will finance construction of a new school, two will finance improvements to existing school buildings, and one will fund the purchase of a building and property for a bus garage. No action was required on this item.

Mr. Nacey also said that included in members' folders was the updated debt issuance calendar.

With there being no further business, the meeting was adjourned at 1:50 p.m. The next meeting of the committee will be December 15, 2015 at 1:00 p.m. in Capitol Annex Room 169.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 11th Meeting of the 2015 Interim**

November 23, 2015

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

The 11th meeting of the Public Pension Oversight Board was held on Monday, November 23, 2015, at 12:00 PM, in Room 169 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Jimmy Higdon; Representatives Brian Linder and Tommy Thompson; Robyn Bender, Tom Bennett, Jane Driskell, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Representatives Arnold Simpson, Derrick Graham, Brad Montell, and James Tipton; Mike Harmon, Representative and Auditor of Public Accounts-Elect; William B. Fornia, Actuary, Pension Trustee Advisors; Rogier Slingerland, CEM Benchmarking Inc.; Kim Nicholl, Senior Vice President and Actuary, Segal Consulting; Bill Thielen, Executive Director, Kentucky Retirement Systems; David Peden, Chief Investment Officer, Kentucky Retirement Systems; Beau Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System; Donna Early, Executive Director, Judicial Form Retirement System; Damien Stanton, SaveCERS.org.

LRC Staff: Brad Gross, Committee Staff Administrator; Greg Woosley, Analyst; Bo Cracraft, Analyst; Terrance Sullivan, Analyst; and Maurya Allen, Committee Assistant.

#### **Approval of Minutes**

Representative Thompson moved that the minutes of the October 26, 2015, meeting be approved. Representative Yonts seconded the motion, and the minutes were approved without objection.

#### **Kentucky Teachers' Retirement System Funding Work Group Update**

Mr. William B. Fornia, President, Pension Trustee Advisors was present to provide a summary of the Kentucky Teachers' Retirement System (KTRS) Funding Work Group's meetings. Mr. Fornia stated that meeting presentations were available online for further study if the board members were interested. Additionally, a workbook has been created to summarize various funding solution projections and is also available.

The first meeting of the KTRS Funding Work Group (Work Group) was on July 17, 2015, where the most important issues facing the system were discussed. Primary among these issues were benefits and their importance to the Commonwealth and to the education system. A key point discussed was that the cost for the benefits for teachers hired after 2008 is 15.68 percent of pay, of which the teachers pay 9 percent on average, leaving approximately 6.6 percent of pay as a state contribution. This contrasts with Social Security where it would be 6.2 percent of pay. This means that for future benefits, the KTRS benefit is actually better than it would be for Social Security, in which teachers do not participate. KTRS investment history was also reviewed, with a comparison to peer groups where possible. This review and peer group comparison indicated that the underfunded nature of the system is in part due to investment return, but is not due specifically to KTRS's investment return being less than average. The 2008 changes to the plan were overviewed, but retiree healthcare was not included as a significant point of discussion by the work group. Mr. Fornia also reviewed a chart illustrating

that contributions made by other states to their pension systems has been increasing, whereas the contributions made by Kentucky has remained roughly the same over the last fifteen years. The statutorily required contribution rate is below the actuarially required contribution (ARC) rate causing the system to be underfunded. Currently, the statutory contribution rate is approximately 14 percent of pay, or \$500 million, below the ARC. Pension Obligation Bonds (POBs) were also briefly discussed at the first Work Group meeting, along with the potential for POBs to resolve the problem, but it was noted that POBs would mostly serve to ease the transition into a higher state contribution level.

The second Work Group meeting was on July 31, 2015, where the long-term consequences of the unfunded liability were discussed. It was noted that if the contribution is not increased, the system is projected to be insolvent within 20-25 years. The broad options to address this are either putting more money into the system, in the form of increased contributions, or taking less money from the system, in the form of reduced benefits. The Work Group agreed that any changes made should be legal and should not negatively impact the education system. The primary consideration regarding legality that was discussed is the inviolable contract currently in statute between the system and retirees. There are a few exceptions to this that can be modified, such as when a teacher is 55 years-old with 27 years of service their final average salary is based on a 3-year average as opposed to a 5-year average for determination of benefits. This calculation could be changed, and the savings were quantified by KTRS, in order to improve the funding of the system. Mr. Fornia then showed a chart that illustrated several methods to go from current levels of funding to 100 percent funding. In the chart, POBs show an initial jump in funding levels, whereas payment of the ARC results in a more gradual achievement of full funding. However, the proposal of POBs increases risk to the system and would not be a complete solution. It was considered most favorable if the issuance of bonds was part of a structured long-term plan, not as a quick fix.

The third meeting of the work group was held August 28, 2015. Mr. Fornia said that this meeting was comprised predominately of benefit comparisons between Kentucky and other states. He noted that, on average, future teachers have significantly higher benefits if they are hired at a young age and work at least 30 years relative to their peers. Older hires have benefits that are slightly below average, but benefits for average aged hires are slightly above average, relative to their peers. Teacher compensation was also compared and found to be lower in Kentucky than in many states, even after adjustments for cost of living are made. Studies looking at solutions used by other states were also reviewed. Mr. Fornia stated that it was important to note that some reform had already been implemented to reduce the cost for future teachers by approximately 1.25 percent. He also noted that teachers that are hired into KTRS at a later age are likely to have Social Security benefits

from previous employment and that there really was no way for the models to take that into account. Teacher contribution rates were also looked at, but he noted it was difficult to compare given that different states, and sometimes even different school districts within the same state, vary whether they pay the teacher contribution or whether that is the responsibility of the teacher.

Chairman Bowen commented that, although not shown in the charts presented, the state had been making a 13.1 percent contribution since 2007. Senator Higdon added that the normal cost provided to the General Assembly looks good, but he noted that many factors come into play after teachers are actually hired and that effect the normal cost. Mr. Fornia agreed that when investment returns did not go as expected, as was seen since 2000 and especially in 2008, the system's funding was negatively impacted and it was unable to catch back up to the predictions made at the outset. Representative Harmon asked for the different rates of return for the systems to be applied, and for them to be compared to illustrate the systems actual returns versus the projected returns. Mr. Fornia stated that would be a very informative comparison, but he noted that the data needed is not information he has access to. Instead, he noted that perhaps the question could be forwarded to KTRS and Kentucky Retirement System (KRS) staff for them to answer.

Mr. Fornia continued to present graphics illustrating the comparison between Kentucky and other states in terms of wages and pension reform strategies. Senator Higdon asked specifically about the strategies of Missouri and Nevada regarding shared risk plans and how those work. Mr. Fornia answered that those have been in place for some time and they work by allowing for the contributions made by members to also change over time. In most states, it is like Kentucky where the member contribution is fixed. In Nevada and Missouri, as costs go up or down, the member contribution also increases or decreases. It appears that the change is not simple, but that it does appear to solve many problems in the way current systems are funded. Representative Graham stated that in the Missouri plan, as the contribution level of the teachers has risen, so has the state's contribution. As a result, he asked if the plan had greater stability than other plans. Mr. Fornia said that both the Missouri and Nevada plans are better funded than Kentucky's plan, but that it does not fix all of the problems and that the primary goal is still full funding for the plans. He referenced Wisconsin as an example of what he believed was a better solution, which adjusts the cost of living adjustment (COLA) every year relative to plan funding.

The fourth meeting of the Work Group was held on September 11, 2015, and featured testimony from impacted constituent groups, especially teachers, focusing on the importance of the system. The fifth meeting on September 25, 2015, looked at broad solution suggestions to strengthen solvency, including increased contributions, or reduction of benefits, or some combination of the two. It was agreed by the Work Group members that each

option set were individually only partial solutions. In the sixth meeting on October 16, 2015, the group modeled different strategies to see which ones projected the most feasible solution to reach full funding within 30 years. The first projection was of a 5 percent benefit reduction for future teachers, and this projection resulted in the system becoming insolvent over time regardless of the benefit reduction. The second projection included an increased contribution of 5 percent of pay with no benefit reduction, and this projection resulted in solvency for over a decade, but it did not reach full funding within a generation as desired. The third projection was a combination of increased contributions of 5 percent and benefit reductions of 3 percent for future teachers. This model was the first to show an upward trend, but it also would not reach the target within 30 years. Reducing benefits for current teachers by 1 percent of pay required 40 years to reach full funding. However, it was noted that if returns are poor, with an example of a 6 percent return as opposed to the assumed 7.5 percent return, the solution does not work at all. One solution that reached actuarial soundness included an 8 percent contribution increase, a 3 percent reduction in benefits for future teachers, a 1 percent reduction in benefits for current teachers, and an extension of a 2.7 percent special assessment. Mr. Fornia stressed that this was not necessarily the solution the Work Group was endorsing, but it was merely a scenario to help demonstrate the kinds of changes that might be necessary to reach full funding. He also stated that there was greater flexibility in changing benefits for future hires because of the inviolable contract and that had to be taken into consideration.

Another possible scenario involved major changes, such as moving teachers into Social Security. That scenario, as well as ones involving creation of a defined contribution plan or a hybrid plan, were found to not help with plan costs. Lastly, he noted that the use of POBs was best understood to be part of a solution when used in tandem with an increase in the contribution rate. At the November 16, 2015 meeting, another scenario was considered that included no benefit reductions or POBs, but instead centered on phasing in a 12 percent contribution increase over the next 12 years. This scenario also showed full funding by 2044, and it generated a great deal of discussion because it included not paying the full ARC, which had previously been estimated at 14 percent of pay. Mr. Fornia explained that this discrepancy is because when the ARC is calculated, it doesn't include any special appropriations that will end or any payments toward POBs that may eventually be directed into the system as the prior issued POBs are paid off. Additionally, teachers hired since 2008 are already projected to have 1.25 percent lower pension benefits and that is also not taken into account in ARC estimations. Mr. Fornia also noted that some problems with phasing into a 12 percent contribution include the fact that credit rating agencies may not view it as a credible solution, and that because KTRS is currently only 60 percent funded, it is difficult for the system to



invest at a level necessary to achieve the 7.5 percent investment return on which the projections rely. Finally, he noted that the next and last meeting of the Work Group would be held on December 1, 2015, when the group would work on finalizing guiding principles and concluding recommendations.

Chairman Bowen commended Mr. Fornia for providing such a thorough overview in such a short time and asked for specific questions regarding the presentation. Representative Yonts asked if sick leave payments, POB debt service, and COLAs factored into the scenarios. Mr. Fornia answered that there was an assumption that those amounts would be used to contribute to KTRS funding, with the understanding that those funds are currently spoken for elsewhere and it would take General Assembly action to dedicate those funds to KTRS. Representative Yonts also asked how credit rating evaluations might be impacted if contribution rates are phased in over a 12 or 20 year period. Mr. Fornia felt that a long phase-in would not be favorable, but he noted that he was not an expert on the subject matter. Representative Yonts finally asked if it would be helpful for COLAs and sick leave to be rolled into the overall contribution rate as opposed to be funded with a separate appropriation, at least as far as budgeting and certainty were concerned. Mr. Fornia stated that the concept was essentially considered in the projection where, under one scenario, the contribution would go up briefly and then slide back down. The 12 percent proposal assumes that the percentage of pay commitment, as it currently stands, remains the same over time with a gradual increase of 1 percent per year over 12 years and with all the current benefits going out remaining in place, including the sick pay appropriations.

#### **Kentucky Retirement Systems (KRS) Investment Cost Analysis**

Mr. Rogier Slingerland, Partner, CEM Benchmarking Services, was present with Mr. Bill Thielen, Executive Director, Kentucky Retirement Systems, and Mr. David Peden, Chief Investment Officer, Kentucky Retirement Systems to present the KRS Investment Cost Analysis as recommended by the Public Pension Oversight Board last year. Mr. Slingerland explained that CEM Benchmarking specializes in benchmarking pension systems and works with approximately 400 systems worldwide, but does not offer consulting or advice on what systems should do. Their primary focus is on data and comparisons with other systems.

He stated that they begin by establishing a peer group and a universe for the specific system being analyzed. The peer group emphasis on a cost story minimizes the impact of economies of scale, where larger funds get better fees and could present an unfair advantage when comparing costs. There were 18 United States public funds that represented KRS's peer group, ranging in assets under management from \$8.9 billion to \$25.5 billion. The median size of the group was \$15 billion, which compares to about \$15.5 billion for KRS. The comparisons in the report also show a universe of all United States public pension funds that CEM works with, referred to as U.S. Public

throughout the presentation. CEM also uses a 5-year horizon for investment returns, beginning with a net total return, or the total return after costs, which for KRS is 8.2 percent. This compares to a peer group median of 9.7 percent and 9.8 percent for the universe. Mr. Slingerland drew members' attention to graphs illustrating individual years as well as the 5-year review, which include the median returns, percentile rankings, and KRS's position in relation to that information. Mr. Peden noted that all of the information being presented is based on a calendar year at the end of 2014, not the fiscal year, in order to provide the most accurate comparison to other funds.

Looking at the 5-year policy return, or benchmark return, it was 9.2 percent, which was very close to the peer median of 9.3 percent and just below the U.S. Public median of 9.7 percent. Some reasons for that, according to Mr. Slingerland, were caused by a lower allocation of stock, higher allocation to inflation indexed bonds, and higher allocation to hedge funds. These are partially offset by a higher allocation to private equity, which is one of the better performing asset classes. The 5-year net value added, or the net total return minus the return over the policy benchmark, was a negative 1 percent, which compares to a peer median of zero percent and a U.S. Public median of 0.1 percent over the five year period. The net returns were higher in U.S. stock, emerging market stock, and private equity relative to the U.S. Public average. KRS was lower in ACWI ex U.S., fixed income, real estate, and hedge funds. Mr. Slingerland noted that the graphs presented were highly aggregated and that a more in-depth analysis was in the full report.

The long-term, or 20-year horizon, comparison was utilized to accommodate long-term investments. Over that period, the net return for the system was 8.3 percent and was equal to the peer return. For the U.S. Public it was 8.4 percent, showing that KRS is comparable to the universe of funds over the 20-year period. The benchmark return was above the peer median return and the U.S. Public median at 8.7 percent. This results in a net-value added being below both the U.S. Public median and peer median at negative 0.4 percent. Chairman Bowen asked how KRS would rate. Mr. Slingerland said that because his role was only to summarize what the data shows, he could not rate the system or advise the KRS board as to how to invest the systems' funds. In summary, the net returns as well as the benchmark returns were below that of the U.S. Public funds over the 5-year term. Chairman Bowen asked for how many other funds CEM performs this kind of analysis. Mr. Slingerland stated that there are about 130 worldwide and 70-80 in the United States that they work with, but they collect data from approximately 125 U.S. Public funds. Senator Higdon asked for clarification about the net value added data. Mr. Slingerland said that if all paths of investments were followed, there was a slightly negative net value added because the value added was zero and some fees were paid resulting in a slight loss. So the active management over that period has not

rewarded above and beyond the benchmark total level. Chairman Bowen then asked if the system was over-performing. Mr. Slingerland said no, KRS is not over-performing.

Mr. Slingerland continued to discuss cost benchmarking and placing it in context of risk and performance. KRS investment costs were \$126.2 million or 81.6 basis points. This was the first year that CEM was also benchmarking the underlying performance fees and the top performance fees of hedge funds. Especially in fund-of-funds structures, several layers of fees are paid, including performance fees, and it is difficult to get an accurate picture of the total fees. Senator Higdon asked if the presented information represented actual fees or if there were still some undisclosed fees not shown. Mr. Peden stated that the information was an estimate made by CEM based on recorded fund-to-fund fees, but management fees embedded in that number are not recorded. However, it was noted the fees as presented are important to help understand implementation costs of fund-to-funds going forward. Mr. Peden added that the struggle to capture fees and report them is not unique to Kentucky, but is the same across the country. There has been a massive effort over the last two years to not only capture the fees, but to improve the accuracy of the data gathered about fees. Additionally, there is not any standardization at this time regarding fees reporting, but the process is underway to have some standards adopted in the next year.

Chairman Bowen asked if there is not even a definition of what a fee is, let alone a standardized method of reporting them. Mr. Slingerland said that there are currently efforts to develop a standard based on European requirements, where it is required to report all fees and underlying costs. That has driven CEM to look at the fees and work with organizations to develop a standardized way of reporting all fees. The problem is with the complicated structure of private assets and how to uncover those fees. For the KRS comparison, CEM tried to capture as much as possible in the best ways possible. Chairman Bowen asked, when the information is gathered, if it was a net figure of everything even without a standard definition of fees. Mr. Peden answered that the net asset value is net of all fees, and the return number is net of all fees, even when they are not broken into further categories. That has changed this year, and KRS continues to improve and streamline that process. Chairman Bowen asked is this was a standard exercise for all pensions, to net out fees. Mr. Peden stated that he was not sure if that was common practice for the rate of returns, but on these asset classes that are more difficult to disclose the fees, he said the practice was standard.

Mr. Slingerland clarified that it may not be possible to always know what the fees are, so CEM does not benchmark the performance fees for private assets. One reason is because there is not enough known about the funds or there is not high enough trust in the data. As the standards become more widespread, the data will be better and those

kinds of fees can be included in the benchmarking process. It is possible to include fees from hedge funds, so those were included in the KRS report. Mr. Slingerland then showed that the costs for KRS are 6.9 basis points (bps) or \$10,604,000 above the expected benchmark of 74.8 bps or roughly \$115,000,000. This means that if the KRS portfolio was being managed by one of the peer group, it would cost less. There were two reasons found for why the costs were higher than the benchmark: 1) implementation style differences, which account for 5.1 bps above benchmark; and 2) paying more for similar services. Implementation style differences were driven primarily by KRS's fund-to-fund hedge fund portfolio. Of the total assets KRS has invested in hedge funds, 95.3 percent is invested in a fund-of-funds structure, which has multiple layers of fees and is therefore a more expensive implementation style. Mr. Slingerland explained that the use of fund-of-fund hedge funds had a cost increasing effect of approximately \$13 million dollars.

He went on to show how the costs of KRS compared to other pension systems in terms of asset classes and internal asset management. The cost effectiveness of KRS's investments was then summarized in a cost effectiveness chart, a unique feature of CEM's services. It compared the access cost, what KRS pays above benchmark, to the net value added, or value added after costs. This showed no correlation between paying more than benchmark and getting more value. The presentation concluded with a comparison of risk levels showing that KRS's asset risk of 9.2 percent was below the peer median of 9.8 percent, and KRS's asset-liability risk of 13.7 percent was also below the peer median of 14.2 percent. In an ideal world, the asset-liability risk would be zero because the assets would perfectly match the liabilities, but that is not the case for any fund. Therefore, this is a measure of what is paid, and KRS compares favorably with its peer group and is only slightly higher than U.S. Public funds.

Mr. Jefferson drew attention to the total cost and benchmark cost section of the full report, specifically the trend line of costs over the last five years, showing that costs have approximately doubled. He asked if that could be attributed to moving into a higher cost investment mix or if KRS is just better at capturing cost data now versus five years ago. Mr. Peden stated that it could be attributed to better capturing of fees as well as a move away from passive management, which was a big driver of costs. The introduction of hedge funds to the portfolio five years ago would also contribute to that trend. Mr. Jefferson then asked how KRS could be ranked regarding capturing fees compared to other systems. Mr. Slingerland stated that in his experience, systems that undergo the benchmarking process have a better understanding of fees and how they compare, which is a good step toward transparency. Additionally, many funds give less information and CEM works with them to get the detail that KRS provided initially, which allowed a very close approximation of true fees. That level of detail is only provided by

about 60 percent of the systems benchmarked by CEM. Mr. Jefferson asked if fees aren't reported by peer group funds if that metric might be biased downward in private assets. Mr. Slingerland said that all fees in private assets are down because there is no standardization and no pressure to have standardization. He added that there are funds that provide a great amount of detail, and CEM strives to bring any fund that reports below that average value up to that same level. Mr. Jefferson finally asked, based on experience, if there were firms that the Public Pension Oversight Board might work with to adopt a standard of reporting for all of the pension funds, including KTRS, within the state. Mr. Slingerland recommended Institutional Limited Partners Association (ILPA) as the best organization to work with, noting that this organization will be at the forefront of pushing for standardization. Specifically, ILPA has a template that funds can follow to achieve more standardization.

Senator Higdon asked about administrative costs and whether the category internal asset management costs was the same metric. Mr. Thielen stated that it was and that this study was one of three being performed as a result of discussions with the Board over the last year. The first was the actuarial audit performed by Segal Consulting and reported last meeting. This was the second, and the third will be a benchmarking study on administrative costs also performed by CEM Benchmarking Services. He added that most pension funds do not handle health insurance, and that CEM even restricts its database to pensions, making it difficult to find a way to separate health insurance management costs from pension management costs in order to provide a more accurate comparison with other pension systems. The process of doing that has begun and the final report should be available in the spring.

Representative Thompson asked why asset-liability risk percentage presented was not higher than the peer median because KRS has such a low funding ratio. Mr. Slingerland explained that as a result of the way the model is built to allow for comparison to other funds, CEM does not look at the funded status in that regard. The number is less important than how KRS ranks compared to others. Something that could increase asset-liability risk would be a contractual COLA because it must be adjusted every year for inflation, whereas using an ad hoc COLA results in reduced risk, as does any change to membership that results generally in a younger, active base.

#### **Kentucky Teachers' Retirement System Actuarial Audit**

Ms. Kim Nicholl, Senior Vice President and Actuary, Segal Consulting, presented the results of the full scope actuarial audit of the Kentucky Teachers' Retirement System (KTRS). She first noted the project scope was different from the audit performed on KRS and presented at an earlier meeting. This audit was a full scope audit that replicates in full the pension, retiree medical, and life insurance valuations detail. They also evaluated the data used in the valuation and the reports, assumptions and methods used, as well as gave an assessment of conclusions. Segal also

reviewed the GASB 67 and 68 reports and the 2005-2010 experience study.

The data was comprehensive, thus allowing for an accurate match of all three valuations within a tolerable range. Minor differences in calculations for death benefits for a small group were seen, based on a 5-year final average salary instead of a 3-year final average salary, as well as for disability benefits for pre-2002 hires, but these differences had a negligible impact on liabilities. Segal found that the valuation reports comply with Actuarial Standards of Practice, but recommended adding an executive summary that highlights results of valuations, modifying the description of additional pension contributions needed to amortize the unfunded liability over 30 years, and clarifying certain information and assumptions. However, overall the assumptions and methods were found to be reasonable. For the next experience study, Segal recommended a study of individual salary increases by netting out actual inflation experienced over the study period, and for the post-retirement mortality assumption to consider adding at least a 10 percent margin for future mortality improvements or to use a fully generational table.

Ms. Nicholl explained that Segal has a national audit practice that performs three to four audits each year. Based on that experience, they found this audit to be very clean, and in fact it was one of the cleanest they have done. The comments were very peripheral as far as liabilities were concerned. KTRS should feel confident that the results of the valuations are reasonable, reflecting the methods, assumptions, and benefit structure of KTRS accurately.

Chairman Bowen asked for the difference between the level two audit performed on KRS, which was claimed to be adequate, and the level three audit performed on KTRS. He specifically asked what additional information was garnered from a level three audit. Ms. Nicholl stated that a level two audit requests sample life data which covers all the different benefit divisions, eligibility rules, and assumptions that will be applied to participants in the valuation. For KRS, Segal was able to match the sample people and determine that the data covered all the different benefit structures and the assumptions. The additional step performed for KTRS was to calculate the liabilities for every single member in the plan, not just the sample test lives, which determines the total liability of the plan. Chairman Bowen asked what the additional cost was for a level three audit over a level two. Ms. Nicholl answered that for both types of audits, the information is programmed into Segal's systems, making the additional cost approximately \$10,000 to \$15,000. Chairman Bowen asked how much the total cost was for the KTRS audit. Ms. Nicholl answered that it was between \$85,000 and \$95,000. She added that the complexity of the plans also impacts the cost, and that KTRS is a more straightforward system than KRS, which makes it difficult to compare KTRS to KRS.

Senator Higdon asked what a sample life would look like, from beginning to end. Ms. Nicholl said that for a sample life, Segal takes an individual's



information relating to their pension benefit, such as retiree healthcare, life insurance, age, date of hire, and salary. They then apply any assumptions, which for an active member might be their expected final average salary at every year in the future, and discount any expected benefit payments based on the assumptions to determine total liability for that individual. For an active member it is not possible to state the exact benefit because it is unknown when they will retire; however, it is possible to know the value of the benefit based on the assumptions that are applied. For example, in a group of one thousand 60-year-old members, each one has a certain probability that they could retire. Ten percent of them could retire, but it wouldn't be possible to know which 100 individuals that is; instead, the model assumes that 10 percent of each person retires. For retirees, it is known exactly what their benefit is, and an estimation of how long it will be paid can be made based upon mortality assumptions. Senator Higdon asked if Segal looked at how much was paid in employee and employer contributions and the investment returns those funds earned over the years of service, and specifically if that money was adequate to pay the benefit for a particular employee or if a liability was created above the actuarial estimation. Ms. Nicholl stated that it was not standard to do that type of calculation per individual, but instead the unfunded liability is calculated for the total plan.

Chairman Bowen stated that it was unclear why a level two audit was adequate for KRS, whereas a level three audit was necessary for KTRS. Ms. Nicholl answered that some pension plans request a full scope audit, while other plans, such as KRS, request a level two audit. If KRS had requested a level three audit, Segal would have performed that audit. It was not Segal's decision to do one type of audit over the other for either plan. Chairman Bowen said he understood that, but he recalled asking what type of audit was necessary for KRS, and the level two audit was defended as adequate at the time. Ms. Nicholl stated that it was appropriate and that a level two audit would have probably been adequate for KTRS as well, but that KTRS requested a higher level of detail.

#### **Kentucky Retirement Systems Investment Update**

Mr. Bill Thielen, Executive Director, Kentucky Retirement Systems, and Mr. David Peden, Chief Investment Officer, Kentucky Retirement Systems, were present to speak regarding the investment status of the system. Mr. Peden stated that it had been a challenging start to the fiscal year, with the aggregate portfolio down 4.8 percent versus the benchmark that was down 4.45 percent. The only positive performers were private equity, real estate, and interest rate sensitive fixed income. All other asset classes were down, especially U.S. equity, non-U.S. equity, and emerging market equity. As an example of how volatile the markets had been, he stated that over 60 percent of the S&P 500 had either a 10 percent loss or a 10 percent gain for the calendar year to date. In August of 2014, for the prior 3-year period, the U.S. stock market had produced three times its long-run average and half

its normal volatility, and he told the committee that it would at some point revert to the mean, which appeared to be beginning during the second half of this year. The only recourse in this market is sticking to asset allocation knowing that the long-run averages will come full circle. He concluded by adding that there were recent changes to asset allocation that will go into effect January 1, 2016, which were approved by the investment committee at their November meeting, and he said he would discuss those asset allocation changes at a future meeting.

Senator Higdon asked if reports that the unfunded liability was increasing by \$7 million a day or \$2 billion a year were accurate. Mr. Thielen said that was not correct. The unfunded liability is currently approximately \$17.5 billion, and the system has on hand approximately \$16.1 billion in assets. The unfunded liability has increased, but not at the rate stated. Senator Higdon then asked if there was any projection of what the ARC request would be this year. Mr. Thielen said that, yes, the final valuation had been complete and the final copy would be presented on December 3, 2015 to the KRS Board of Trustees to adopt contribution rates. For the KERS non-hazardous plan, the ARC is 47.28 percent of payroll, which is higher than the projected rate from several months ago before the final investment numbers were available. He estimated that the figure represented \$157.8 million more than was paid this year to meet the ARC. So the total for the state, including all three state-funded plans, would be \$880 million to fully fund the ARC. This represents a \$160 million increase from the last year of the current biennium. Much of the increase is driven by the assumption changes made following the experience study performed over the 2008-2013 period.

Representative Yonts asked if there would be a recommendation made by KRS before the upcoming legislative session. Mr. Thielen stated that the KRS board is meeting to discuss the assumed rate of return, based on the asset allocation study. In light of that, they plan to make a recommendation regarding previously enacted opt-out provisions that will match the assumed rate of return. Representative Yonts asked if the system has regulatory authority to require contractors to pay into the system. Mr. Thielen said that they do not, but that the issue is something that should be addressed. Finally, Representative Yonts asked if the KRS board would send three recommendations for concrete changes that need to be accomplished in the upcoming legislative session. Chairman Bowen echoed Representative Yonts' request for concrete changes that are creative and aggressive. Representative Thompson asked if the \$160 million increase was required annually or if that was a total figure. Mr. Thielen stated that it was per year of the biennium, and that the calculation was based on a payroll growth assumption of 2 percent.

Senator Higdon made a statement regarding the recent pay raise given to the KRS executive director, which was discussed at length during the previous meeting. He stated that he was troubled by the fact that the KRS board did not conduct a

comprehensive and good faith search for a new executive director. It was especially disappointing to him that not one of the candidates for that position was even interviewed by the KRS board. Because Mr. Thielen's hiring was accompanied by a large salary increase following an executive search that was truncated at best, Senator Higdon requested that Mr. Thielen retire at the completion of the 2016 Regular Session as originally planned. He further requested that Mr. Thielen continue under his current contract through the session and cancel the higher salary contract that will become effective December 1, 2015. In past Public Pension Oversight Board meetings, Mr. Thielen cited his experience working with the legislature as a principal skill he brought to the position. However, Senator Higdon stated that the circumstances of Mr. Thielen's rehiring had damaged his credibility with the General Assembly, and while it was ultimately the Board of Trustees that was responsible for conducting the executive director search, he would have expected that Mr. Thielen's experience dealing with the legislature would prompt him to advise the KRS board to not rehire him with a large salary increase without a meaningful executive search. Under the circumstances, and in view of all the current challenges that face KRS and the Commonwealth, Senator Higdon believed that new leadership for KRS was needed. Consequently, he requested Mr. Thielen's retirement following the conclusion of the 2016 session as was originally represented to the stakeholders. Senator Higdon stated his appreciation for Mr. Thielen's past service, and that he took no pleasure in making this request, but that he believed it was in the best interest of the Commonwealth.

Mr. Thielen responded that he took issue with the assertion that the KRS board did not conduct a comprehensive search for a new director. Following the issuance of a request for proposals (RFP) for a consultant, there were only 5 or 6 responses and the KRS board hired a national firm with an extensive reputation for assisting public pension plans with executive searches across the country. The firm engaged in two months of soliciting applications, including over 800 direct contacts. The consultants advised the KRS board that this would be a difficult search in light of the changing administration, the complexity of the system, and the fact that the system has a funded status of 19 percent. The search firm concluded that it would be necessary for the minimum salary to be in the \$200,000,000 to \$230,000,000 range to attract any qualified candidates. There were 20 applications received after advertising for the position. One was withdrawn and six were eliminated based on a lack of qualifications. Five were classified as only minimally qualified, leaving only eight applicants, three of which were internal to KRS. One of the remaining five was interviewed four years ago, and that applicant recently left another pension plan under negative circumstances. This left only four applicants: a city comptroller, a state tax commissioner, an attorney with a research organization, and an operations manager for an economic development corporation. The

search committee looked at those applicants and determined that interviews were not justified. The search committee then approached Mr. Thielen and asked if he would stay, which he had already assured them he would until a satisfactory replacement could be found. The salary and contract were suggested to him, and he agreed to the offer, with the understanding that if a suitable replacement could be found, he would leave immediately. His intention was always to retire, but he works for the KRS board and he will continue to do so until they are satisfied with the management and direction of the system.

Chairman Bowen stated that, of the twenty applicants, the fact that none were interviewed seemed inconceivable. He asked what excluded the internal applicants. Mr. Thielen stated that there are many challenges facing the system, and that he had vastly more experience than anyone on staff in working with the legislature. He also noted it would be possible to hire someone with much less experience, very likely with higher pay, but that person may not be able to help the KRS board. He reiterated that it was the board's decision and that he would do whatever they asked of him. Representative Linder asked what the next step of the search would be, and whether the search continues or if it will be suspended until the end of the legislative session. Mr. Thielen said that he felt the executive search committee would continue to work, possibly working with the internal applicants in a mentoring type of program to train one of them to be a suitable candidate, but he did not want to speak for the board regarding specifics. Representative Linder asked if they might still be looking externally or raising the salary to increase the pool of applicants. Mr. Thielen stated that he did not feel they were doing so at this time. Representative Yonts requested clarification that the decision to rehire Mr. Thielen, with a salary increase, was not his, but had been made by the KRS board. Mr. Thielen stated that he could have declined the offer, but it was not his decision to not pursue any interviews during the search process, and he did not request the pay increase.

#### **Kentucky Teachers' Retirement System (KTRS) Investment Update**

Mr. Beau Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System, discussed KTRS's investments. He stated that the quarter ending September 30, 2015 was bad for equities, with the U.S. equity portfolio declining 8 percent and non-U.S. equity declining 13 percent. For the same quarter there were increases for real estate of 4.8 percent, for private equity of 3.6 percent, and for fixed income of 1.2 percent. Since then, the markets have rebounded and there should be improvement seen in the next quarter.

Mr. Jefferson asked why KTRS had shared their returns as gross of fees instead of net of fees as other systems had presented. Mr. Barnes stated that historically the fees KTRS had negotiated were extremely low, at approximately 25 basis points, which were among the lowest in the nation, and adding 25 basis points onto the reported fees

would give a good approximation of what a net of fees performance number would be for the system. Mr. Barnes stated that LRC staff had requested reporting on a net of fees basis, which can be done, but because the fees had been so low, it was just historically not calculated that way. Mr. Jefferson asked if KTRS participated in fund-of-funds hedge funds or other investments where the fees were less transparent. Mr. Barnes answered that KTRS is underweight in regards to those asset classes, were not invested in hedge funds at all, and were only modestly invested in other alternative asset classes. Because of the negative cash flow position of the system, he did not foresee that changing in the near future. Additionally, in their annual financial report, KTRS discloses their fees specifically. He added that KTRS's fees are widely recognized as being very low. Chairman Bowen stated that it would be nice for all of the pension plans to report in the same manner to the oversight board, if only to provide a measure of standardization in reporting among the state pension systems.

Representative Montell stated that 25 basis points did seem very low in light of the earlier reported benchmark costs of 74.8 basis points as an average for public pension plans. He asked what the current size of the systems assets were, and Mr. Barnes answered that it is approximately \$18 billion currently being managed by KTRS. Representative Montell stated that indicated a huge savings over the average fees, and that there was a lot to be learned from how the system is being managed. Representative Simpson asked how the fees for other similar teacher retirement systems compared, and Mr. Barnes stated that KTRS has lower fees than most, which is largely attributable to asset allocation being predominately in stocks that have lower fees than other asset classes, like private equity.

#### **Judicial Form Retirement System Investment Update**

Ms. Donna Early, Executive Director, Judicial Form Retirement System, spoke regarding the Judicial Form Retirement System (JFRS) investments. She stated that the system handled the judicial and legislators retirement plans. Similarly to KTRS's report, JFRS is invested 70 percent in equities and 30 percent in fixed income, meaning that the first quarter of the fiscal year showed a decline. However, she noted that trends were improving, with a gain of approximately 2 percent seen in the last month.

Chairman Bowen asked a question regarding transparency of the system. Ms. Early stated that the plan is governed by a board of trustees appointed by the legislature, the judiciary, and the Governor, and the board members take to heart all suggestions from the membership and the private sector because they are stewards of taxpayer money. In light of that and based on the number of statements of concern they have received, the board is looking at posting things to a website to improve transparency. Ms. Early stated that in her experience the system had always been very transparent and provided everything as requested, but she recognized there was always room to

improve and the board was studying how to best address the issue. Chairman Bowen highlighted a sense of urgency regarding the matter, and he asked that Ms. Early communicate that urgency to the members of the board.

Representative Montell stated that the funding level of the legislative retirement plan had recently been brought to his attention. He asked what the contribution on the part of the state was to legislative retirement. Ms. Early answered that the actuarial valuation was only recently completed and will be presented, along with their actuarial audit, in a future meeting. She stated that the contribution rate was approximately 52 percent of payroll for legislative retirement and 43 percent of payroll for judicial retirement. She clarified that unlike other plans, it is an aggregate sum, taking into consideration all of the assumptions used by the system regarding salary and salary increases. Representative Montell stated he was shocked, and somewhat embarrassed, that the contribution was that high. He did not think it could be justified to pay a higher percent of payroll for legislative retirement than is paid for state employees. He had assumed that because so few legislators served 27 years and drew a full benefit, that it would be easier to keep the plan more fully funded than a typical plan. Ms. Early stated that the rates given were estimations for the upcoming biennium, and she noted that the most recent request was approximately 27 percent of payroll for the previous biennium, and that in some past years there was no contribution at all because the plan was adequately funded.

Auditor-elect Harmon asked why the assumed rate of return for JFRS was only 7 percent compared to an assumed rate of return of 7.5 percent for the other pension systems. Ms. Early answered that it was based on the recommendation of their actuary. She also stated that the system was on schedule for an audit by the Office of the Auditor of Public Accounts soon, and that she looked forward to working with the auditor-elect.

Representative Yonts reiterated Chairman Bowen's sense of urgency regarding transparency of the system, meaning the need for a website, and noted it is a cause of concern among the public.

There were no further questions; however, Mr. Damien Stanton, a representative of SaveCERS.org and a constituent who would be retiring in 19 working days with 39 years of services in the County Employees Retirement System (CERS) Hazardous retirement plan requested an opportunity to address the board. He stated he worked for ten years as a police officer, with Senator Schickel, in the City of Florence, and that he currently serves as a deputy sheriff in Kenton County. He voiced concern about the KRS and referenced the testimony and questions regarding fees. Primarily, he was concerned that the issue had been addressed many times and yet the results remained the same. Mr. Stanton stated that in an effort to further investigate the matter, he had filed a lawsuit in Franklin Circuit Court, which he provided copies of to the members of the board. He explained that he was effectively antagonizing the system that was going to be providing his benefit in a short amount of time because of a desire to stop



what he perceived as a bleeding of money from CERS. He noted that as a member of the system, he expected to receive the benefit he had worked for, and that he was concerned when the cost to secure benefits had driven down the funding level over the last fiscal year. He then referenced the KRS Comprehensive Annual Financial Report (CAFR), which previously featured the funding levels of the various pension systems. Based on the CAFR for the last fiscal year, the funding level for the CERS hazardous plan had declined from 59.8 percent to 58 percent and the KERS non-hazardous plan had declined from 21 percent to 19 percent. Mr. Stanton said that this has an impact on employees and employers. If businesses see this as a precursor to a reduction in the state's bond rating, it could drive away industry. Lastly, he drew attention to a memorandum, found on KRS's website, to Connie Davis, Director of Internal Audit, from Karen Roggenkamp, Chief Operations Officer, dated August 20, 2015, and with "FY 2015 Financial Highlights" as the subject. In this memorandum, a net loss of \$363,219,320 is reported, as well as investment expenses of \$80.41 million. He felt that fees that high should warrant looking into such high losses. Mr. Stanton concluded his remarks by asking that the systems please stop giving away pensions. Many individuals serve the city and counties of the Commonwealth and they deserve nothing less than they were promised. Chairman Bowen thanked Mr. Stanton for his testimony and said that the board has similar concerns.

Before adjourning, Senator Higdon commented on legislative retirement and House Bill 299 of the 2005 Regular Session, which added reciprocity measures to the statutes and he noted he filed a bill in 2010 to abolish those measures. That bill did not pass and every year new attempts are made to address reciprocity. He indicated that this coming session might be the appropriate time to finally pass measures to either abolish the reciprocity measures or allow for legislators to opt-out of the system.

Ms. Early returned to the table to clarify, because of the changes made by the hybrid cash balance plan, that there were two actuarial studies performed. The 52 percent contribution rate was correct, but it did not factor in whether it was total payroll of all legislators or the ones who only participate in either the hybrid cash balance plan or the defined benefit plan. She would further refine the information and bring it back to the board at a later meeting.

Chairman Bowen thanked her for the clarification and announced that the next Public Pension Oversight Board meeting would be December 17, 2015 at 12:00 p.m. He reminded the members of the board to be sure to submit anything for the final report to Brad Gross, Committee Staff Administrator, as soon as possible. With there being no further discussion, the meeting adjourned.

## **2015 FEDERAL ENVIRONMENTAL REGULATION IMPACT ASSESSMENT TASK FORCE**

### **Minutes of the 3rd Meeting of the 2015 Interim**

November 17, 2015

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

The 3rd meeting of the 2015 Federal Environmental Regulation Impact Assessment Task Force was held on Tuesday, November 17, 2015, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Brandon Smith and Robin L. Webb; Representatives Tim Couch and Fitz Steele; Rodney Andrews (Sheila Medina), Rusty Cress, Jeff Derouen, Eric Evans, Greg Higdon, Rob Jones (Tamra Gormley), Michael Kurtz, Dave Moss, Len Peters, James See, and Mahendra Sunkara.

Guests: Dr. Len Peters, Secretary, and John Lyons, Deputy Commissioner, Energy and Environment Cabinet.

LRC Staff: Janine Coy-Geeslin; D. Todd Littlefield; Stefan Kasacavage; and Kate Talley, Committee Assistant.

#### **Minutes for October 19, 2015**

Upon motion by Representative Steele and second by Senator Carpenter, the minutes for October 19, 2015, were approved by voice vote, without objection.

Dr. Len Peters and John Lyons, of the Energy and Environment Cabinet, testified regarding the Clean Power Plan's (CPP) requirement for states to choose either emission rate or mass emission reduction. Mr. Lyons said that an emission rate is the amount of carbon dioxide (CO<sub>2</sub>) in pounds (lbs.) that is emitted by an individual electric generating unit (EGU) for one megawatt hour (MWh) of generation based on an annual average. A mass emission is the total amount of CO<sub>2</sub> in tons that is emitted by all EGUs in one calendar year.

In 2012, Kentucky's fleet average was 2,166 lbs. /CO<sub>2</sub> MWh. The EPA established national rates for fossil steam (coal) and natural gas (NGCC). Using these rates, the Environmental Protection Agency (EPA) then calculated individual state target rates. According to the CPP, Kentucky's final target emission rate is 1,286 lbs. CO<sub>2</sub>/MWh.

The CPP mass emission reflects EPA's assumption that existing EGUs can obtain new renewable energy generation (REG) to offset the CO<sub>2</sub> emissions. Using the national rates for coal and NGCC, the CPP calculated Kentucky's final mass emission target to be 63,126,121 tons CO<sub>2</sub>.

Kentucky's final target emission rate can't be met unless 60 percent of the state's coal generation is shut down and replaced with NGCC. This leaves Kentucky with choosing to meet the mass emission reduction target set by the CPP. It is assumed most states will choose a mass emission reduction, allowing Kentucky to enter into cap-and-trade agreements with them when applicable.

Dr. Peters explained, using a hypothetical scenario, how mass emission reduction is preferable for Kentucky over emission rate reduction. For

emission rate reduction to be the better choice, a fleet would have to shift considerably from using coal to NGCC. Considering the coal assets already in place in Kentucky, mass emission reduction would maximize the amount of electricity generation consumed, based on the department's estimation that by 2030 there will be a reduction in terawatts used per hour.

When looking at expected electricity rate impacts, three economic conditions were used: current baseline environment; a stagnant to negative environment; and a positive growth environment. Low, medium, and high NGCC prices also impacted the CPP's emission rate and mass emission cost per kilowatt-hour (kWh). All scenarios resulted in mass emission being \$0.015 to \$0.03/kWh cheaper than the emission rate.

In response to questions from Representative Gooch, Dr. Peters said that, in its analysis, the department strictly used NGCC to replace coal to meet the CPP final targets. Using nuclear power or renewable resources would increase the amount of coal being used. The department has taken a conservative approach when predicting what assets will be available in 2030. Knowing which power plants will shut down and when is a huge, unknown factor. Other regulations, such as the Coal Combustion Residual Regulation, will impact utilities as well, though the depth of impact is currently unknown. Building a new coal-fired power plant would not be advisable.

In response to questions from Greg Higdon, Dr. Peters said lower consumption rates have been observed since the recession. Appliance manufacturers are making products more energy efficient and residential customers are becoming more energy efficient. By the end of 2015, the energy usage in Kentucky is expected to be reduced by 5 percent since the beginning of the current administration. The shutdown of the United States Enrichment Corporation plant in Paducah meant the loss of 14 percent of energy consumption.

In response to a question from David Moss, Dr. Peters said that it is unknown which states with which Kentucky would be able to enter into cap-and-trade agreements. If the Federal Government imposes a plan, states will likely not have a choice with whom to trade.

In response to questions from Representative Gooch, Dr. Peters confirmed cap-and-trade adds cost. Energy efficiency is not a requirement of the CPP, however choosing to use energy efficiency to reduce CO<sub>2</sub> emissions or generate more CO<sub>2</sub> reduction is an option known as the State Portfolio Approach. Mr. Lyons explained utilizing the State Portfolio Approach is an onerous undertaking and will likely not be done by many states. Currently, the EPA does not allow any opportunities for reforestation.

In response to a question from Rusty Cress, Mr. Lyons said the transition paper for the next administration has been completed and delivered. It explains the history of the CPP and how it will impact Kentucky. It does not include any recommendations, other than the need for a state plan and the pursuance of litigation. Dr. Peters said

the agreement of the transition team of Governor-elect Bevin would need to be obtained in order to share the paper with the task force. Mr. Lyons said it is a compilation of everything that has been communicated with the task force.

In response to a question from David Moss, Dr. Peters said allowances would be based on whatever plan is chosen.

In response to questions from Michael Kurtz, Dr. Peters said there are a number of discussions around the leakage issue that complicate the matter on how to treat the new 111(b) sources. Mr. Lyons said this will most likely be litigated.

In response to a question from Mahendra Sunkara, Dr. Peters said biomass has to be qualified as sustainable. Mr. Lyons said the EPA has recently had blog discussions regarding biomass. There will be meetings scheduled in April 2016 to discuss this topic further.

In response to questions from Representative Gooch, Dr. Peters said the goal of the CPP is straightforward; however, the ways to attain the goal are unclear.

Senator Webb commented that from a regulatory and agency standpoint, Kentucky is not ready to use biomass as the CPP would stipulate.

Senator Smith commended Dr. Peters on a job well done as secretary.

In response to questions from James See, Dr. Peters said nuclear energy is a necessity to address CO<sub>2</sub> mitigation issues. There are cost and social issues with nuclear energy, but when talking about capacity factors nuclear energy is the way to go. Every state should push for an extension as to when plans must be submitted. An adjustment period to learn how the plans will effect reliability would be helpful. Reliability may cost, but security issues are very real. Mr. Lyons said that, next April, Kentucky will see shutdowns from the Mercury Toxics rule and what effects those shutdowns have.

In response to a question from Representative Gooch, Dr. Peters said the CPP is not an environmental policy but an energy policy.

Jeff Derouen commented that NERC's definition of reliability is likely very different from the task force's.

Representative Gooch said the grid was built around existing resources, and changes regarding those resources cannot be made without changing the grid.

Mr. Higdon expressed his desire that, if the General Assembly further addresses the CPP, it go to the private sector for input.

The meeting was adjourned at 2:35 PM.

## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

### **Minutes of the 5th Meeting of the 2015 Interim**

December 1, 2015

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

The 5th meeting of the Education Assessment and Accountability Review Subcommittee was

held on Tuesday, December 1, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Mike Wilson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Senator Max Wise; Representatives Linda Belcher, John Carney, and Mary Lou Marzian.

Guests: Tom Schulz Jefferson County Teachers Association; Erin Klarer, Kentucky Higher Education Assistance Authority; Clyde Caudill, Kentucky Association of School Administrators

LRC Staff: Joshua Collins, Jo Carole Ellis, Janet Stevens, and Amy Tolliver.

#### **Approval of November 17, 2015 Minutes**

Upon motion from Representative Marzian and a second by Representative Carney, the minutes were approved by voice vote.

#### **Acceptance of the Office of Education Accountability's (OEA) Proposed 2016 Research Agenda**

Representative Belcher expressed the need for clarification on inclusion of recess in the 125 instructional minutes of required physical activity. Ms. Timmel, Acting Director, OEA, stated that OEA would take note of the need for clarification and guidance.

Upon a motion from Senator Wise and a second by Representative Belcher, the research agenda was accepted by voice vote.

With no further business before the committee, the meeting was adjourned at 10:14 AM.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

### **Minutes**

December 2, 2015

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

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, December 2, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Senators Paul Hornback, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Mike Denham, Tom McKee, Terry Mills, and Jonathan Shell.

Guests: Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Ms. Angela Blank, Ms. Beth Herbert, and Dr. Luther Hughes, Governor's Office of Agricultural Policy; Dr. Alison Davis and Mr. James Mansfield, Community and Economic Development Initiative of Kentucky; Mr. Van Ingram, Ms. Heather Wainscott, and Ms. Amy Isaacs, Kentucky Agency for Substance Abuse Policy.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The October 7, 2015 minutes were approved, without objection, by voice vote, upon a motion by Senator Parrett, second by Representative Mills.

#### **Governor's Office of Agricultural Policy**

Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ABD) during its October and November meetings.

GOAP officials summarized funding allocations for the previous months under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, and Shared-use programs.

Major statewide projects summarized included: Kentucky State University, Frankfort, \$990,000 in state tobacco settlement covering two years for a program to provide mini-grants that will assist small farmers and producers with limited resources; Knotty Corner Cafe LLC, Knott County, \$5,000 in state funds to purchase locally grown and raised produce from farmers for a cafe and market; Kentucky Center for Agriculture and Rural Development (KCARD), Elizabethtown, \$700,000 in state tobacco settlement funds granted for a two-year span to enable KCARD to deliver technical assistance and provide educational opportunities for agriculture-based and rural businesses; Russell County Cattlemen's Association, Russell County, \$20,000 in Russell County funds to initiate a heifer production program for 4-H and FFA youth.

Responding to Representative McKee, Mr. Neaveill described the work of KCARD. He told the representative that the organization has existed for several years, initially formed as the Center for Cooperative Development. He also said KCARD staff are doing some work currently in sections of Eastern Kentucky, for example, a farmers' market in Pikeville.

Mr. Thomas pointed out that KCARD has been able to leverage its tobacco funds grant with federal funds, thereby increasing its overall funding. Senator Parrett said he was familiar with the organization. He mentioned the work that KCARD did in relation to the formation of an Elizabethtown farmers' market.

Senator Parrett asked for more information on the Knotty Corner Cafe project, which received tobacco settlement funds even though Knott County does not ordinarily receive an allocation of agricultural development funds. Mr. Rogers described how the county had received tobacco funds several years ago as part of a drought relief program. Mr. Neaveill pointed out, too, that aspects of the Kentucky Proud marketing program, which receives Master Settlement Agreement (MSA) funds, benefit businesses with no direct connection to the tobacco settlement funding system.

As the GOAP officials ended their report, mentioning the latest county council account ledger sheet, Representative McKee commended the work that county councils do in granting funds at the local level.

Mr. Thomas, who had served as Executive Director of the GOAP for about eight years, expressed his appreciation to the committee and the panel's support of the Agricultural Development



Fund. He also mentioned the GOAP staff and thanked the Governor for allowing him to serve.

Subsequent to Mr. Thomas's remarks, the committee adopted a resolution in his honor and commending his dedication and service to the state's agriculture community. Representatives McKee and Denham, and Senators Webb, Parrett, and Embry lauded the GOAP Executive Director's work.

#### **Agricultural Development Board Investments Evaluation**

University of Kentucky professors Dr. Alison Davis and Mr. James Mansfield presented the results of an evaluation of the Agricultural Development Board tobacco settlement investments from 2007-2014. The evaluation, which following an earlier study covering 2001-2007, looked at the impact of tobacco settlement funds grants and loans in three areas – state-funded projects, the CAIP program, and the Agricultural Finance Corporation, which is primarily a farm loan program.

The goal of the evaluation was to assess the effectiveness and impact of the Agricultural Development Board's investments between 2007 and 2014. Dr. Davis summarized some of the findings in the report, mentioning that every dollar invested in the state-funded projects yielded \$2.03 in economic impacts. The highest impact was seen in the marketing and promotion part, \$3.07 for every dollar put in. According to the report, the board invested \$198 million in programs and projects during the study period, resulting in 465 products created and 77 markets either created or expanded. The board invested \$42 million in state and county projects, an investment that has resulted in an estimated \$86 million in additional farm income and 708 new or expanded jobs. Other highlights of the report were that 33,958 farmers were estimated to have been affected by the state-funded projects, of which 17,617 current or former tobacco growers.

Under the county programs, more than \$100 million was invested with over 61,000 people participating. As for the Agricultural Finance Corporation's loan program, a beginning farm loan program was highly regarded, according to the report.

The report made several recommendations in each aspect of the three investment areas.

Dr. Davis indicated it she enjoyed meeting project directors and the expert panels who helped evaluate impacts. She noted that people said Kentucky would not be where it is without the Agricultural Development Fund. She talked about the envy that exists regarding the initial legislation (House Bill 611) establishing the Agricultural Development Fund and what the endeavor has done for agriculture in the state.

Senator Hornback praised the report and asked about the agricultural diversity that could be accomplished in the state, considering that the federal tobacco buyout has closed out. Dr. Davis responded that, overall, farmers in the state are better off and the buyout funds are not as critical as they once were. Mr. Mansfield cited the growth of the livestock industry in the state the overall

production improvements, better genetics.

Senator Webb and Representative Denham commented on a recommendation in the report that tobacco production history should not be a significant factor in the Agricultural Development Fund program requirements. Both talked about the impact that tobacco production had on their region of the state and that the impact still exists. Dr. Davis responded that Eastern Kentucky is under-represented in the distribution of projects. She said the group tried to take a "holistic view" in the overall report, looking at the entire state. She mentioned one recommendation: that the board should consider publicizing the availability of the tobacco funds through a request-for-proposal approach.

Responding to Representative McKee, Dr. Davis described a star scoring chart that was included for state-funded projects. According to Dr. Davis, a lot of the projects earning two stars (the top projects earned five) have since closed.

#### **Kentucky Agency for Substance Abuse Policy (KY-ASAP) Report**

Mr. Van Ingram, Executive Director, Ms. Heather Wainscott, Branch Manager, Kentucky Office of Drug Control Policy, and Ms. Amy Andrews, KY-ASAP Program Coordinator, presented the annual report of the KY-ASAP, which operated on a \$1.7 million budget in FY 2015. KY-ASAP awards grants to local boards in most counties that work in combatting drug, alcohol and tobacco use.

In opening remarks, Mr. Ingram said that last year, KY-ASAP was facing a potential funding cut, but funding was restored by virtue of legislation in the 2015 Regular Session, plus the agency received additional appropriations because of the Senate Bill 192, the heroin bill that passed in the same session. He indicated the Senate Bill 192 funding allowed the agency to establish an additional grant program for counties to fight drug abuse.

Ms. Wainscott described the county programs, made mention of regional trainings that have been conducted, discussed a prescription drug disposal endeavor, talked about the agency's collaboration with the Partnership for a Drug-Free America, and made note of a drug-free communities support program.

Responding to Senator Embry, Ms. Andrews explained that there have been conversations with local officials in two counties that have not established local boards, Harlan and Elliot. Senator Webb commented that she would talk to officials in Elliot County about the KY-ASAP agency.

In a response to Representative Denham, Mr. Ingram explained KY-ASAP has seen positive results related to the overdose situation, but the use of hydrocodone, an opioid pain medication, remains a persistent problem. He said there needs to be a "national conversation" on hydrocodone abuse.

Responding to Representative Mills, Mr. Ingram indicated the Kentucky KASPER electronic prescription reporting system has been successful. Since Kentucky established its program, 11 other states have established similar programs.

Mr. Ingram, responding to Representative McKee, described the criteria used in granting funds to individual counties. Documents distributed during the meeting are available with meeting materials in the LRC Library. There being no further business, the meeting was adjourned.

# 2016 Prefiled Bills

**BR 1** - Representative Jody Richards (09/04/15)

AN ACT relating to powdered or crystalline alcoholic beverage products.

Create a new section of KRS Chapter 244 to prohibit powdered or crystalline alcoholic beverage products; amend KRS 241.010 to include powdered or crystalline alcohol in the definition of an alcoholic beverage.

(Prefiled by the sponsor(s).)

**BR 3** - Senator Ray S. Jones II (10/27/15)

AN ACT relating to concealed deadly weapons training.

Amend KRS 237.110 to prohibit administrative regulations which would require concealed deadly weapon license applicants to clean guns in class; replace hands-on classroom gun cleaning requirements with instructor demonstrations; amend KRS 237.120 to require instructor trainers to have 3 years of prior experience as applicant instructors; amend KRS 237.122 to allow firearms instructor trainers or certified firearms instructors to charge any amount for courses, rather than capping the applicant course at \$75 and the instructor course at \$150; amend KRS 237.128 and 237.132 to conform.

(Prefiled by the sponsor(s).)

**BR 5** - Senator John Schickel (06/25/15)

A RESOLUTION adjourning the Senate in honor of Nell Fookes upon the occasion of her retirement as the head coach of the Boone County High School girls' basketball team.

Honor Nell Fookes upon the occasion of her retirement as the head coach of the Boone County High School girls' basketball team.

(Prefiled by the sponsor(s).)

**BR 7** - Representative Brad Montell, Representative Kevin D. Bratcher, Representative John Carney, Representative Jim DeCesare, Representative Myron Dossett, Representative Joseph M. Fischer, Representative David Hale, Representative Mike Harmon, Representative Jeff Hoover, Representative Kenny Imes, Representative Thomas Kerr, Representative Adam Koenig, Representative Stan Lee, Representative David Meade, Representative Michael Meredith, Representative Suzanne Miles, Representative David Osborne, Representative Ryan Quarles, Representative Bart Rowland, Representative Sal Santoro, Representative Jonathan Shell, Representative Tommy Turner, Representative Ken Upchurch (08/28/15)

AN ACT relating to the Health Insurance

Trust Fund and making an appropriation therefor.

Amend KRS 18A.2254 to specify how surplus funds from a prior plan year of the Public Employee Health Insurance Program shall be allocated.

(Prefiled by the sponsor(s).)

**BR 8** - Representative Chris Harris (10/07/15)

AN ACT relating to the registration of trailers.

Amend KRS 186.655, regarding the licensing of trailers, to shift the annual registration renewal date from April 1 to April 30.

(Prefiled by the sponsor(s).)

**BR 11** - Representative Joni L. Jenkins (09/03/15)

AN ACT relating to tenancies in real property.

Create a new section of KRS Chapter 383 to provide that, after the effective date of this Act, residential tenants who hold a domestic violence order, a pretrial release no contact order, or an interpersonal protective order may terminate a lease with at least 30 days notice to landlords, while the lease continues for co-tenants; establish civil action for a landlord's economic losses due to termination against persons restrained by protective orders; for those tenants or applicants for tenancy who hold an emergency protective order, a domestic violence order, a pretrial release no contact order, an interpersonal protective order, or a temporary interpersonal protective order, those orders cannot serve as a basis for denying a lease and new locks may be requested at the tenant's expense; create a new section of KRS Chapter 383 to provide that, after the effective date of this Act, rental agreements shall not penalize tenants for requesting assistance from emergency services.

(Prefiled by the sponsor(s).)

**BR 14** - Representative Tom Burch (11/30/15)

AN ACT relating to court-ordered outpatient mental health treatment.

Amend KRS 202A.081 to require that an attorney is present for a patient agreed order and allow a peer support specialist to be present; require the court to appoint a case management service or team employed by a community mental health center to develop a comprehensive treatment plan, monitor treatment adherence, and report on the person's functioning; require that the case management service or team be available 24/7 and adequately trained; provide that failure to abide by the order may result in rehospitalization provided that the criteria are met, procedures are initiated via affidavit by the case management service or team, and mental health

examinations take place at community mental health centers; permit additional orders with due process; require that patient agreed order services are covered by Medicaid; require that courts report such orders to the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and rename this commitment process a patient agreed order; amend KRS 202A.261 to exempt certain hospitals from being required to provide particular services; amend KRS 202A.271 to require certain hospitals to be paid for services performed under portions of this Act at the same rates the hospital negotiates for other services; create new sections of KRS Chapter 202A to create a process for District Courts to order assisted outpatient mental health treatment; provide for transportation processes for the purposes of a mental health examination; establish eligibility and court proceedings; require a mental health examination and the development of a treatment plan; establish the process for hearings; require the court to appoint a case management team or service to monitor and report on the person under order; authorize 72-hour emergency admission for failure to comply with orders; provide for the right to stay, vacate, or modify orders; provide for a process to change a treatment plan; permit an additional period of treatment to be ordered provided certain criteria are met; require that assisted outpatient treatment services are covered by Medicaid; and name these sections of the bill "Tim's Law."

(Prefiled by the sponsor(s).)

**BR 15** - Representative Diane St. Onge (05/07/15)

AN ACT relating to service animals.

Amend KRS 525.200 to remove from the elements of the offense of assault on a service animal the requirement that service animal be unable to return to work; amend KRS 525.210 and 525.215 to conform; repeal KRS 525.205.

(Prefiled by the sponsor(s).)

**BR 16** - Senator John Schickel (06/25/15)

A RESOLUTION adjourning the Senate in honor and loving memory of Audrey Henke Metzger.

Adjourn the Senate in honor and loving memory of Audrey Henke Metzger.

(Prefiled by the sponsor(s).)

**BR 17** - Representative Darryl T. Owens (05/19/15)

AN ACT relating to criminal records.

Amend KRS 431.076 to expand the scope of an expungement motion under that statute to include felonies referred to a grand jury where no



indictment ensues; amend KRS 431.078 to expand that statute's expungement process to include Class D felonies; amend KRS 527.040 to expressly provide that an expunged felony does not trigger the application of that statute; create a new section of KRS Chapter 413 to prohibit the introduction of information pertaining to an expunged conviction as evidence in a civil suit or administrative proceeding alleging negligent hiring or licensing.

(Prefiled by the sponsor(s).)

**BR 18 - Representative Darryl T. Owens (05/19/15)**

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to restructure the voting restrictions contained therein relating to felons and persons with mental disabilities; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 20 - Senator Reginald Thomas (06/02/15)**

AN ACT relating to oaths.

Amend KRS 6.072 to require witnesses appearing before a committee, subcommittee, or task force of the General Assembly to take an oath prior to giving testimony.

(Prefiled by the sponsor(s).)

**BR 21 - Senator Reginald Thomas (07/13/15)**

AN ACT relating to general principles of justification.

Create a new section of KRS Chapter 503 to incorporate the "no duty to retreat" provisions elsewhere in the chapter; amend KRS 503.050, 503.055, 503.070, and 503.080 to require a reasonable belief that defensive force is necessary before it is justified; change the term "great bodily harm" to "serious physical injury" as used throughout the Penal Code; amend KRS 503.060 to require an initial aggressor to retreat before the use of force can be rejustified; repeal KRS 503.120.

(Prefiled by the sponsor(s).)

**BR 22 - Senator Reginald Thomas (12/10/15)**

AN ACT relating to exceptional children.

Amend KRS 157.200 to provide that programs for an exceptional child be provided until the end of the student instructional year in which the exceptional child reaches the age of 22; amend KRS 159.990, 158.100, and 159.150 to conform.

(Prefiled by the sponsor(s).)

**BR 24 - Senator Reginald Thomas (11/12/15)**

AN ACT relating to breast-feeding.

Amend KRS 211.755 to establish that a mother breast-feeding a child or expressing milk in any location, public or private, where the mother and child are otherwise authorized to be shall report any violations to the local health department,

independent health department, or county health department, having jurisdiction for the county in which the violation occurred; provide that the local health department, independent health department, or county health department shall conduct an investigation of any reported violation; amend KRS 211.990 to establish a fine of \$500 for the first offense and \$1,000 for each subsequent offense for any person or municipality that who violates of KRS 211.755(2) or(3).

(Prefiled by the sponsor(s).)

**BR 25 - Senator Reginald Thomas (11/12/15)**

A CONCURRENT RESOLUTION recognizing the importance of removing barriers to breastfeeding in the Commonwealth.

Recognize the importance of removing barriers to breastfeeding in the Commonwealth.

(Prefiled by the sponsor(s).)

**BR 26 - Senator Reginald Thomas (10/09/15)**

AN ACT relating to arrest-related deaths.

Amend KRS 72.025 to add deaths which occur during arrest to cases which are investigated by coroner; create a new section of Chapter 72 to require coroners to notify Medical Examiners Office of arrest-related deaths and require an annual public report.

(Prefiled by the sponsor(s).)

**BR 31 - Representative Derrick Graham (07/07/15)**

AN ACT relating to governance of postsecondary education institutions.

Amend KRS 164.011 to require new appointees to the council to complete orientation and education program to be eligible for a second term; amend KRS 164.020 to direct the Council on Postsecondary Education (CPE) to develop an orientation and education program for new governing board members of the council, public universities, and Kentucky Community and Technical College System (KCTCS); require that the program include six hours of instruction time with specific information and be delivered within one year of a new member's appointment; require an annual report listing new board members not completing the program; invite board members of private colleges and universities to participate; authorize the CPE to develop continuing education programs for all governing board members of public institutions and to review and approve orientation programs for governing boards of each public university and KCTCS; amend KRS 164.131 to require appointed and elected governing board members of the University of Kentucky to complete an orientation and education program to be eligible for a second term; amend KRS 164.321 to require appointed and elected governing board members of the comprehensive public universities and KCTCS to complete an orientation and education program to be eligible for a second term; amend KRS 164.821 to require appointed and elected governing board members of the University of Louisville to

complete an orientation and education program to be eligible for a second term.

(Prefiled by the sponsor(s).)

**BR 33 - Representative Jerry T. Miller (12/11/15)**

AN ACT relating to volunteer service with an employer participating in Kentucky Retirement Systems.

Amend KRS 61.510 and 78.510 to provide that creditable compensation shall exclude nominal fees paid to volunteers of a participating agency who begin participating in the Kentucky Employees Retirement System and the County Employees Retirement System on or after August 1, 2016; define "volunteer" and "nominal fee"; amend KRS 61.637 to provide that retirees of Kentucky Retirement Systems who receive reimbursements of actual expenses or nominal fees for their volunteer services shall not be subject to the required breaks in employment and prohibitions on prearranged agreements prior to retirement if the retired member did not receive creditable compensation prior to retirement from the employer for which they are providing volunteer services, any reimbursements or nominal fees received prior to retirement have not been classified as creditable compensation or used to determine retirement benefits, the retired member has not purchased or received service credit for service with the participating employer for which he or she is providing volunteer services, and the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is providing volunteer services for a period of at least 24 months.

(Prefiled by the sponsor(s).)

**BR 35 - Representative Jeffery Donohue (12/11/15)**

AN ACT relating to work periods within consolidated local governments and declaring an emergency.

Amend KRS 337.285 to allow consolidated local governments and collective bargaining units to agree to an 80-hour work period over 14 consecutive days before triggering a rate of pay one and one-half times a peace officer's hourly wage; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 37 - Representative Terry Mills (06/02/15)**

AN ACT relating to problem, compulsive, or pathological gambling and making an appropriation therefor.

Amend KRS 222.005 to define "pathological gambling" and "problem gambling"; create new sections of KRS Chapter 222 to establish the Problem and Pathological Gamblers Awareness and Treatment Program; direct the use of funds and limit annual administrative costs to \$200,000; establish the Gamblers Awareness and Treatment Program Advisory Council; establish the council's membership and responsibilities; require the Cabinet for Health and Family Services

to promulgate administrative regulations in collaboration with the council; establish a funding and application process, certify disbursement of funds, and require reports annually; assign responsibilities to the director of the Division of Behavioral Health; amend KRS 222.001 and 222.003 to conform; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR 38** - Representative Terry Mills (08/05/15)

AN ACT relating to sales and use tax.  
Amend KRS 139.480 to exempt bees used in a commercial enterprise for the production of honey or wax for sale and certain items used in that pursuit; EFFECTIVE August 1, 2016.  
(Prefiled by the sponsor(s).)

**BR 40** - Senator John Schickel (06/25/15)

A RESOLUTION honoring Wilbur M. Zevely upon his recognition by the Northern Kentucky Bar Foundation with its Lifetime Achievement Award.  
Honor Wilbur M. Zevely upon his recognition by the Northern Kentucky Bar Foundation with its Lifetime Achievement Award.  
(Prefiled by the sponsor(s).)

**BR 42** - Senator Max Wise (07/14/15)

AN ACT relating to alternative certification programs.  
Amend KRS 161.048 to allow a veteran with a bachelor's degree in any area to be issued a provisional teaching certificate if other criteria are met.  
(Prefiled by the sponsor(s).)

**BR 43** - Representative Joni L. Jenkins (12/09/15)

AN ACT relating to offenses committed in a continuing course of conduct against vulnerable victims.  
Create a new section of KRS Chapter 501, relating to general principles of liability, to define "offense against a vulnerable victim" and to create a mechanism for charging a person with the commission of an offense against a vulnerable victim in a continuous course of conduct.  
(Prefiled by the sponsor(s).)

**BR 45** - Representative Rick G. Nelson (09/10/15)

AN ACT relating to welding safety.  
Create new sections of KRS Chapter 198B to establish requirements for projects requiring structural steel welding such as certification of welders and certified inspectors; provide definitions.  
(Prefiled by the sponsor(s).)

**BR 49** - Representative Myron Dossett (12/10/15)

AN ACT relating to casualty insurance.  
Create a new section of Subtitle 20 of KRS Chapter 304 to require casualty insurance contracts

relating to real property, which exclude bodily injury liability for injured workers who should be covered by a worker's compensation policy, to disclose to the insured the risk for personal liability.  
(Prefiled by the sponsor(s).)

**BR 50** - Representative Jim Wayne (12/10/15)

A RESOLUTION supporting the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.  
Support the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.  
(Prefiled by the sponsor(s).)

**BR 52** - Representative Joni L. Jenkins (12/09/15)

AN ACT relating to distribution of sexually explicit images without the consent of the person depicted.  
Amend KRS 531.010 to define "private erotic matter"; create a new section of KRS Chapter 531 to prohibit the distribution of sexually explicit images without consent, and make such distribution a Class A misdemeanor unless it is done for profit, in which case it is a Class D felony.  
(Prefiled by the sponsor(s).)

**BR 54** - Senator Dennis Parrett (06/10/15)

AN ACT relating to driving under the influence and declaring an emergency.  
Amend various sections in KRS Chapter 189A, relating to driving under the influence, to expand the look-back window for prior offenses from five years to 10 years; amend KRS 189A.330 to expand the window for quarterly reporting of pending DUI cases; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR 58** - Representative Arnold Simpson (07/15/15)

AN ACT relating to county clerks.  
Repeal 1860 Kentucky Acts Chapter 351, approved February 18, 1860, entitled "AN ACT to establish an office for the recording of deeds and mortgages at Covington." which required individuals recording deeds and mortgages relating to properties in certain areas of the county to file those in Covington rather than Independence.  
(Prefiled by the sponsor(s).)

**BR 61** - Senator Joe Bowen (10/16/15)

AN ACT relating to motor vehicle registration fees.  
Create a new section of KRS Chapter 186 to establish an additional initial and renewal registration fee of \$100 for plug-in electric vehicles; amend KRS 186.010 to define "plug-in electric vehicle"; EFFECTIVE 1/1/2017.  
(Prefiled by the sponsor(s).)

**BR 63** - Representative Denver Butler (10/13/15)

AN ACT relating to reemployment of retired police officers.

Create a new section of KRS Chapter 95 to define "police officer" and "city"; permit cities to employ retired police officers if the officer: participated in the Law Enforcement Foundation Program or retired as a commissioned State Police officer, retired with at least 20 years of service credit with no administrative charges pending, and met the separation of employment requirements so that retirement benefits from Kentucky Retirement Systems were not voided; specify that retired police officers employed by a city shall continue to receive the benefits they were eligible to receive upon retirement but shall not accrue any additional retirement or health benefits during reemployment; preclude retirement and any health contributions from being paid by the city to Kentucky Retirement Systems or the Kentucky Employees Health Plan on a retired officer who is reemployed under the provisions of this section; permit individuals employed under this section to be employed for a term not to exceed one year which may be renewed at the discretion and need of the city; amend KRS 61.637 to conform.

(Prefiled by the sponsor(s).)

**BR 64** - Representative David Hale, Representative James Tipton (10/26/15)

AN ACT relating to personal safety and declaring an emergency.  
Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle to a person who enters a vehicle with the reasonable, good faith belief that a minor or vulnerable adult is in imminent danger of harm if not removed from the vehicle; encourage Transportation Cabinet to implement education on children left in vehicles; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR 65** - Senator Danny Carroll (09/11/15)

AN ACT relating to the safety of minors and declaring an emergency.  
Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle to a person who enters a vehicle with the reasonable, good faith belief that a minor is in imminent danger of harm if not removed from the vehicle; encourage Transportation Cabinet to implement education on children left in vehicles; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR 67** - Representative Kelly Flood (06/11/15)

AN ACT relating to driving under the influence and declaring an emergency.  
Amend various sections in KRS Chapter 189A, relating to driving under the influence, to expand the look-back window for prior offenses from five years to 10 years; amend KRS 189A.330 to expand the window for quarterly reporting of pending DUI cases; EMERGENCY.  
(Prefiled by the sponsor(s).)



**BR 72 - Representative Brad Montell (08/11/15)**

AN ACT relating to licensing fees and making an appropriation therefor.

Amend KRS 198B.6674, 227.050, and 318.136 to determine excess funds within the Division of Heating, Ventilation, and Air Conditioning, the Division of Plumbing, and the Electrical Division of the Department of Housing, Buildings and Construction; direct excess funds to be used to credit licensing fees; limit any transfer of funds to only excess funds in the account.  
(Prefiled by the sponsor(s).)

**BR 73 - Senator Stan Humphries (12/07/15)**

AN ACT relating to TVA in-lieu-of-tax payments, making an appropriation therefor, and declaring an emergency.

Amend KRS 96.895 to provide that, beginning in fiscal year 2016-2017, a portion of the Tennessee Valley Authority (TVA) in-lieu-of-tax payment made to the Commonwealth and deposited into the general fund shall be transferred to the regional development agency assistance fund to be distributed among fiscal court-designated local industrial development authorities for economic development and job creation activities; provide that the transfers will not affect the portion of the total state TVA payment that is currently distributed among local government entities; provide that these transfers will be phased-in over a five-year period, with an amount equal to 50 percent of the general fund portion of the total state TVA payment being transferred in fiscal year 2020-2021 and each fiscal year thereafter, not to exceed \$6,000,000 each year; EMERGENCY; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR 75 - Representative Jim DuPlessis (07/29/15)**

AN ACT relating to patient notification of mammogram results showing dense tissue.

Amend KRS 304.17-316 to require the provider of mammography services to provide information to a patient on breast density when appropriate; permit the Department for Public Health to provide update the definition of "dense breast tissue" if appropriate.  
(Prefiled by the sponsor(s).)

**BR 76 - Representative Jim DuPlessis (12/10/15)**

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.

Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four terms of office and Representatives from serving more than six terms of office, whether complete or partial terms, beginning with those elected in 2018; pose question to be submitted to voters; submit to voters.

(Prefiled by the sponsor(s).)

**BR 77 - Representative Jeffery Donohue (08/31/15)**

AN ACT relating to ziplines.

Amend KRS 247.232 to define "zipline"; create a new section of KRS Chapter 247 to direct the Department of Agriculture to promulgate administrative regulations related to ziplines; require the department to establish administrative penalties and civil penalties.

(Prefiled by the sponsor(s).)

**BR 81 - Representative Greg Stumbo (12/10/15)**

AN ACT relating to the prompt payment of Medicaid claims and declaring an emergency.

Create a new section of KRS Chapter 205 to clarify how distance is calculated by a medicaid managed care organization (MCO); create new sections of KRS Chapter 205 to define terms; clarify that a medical loss ratio (MLR) is calculated as long as it supplements federal law; require the minimum MLR for an MCO to be equal to or higher than 85% for each year; establish requirements for the numerator and denominator of the MLR; require a remittance for a MLR if the 85% standard is not met; establish an attestation of accuracy and require submission of certain data; require recalculation of the MLR when a retroactive change is made to a capitation payment; prohibit bonus or incentive payments to providers or subcontractors based on whether the MLR is met or exceeded; require submission to the Department of Medicaid Services of supplemental financial schedules to reconcile expense reports; establish timeframe for submission of supplemental financial schedules; amend KRS 304.17A-730 to require the commissioner of the Department of Insurance (DOI) to enforce Kentucky's prompt payment laws as they relate to disputes between the providers of care to Medicaid recipients and Medicaid Managed care organizations and Medicaid recipients and the MCOs; allow a Medicaid recipient or provider to file a claim with the DOI for a failure to comply with Kentucky's prompt payment statutes; allow a hearing to be requested when the claim is denied or after 30 days of nonpayment; allow a hearing to be requested for a claim designated as "less than clean" after 120 days of nonpayment; allow multiple claims to be reviewed in one complaint; allow the DOI to charge a filing fee to cover its reasonable expenses; allow the DOI to investigate issues arising through the report process; require eligible claims to be filed within 30 days, require a ruling within 30 days if no hearing is held and 60 days if a hearing is held; encourage reporting form documents be forwarded to State Auditor for review; exempt fee-for-service Medicaid; permit interest rate of 14% to be charged for nonpayment and provide for additional penalties for nonpayment; require the commissioner of the DOI authority to enforce Kentucky's prompt payment laws as they relate to disputes between the DMS, Medicaid recipients, providers of care to Medicaid recipients, or a managed care company contracting with the DMS to provide care to Medicaid recipients; require the DOI to establish an internal appeals and hearing process for review of prompt payment claims; guarantee that currently existing unpaid

"clean" or "less than clean" claims or any claims that arise after the effective date of the bill and before the implementation of hearing regulations shall be guaranteed interest payments and that each day shall continue to count as a separate violation even without a hearing process established; amend KRS 304.17A-722 to require additional reporting of original and corrected claims and pharmacy claims administered by insurers; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 84 - Representative Jim DuPlessis (12/10/15)**

AN ACT relating to driving under the influence.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to provide that, regarding the five-year look back provision, anyone who violates the provisions of KRS 189A.010 is restricted to one first-time offense during his or her lifetime; and require that subsequent offenses during any five year lookback period be construed as a conviction of a second offense.

(Prefiled by the sponsor(s).)

**BR 87 - Representative Susan Westrom (12/10/15)**

AN ACT relating to the overtaking of bicycles on a roadway.

Amend KRS 189.340 to require vehicles overtaking bicycles to pass at a distance of at least three feet.

(Prefiled by the sponsor(s).)

**BR 88 - Representative Tom Burch (11/04/15)**

AN ACT relating to oral health care and making an appropriation therefor.

Create new sections of KRS Chapter 313 to establish the Kentucky Dentistry Board; establish composition, duties, and authority of the board; require a license to practice dentistry; establish licensing requirements, penalty, and appeals provisions.

(Prefiled by the sponsor(s).)

**BR 91 - Representative Dean Schamore (09/29/15)**

AN ACT relating to emergency medical services.

Amend KRS 61.315 and 164.2841 to make the survivors of emergency medical services providers and rescue squad members who are killed in the line of duty eligible for the state lump-sum death benefit and exemption of matriculation or tuition fees; amend KRS 164.2842 to include the spouse or child of a permanently and totally disabled emergency medical services provider in the exemption of matriculation or tuition fees.

(Prefiled by the sponsor(s).)

**BR 95 - Representative Johnny Bell (12/10/15)**

AN ACT relating to the Department of Corrections' farm operations.

Create a new section of KRS Chapter 193 to expand, to the extent feasible, the Department of Corrections' current Farm Operations Program to all adult correctional facilities operated within the Commonwealth, including correctional facilities operated by private contractors; include definitions for "agriculture," "agricultural commodity," "apiary," "aquaculture," "food bank," livestock," and "poultry"; restrict the consumption of food and agricultural products grown or produced under the Farm Operations Program to inmates and other enumerated individuals or organizations; require that any surplus of agricultural commodities be donated; exempt certain livestock production, use, and ; authorize the department to create an outreach program to facilitate the development of farm operations programs for county jails; require the department to promulgate administrative regulations in accordance with KRS Chapter 13A to develop a strategic plan for the implementation of the goals, objectives, and program criteria of the Farm Operations Program; identify land and property suitable for development; require the department to submit an annual report to the Interim Joint Committee on Judiciary by November 1, beginning in 2017 and provide information on the status of the program, including progress made in achieving the program's purposes, expenditures, and cost savings attributed to the program, and any other information the department can provide concerning the program's operations.

(Prefiled by the sponsor(s).)

**BR 101** - Representative Stan Lee, Representative David Meade, Representative Lynn Bechler, Representative Richard Heath, Representative Kenny Imes, Representative Kim King, Representative Tim Moore (07/16/15)

AN ACT relating to marriage.

Amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize, or to issue or record licenses for, such marriages.

(Prefiled by the sponsor(s).)

**BR 102** - Representative Addia Wuchner, Representative Joseph M. Fischer, Representative David Floyd, Representative David Hale, Representative Richard Heath, Representative Kenny Imes, Representative Kim King, Representative Stan Lee, Representative Brian Linder, Representative Brad Montell, Representative Marie Rader, Representative Sal Santoro (07/02/15)

AN ACT relating to the exercise of religious freedom in the solemnization of marriage. Amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize such marriages.

(Prefiled by the sponsor(s).)

**BR 109** - Senator Gerald A. Neal (12/10/15)

AN ACT relating to the abolition of the death penalty.

Create a new section of KRS Chapter 532 to abolish the death penalty and replace it with life imprisonment without parole for inmates presently sentenced to death; amend KRS 532.030, relating to authorized dispositions for felony offenses, to remove the death penalty; amend KRS 533.010, relating to probation, to prohibit probation for a person sentenced to life without parole or life without parole for 25 years; amend KRS 640.040, relating to penalties for juveniles convicted of felony offenses, to prohibit life imprisonment without benefit of parole, for a capital offense; amend 422.285, 532.050, and 532.100 to conform; repeal various statutes relating to imposition of the death penalty.

(Prefiled by the sponsor(s).)

**BR 113** - Representative Joni L. Jenkins (07/23/15)

AN ACT relating to civil rights.

Amend KRS 344.030 to include within the definition of reasonable accommodations, accommodations made for pregnancy, childbirth, and related medical conditions; amend KRS 344.040 to make an unlawful practice for employers who fail to accommodate an employee affected by pregnancy, childbirth, or related medical condition; require employers to provide notice to all employees regarding discrimination for pregnancy, childbirth, and related medical conditions.

(Prefiled by the sponsor(s).)

**BR 115** - Representative Reginald Meeks (12/11/15)

AN ACT relating to cemeteries and making an appropriation therefor.

Create a new section of KRS Chapter 2 to institute and describe Kentucky Cemetery Cleanup Week; create new sections of KRS Chapter 141 to declare public policy designed to recognize and preserve historic cemeteries; allow taxpayers to designate a portion of their tax refund to fund the Historic Cemetery Preservation fund; create new sections of KRS Chapter 307 to define terms; create the Kentucky Historic Cemetery Preservation Program and the Kentucky Historic Cemetery Preservation Program Board; establish the composition, powers, and duties of the board; set up the Historic Cemetery Preservation Program fund as a trust and agency account; authorize the board to expend program funds for designated purposes; list the circumstances where the board may provide grant money, technical assistance, or training; set conditions for descendant and family access to cemeteries and graves located on private property; require a cemetery operator to notify the next of kin of the improper interment of a body or cremated remains; direct the secretary of the Finance and Administration Cabinet to perform and report an inventory of Native American remains and state owned real estate suitable for reinterment of Native American remains; require cemeteries to keep sufficient records of the

specific location of every new burial or interment; establish procedures for the legislative body of a city to utilize abandoned cemetery property for a public purpose; set methods for removal of human remains from the abandoned cemetery by claimants or the city; establish penalties for failure to protect, recognize, or properly maintain burying grounds; repeal, reenact, and amend KRS 61.350 as a new section of KRS Chapter 307 to set a fine of \$500 to \$1,000 for refusing or failing to enforce a cemetery company or burying grounds statute; repeal and reenact KRS 381.690, 381.697, 381.700, 381.710, 381.715, 381.755, and 381.760 as new sections of KRS Chapter 307; repeal, reenact, and amend KRS 381.765 as a new section of KRS Chapter 307 to require that a licensed funeral director perform any movement of human remains ordered by a government entity or public utility; repeal, reenact, and amend KRS 381.767 as a new section of KRS Chapter 307 to conform; amend KRS 382.110 to direct the grantor of property to note in the deed if the property contains a cemetery; amend KRS 213.076 to require a death certificate to contain the location of the person's body or cremated remains beginning on January 1, 2017; amend KRS 381.990 and 382.990 to conform; repeal KRS 381.720, 381.730, 381.740, and 381.750.

(Prefiled by the sponsor(s).)

**BR 116** - Representative Kevin D. Bratcher, Representative Kenny Imes (07/31/15)

AN ACT relating to the posting of historical documents.

Amend KRS 158.195 to require the postings of the preambles of the US Constitution and the Kentucky Constitution in all public school classrooms; allow a classroom teacher to choose placement within the classroom.

(Prefiled by the sponsor(s).)

**BR 118** - Representative Mike Denham, Representative Addia Wuchner (10/28/15)

AN ACT relating to persons with developmental or intellectual disabilities.

Create new sections of KRS Chapter 41 to create within the Office of the State Treasurer a trust to be used to establish accounts for the benefit of disabled persons as a companion to the federal ABLE Account legislation; amend KRS 205.200 to provide that ownership or activity of an ABLE Account shall not be used when conducting means-based testing for eligibility measurements for public assistance programs.

(Prefiled by the sponsor(s).)

**BR 122** - Representative Mike Denham (09/24/15)

AN ACT relating to the impact of refunds of natural resources severance and processing tax upon distributions from the local government economic assistance fund and declaring an emergency.

Amend KRS 42.470 to provide that effective July 1, 2016, quarterly distributions



of local government economic assistance fund moneys to a mineral producing county and its cities shall be reduced by no more than 50% as a result of any refund of natural resources severance and processing tax, and that if the local share of a refund exceeds this limit the remainder shall carry forward to be offset in successive quarters as necessary until it is satisfied in full; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 125 - Senator Ralph Alvarado (09/16/15)**

AN ACT relating to physicians.

Create a new section of KRS 311.530 to 311.620 to prohibit the Board of Medical Licensure from requiring any maintenance of certification and related continuing education requirements for licensure as a physician.

(Prefiled by the sponsor(s).)

**BR 126 - Senator Ralph Alvarado (09/16/15)**

AN ACT relating to medical coverage.

Amend KRS 304.17A-254 to establish a policy governing the procedures for an insurer changing an existing agreement with a provider; amend KRS 304.17A-545 to require an insurer offering a health benefit plan to establish a policy governing the procedures for a Managed Care Organization changing an existing agreement with a provider.

(Prefiled by the sponsor(s).)

**BR 127 - Senator Ralph Alvarado (09/16/15)**

AN ACT relating to the Board of Medical Licensure.

Amend KRS 311.530 to stipulate that appointees shall be appointed from a list of names submitted by the Kentucky Medical Association and delete language requiring the Governor to ensure that specialties are represented.

(Prefiled by the sponsor(s).)

**BR 131 - Senator Ralph Alvarado (10/14/15)**

AN ACT relating to Medicaid provider appeals and declaring an emergency.

Create new sections of KRS Chapter 205 to define terms, and permit a provider that has exhausted an internal appeals process of a Medicaid managed care organization (MCO) to be entitled to an administrative appeals hearing; require an MCO to send a final determination letter; establish proceedings for an administrative appeals hearing; establish a mechanism for attorneys' fees; establish a fee for the party that does not prevail to cover costs of the proceeding; clarify that this bill applies to all MCO contracts enacted on or after July 1, 2016; amend KRS 13B.020 to include the provider appeals process as a type of administrative hearings to be conducted by the CHFS.

(Prefiled by the sponsor(s).)

**BR 134 - Representative Wilson Stone (09/02/15)**

AN ACT relating to tuition waivers for children.

Amend KRS 164.2847 to provide a tuition waiver to a student at a Kentucky public postsecondary institution if the student's biological parents are deceased or have had their parental rights terminated due to neglect or abuse, if the student was adopted by a blood relative or assigned a legal guardian at least 12 months prior to the student's 18th birthday, and if documentation and information requested to confirm eligibility status is provided.

(Prefiled by the sponsor(s).)

**BR 135 - Representative Myron Dossett, Representative Kenny Imes (08/06/15)**

AN ACT relating to the solemnization of marriage.

Amend KRS 402.050 and 446.350 to exempt persons, officials, and institutions with religious objections to any marriage from any requirement to solemnize such a marriage.

(Prefiled by the sponsor(s).)

**BR 140 - Representative Dean Schamore (10/20/15)**

A JOINT RESOLUTION designating the "Breckinridge County Veterans Memorial Highway."

Direct the Transportation Cabinet to designate US 60 in Breckinridge County as "Breckinridge County Veterans Memorial Highway" and to erect signage denoting this designation;

(Prefiled by the sponsor(s).)

**BR 141 - Representative Jeffery Donohue (08/07/15)**

A JOINT RESOLUTION designating the new downtown bridge on Interstate 65 in Jefferson County in honor of former Governor and United States Senator Wendell H. Ford.

Direct the Transportation Cabinet to designate the downtown bridge on Interstate 65 in Jefferson County as the "Wendell H. Ford Memorial Bridge," and to erect the appropriate signage.

(Prefiled by the sponsor(s).)

**BR 142 - Representative Linda Belcher (12/11/15)**

AN ACT relating to emergency epinephrine auto-injectors in child-care centers and family child-care homes.

Create a new section of KRS 199.892 to 199.896 to permit licensed child-care centers and certified family child-care homes to meet the requirements of KRS 311.646 to obtain a prescription for and store epinephrine auto-injectors for emergency use; require the Cabinet for Health and Family Services to promulgate administrative regulations to implement the requirement; amend KRS 311.645 to include licensed child-care centers and certified family child-care homes in the definition of "authorized entity."

(Prefiled by the sponsor(s).)

**BR 144 - Representative David Osborne (12/07/15)**

AN ACT relating to horse racing.

Amend KRS 138.510 to require a division of an amount equal to one percent of all money wagered on historical horse racing among the applicable breed funds based on percentage of the ownership of the associations participating in a commission-approved agreement; permit the commission to divide the one percent based upon criteria other than ownership interest, upon joint requests by the associations and with the consent of the applicable horsemen's organizations; amend KRS 230.260 to vest the commission with jurisdiction over any manufacturer, distributor, or vendor of any terminal, equipment, system, or software used to offer historical racing in Kentucky; require those entities to be licensed and permit the commission to impose a fee not to exceed \$50,000; require the commission to promulgate administrative regulations to establish requirements, conditions, and procedures for licensing, as well as a fee schedule; specify that no determination is made as to the legality of wagering on historical horse racing or as to whether or not such wagering constitutes a pari-mutuel form of wagering.

(Prefiled by the sponsor(s).)

**BR 145 - Representative Ron Crimm (12/10/15)**

AN ACT relating to the involuntary termination of parental rights and declaring an emergency.

Amend KRS 625.090 to expand the requisite grounds for the termination of parental rights to include the attempted or actual infliction of death or serious physical injury to any child, or to the parent, stepparent, de facto custodian, or guardian of the child who is the subject of the termination action; provide that the Act may be cited as "Zoe's Law"; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 146 - Representative Ron Crimm (12/10/15)**

AN ACT relating to sales and use taxation.

Amend KRS 139.570, relating to sales and use tax, to increase the maximum amount of vendor compensation from \$50 to \$250 in any reporting period; EFFECTIVE August 1, 2016.

(Prefiled by the sponsor(s).)

**BR 147 - Representative Ron Crimm (07/23/15)**

AN ACT relating to the promotion of organ and bone marrow donation.

Create a new section of KRS Chapter 141 to establish the employers' organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act of 2016.

(Prefiled by the sponsor(s).)

**BR 150** - Representative Ron Crimm (12/10/15)

AN ACT relating to elections.

Amend KRS 118.127 to permit a slate of candidates for Governor and Lieutenant Governor to appear on the ballot only in the general election, not in the primary; require a party's nominee for Governor to designate his or her nominee for Lieutenant Governor no later than the fourth Tuesday following the primary; if this designation is not filed, require the governing authority of the party to name the candidate for Lieutenant Governor; set forth the oath to be sworn to by a slate of candidates; create a new section of KRS Chapter 118 to allow a candidate for Governor to designate a replacement if the candidate for Lieutenant Governor dies, is disqualified, or is disabled; amend KRS 121.015 to redefine "slate of candidates"; amend KRS 117.275, 118.025, 118.105, 118.125, 118.245, 120.055, 120.095, 121.015, and 121.170 to conform; repeal KRS 118.227.

(Prefiled by the sponsor(s).)

**BR 153** - Representative Ron Crimm (12/10/15)

AN ACT relating to traffic control devices.

Create a new section of KRS Chapter 189 to require local governments that have installed speed bumps or speed humps on a roadway under its jurisdiction to denote the speed bumps or speed humps using a road sign or paint them so that they are clearly visible to persons traveling the roadway.

(Prefiled by the sponsor(s).)

**BR 154** - Representative David Hale, Representative Kenny Imes, Representative James Tipton (08/13/15)

AN ACT related to marriage and making an appropriation therefor.

Create a new section of KRS Chapter 213 to move marriage licensing and recording duties from county clerks to the state registrar of vital statistics, to allow a fee of \$35.50 for licenses, and to provide for the transfer of existing marriage records; amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize such marriages; amend KRS 47.110, 64.012, 142.010, 209.160, 213.116, 402.080, 402.100, 402.110, 402.210, 402.220, 402.230, and 402.990 to conform; repeal KRS 402.240 which allows county judges/executive to issue marriage licenses in the absence of a county clerk; repeal KRS 402.170 which requires county clerks to distribute marriage manuals; EFFECTIVE JANUARY 1, 2017.

(Prefiled by the sponsor(s).)

**BR 156** - Representative Jim Wayne (10/02/15)

AN ACT relating to planning and zoning in consolidated local governments.

Amend KRS 100.137 to delete language relating to certain cities and their requirements to adopt planning and zoning requirements; amend

KRS 100.201, 100.202, and 100.205 to conform.

(Prefiled by the sponsor(s).)

**BR 158** - Representative Dennis Keene (09/04/15)

AN ACT relating to involuntary treatment for substance abuse.

Amend KRS 202A.011 to include substance use in the definition of "mentally ill person"; amend KRS 218A.133 to ensure that a petition may be filed pursuant to KRS Chapter 202A.

(Prefiled by the sponsor(s).)

**BR 161** - Senator Perry B. Clark (12/11/15)

AN ACT relating to the regulation of cannabis and making an appropriation therefor.

Establish KRS Chapter 245 to regulate the cultivation, testing, processing, taxing, and sale of marijuana to persons aged twenty-one years and older; amend various sections to conform; repeal KRS 218A.1421, KRS 218A.1422, and KRS 218A.1423.

(Prefiled by the sponsor(s).)

**BR 163** - Representative Greg Stumbo (12/10/15)

AN ACT relating to access to emergency response medications in child-care centers and family child-care homes.

Create a new section of KRS 199.892 to 199.896 to require emergency response medications in child-care centers and family child-care homes to be stored in a secure, unlocked location, not accessible to children; require the Cabinet for Health and Family Services to promulgate administrative regulations to implement the requirement.

(Prefiled by the sponsor(s).)

**BR 164** - Representative Chris Harris (11/05/15)

AN ACT relating to open records.

Amend KRS 61.870 to narrow the funding criteria that determines exemptions from the definition of "public agency" in the Kentucky Open Records Act.

(Prefiled by the sponsor(s).)

**BR 167** - Representative Kelly Flood (08/11/15)

AN ACT relating to superintendent screening committee membership.

Amend KRS 160.352 to require a school equity council member be appointed to the superintendent screening committee, if an equity council exists.

(Prefiled by the sponsor(s).)

**BR 173** - Representative Dennis Keene (12/10/15)

AN ACT relating to law enforcement.

Amend KRS 16.220 to allow funds from the sale of confiscated firearms to be used to purchase body-worn cameras and establish guidelines therefor.

(Prefiled by the sponsor(s).)

**BR 174** - Representative Kenny Imes (08/26/15)

AN ACT relating to travel required for certain state employees prior to appointment.

Amend KRS 18A.115 to require certain nonmerit employees to travel to Fulton or Hickman County and to Pike, Martin, or Letcher County prior to being appointed and every six years thereafter.

(Prefiled by the sponsor(s).)

**BR 176** - Representative Kenny Imes (09/24/15)

AN ACT relating to elections.

Amend KRS 242.020 to require petitions for local option elections to contain legibly printed name and year of birth; amend KRS 242.030 to require local option elections to be held on the same day as a primary or regular election and to establish filing deadlines for petitions; amend KRS 242.060 to specify who will bear the cost of the local option election; amend KRS 242.022, 242.040, 242.1242, 242.1244, 242.125, and 242.1292 to conform.

(Prefiled by the sponsor(s).)

**BR 178** - Representative Kenny Imes (08/14/15)

AN ACT proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers.

Propose to amend Section 95 of the Constitution of Kentucky to hold the elections of statewide constitutional officers in even-numbered years, every four years, beginning in 2024; provide transitional schedule; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 179** - Representative Kenny Imes (11/04/15)

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.

Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four consecutive terms of office and Representatives from serving more than eight consecutive terms of office, whether complete or partial terms, and prevent a legislator from serving more than sixteen consecutive years in the General Assembly, regardless of the House in which he or she served, beginning in 2018; allow legislators to resume service after two years have elapsed since leaving office; provide ballot language; submit to voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 180** - Representative Kenny Imes (08/14/15)

AN ACT relating to the commissioner of education.

Amend KRS 156.148 to require Senate confirmation of the commissioner of education.

(Prefiled by the sponsor(s).)



**BR 184** - Representative Joni L. Jenkins (12/10/15)

AN ACT relating to operators of taxis, buses, or other passenger vehicles for hire.

Amend KRS 508.025, relating to third degree assault, to include an assault on an operator or passenger of a taxi, bus, or other passenger vehicle for hire within that offense; amend KRS 508.050 and 525.060, relating to menacing and disorderly conduct, to increase the penalty for those offenses if the offense is committed against an operator or passenger of a taxi, bus, or other passenger vehicle for hire.

(Prefiled by the sponsor(s).)

**BR 189** - Representative Donna Mayfield (10/28/15)

AN ACT relating to abandoned infants.

Amend KRS 405.075 and 216B.190 to add staffed churches to the list of permitted safe havens at which an abandoned infant can be dropped off; prohibit criminal or civil liability for any actions taken by safe havens; and amend KRS 620.355 to delete reference to a repealed statute.

(Prefiled by the sponsor(s).)

**BR 196** - Representative Larry Clark (11/16/15)

AN ACT relating to the appropriate care and disposition of human remains.

State the purpose of the Act; amend KRS 213.076 to require the place of final disposition to be recorded on the death certificate; amend KRS 367.934 to require that any grave space, underground crypt, or mausoleum crypt must match the place of final disposition before a final payment shall be made; amend KRS 367.946 to require registrants to identify the location of each grave space, underground crypt, mausoleum and niche sold annually, and to require each registrant to submit a report listing the specific location of each grave space within the cemetery, and to require the Office of the Attorney General to establish and maintain a database; amend KRS 367.948 to require a cross-reference between grave spaces, underground crypts, and mausoleum crypts to any contract entered into for the sale of the space; create a new section of KRS 367.934 to 367.974 to require a space of at least six inches between grave spaces.

(Prefiled by the sponsor(s).)

**BR 197** - Representative Diane St. Onge (08/04/15)

AN ACT relating to drone surveillance.

Create a new section of KRS Chapter 500 to define “drone”; prohibit a law enforcement agency from using a drone to gather evidence or other information; provide exceptions; prohibit use of evidence obtained in violation; provide that the Act may be cited as the “Citizens’ Freedom from Unwarranted Surveillance Act.”

(Prefiled by the sponsor(s).)

**BR 199** - Representative Fitz Steele (08/04/15)

AN ACT relating to the property tax on unmined coal.

Amend KRS 132.820 to exempt unmined coal reserves from state and local property taxation if on January 1 of any tax year the owner or lessee of the reserve does not hold a valid permit from both the state and federal governments to mine coal from the reserve, and does not anticipate that coal will be mined from the reserve at any point during the tax year; amend KRS 131.190 to conform; make technical corrections; EFFECTIVE for property assessed on and after January 1, 2017.

(Prefiled by the sponsor(s).)

**BR 200** - Representative Fitz Steele (08/04/15)

AN ACT relating to coal severance revenues.

Amend various sections in KRS Chapter 42 to distribute 100 percent of coal severance revenues among the coal-producing counties on the basis of the tax collected on coal severed or processed in each respective county; amend KRS 143.090, 164.7890, and 164.7891 to make conforming changes; repeal KRS 42.490.

(Prefiled by the sponsor(s).)

**BR 201** - Representative Fitz Steele (08/04/15)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three day sales and use tax holiday during the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 202** - Representative Brad Montell (10/20/15)

AN ACT relating to credit freezes for protected consumers.

Create a new section of KRS 367.363 to 367.365 to define “protected person,” “representative,” and “sufficient proof of authority”; require a consumer reporting agency to place a security freeze on a protected person’s record or report upon proper request by a representative; require the freeze be placed within ten days of receiving the request; set forth when the credit reporting agency is required to remove the freeze; allow the credit reporting agency to charge a fee under certain circumstances; establish penalties for violations.

(Prefiled by the sponsor(s).)

**BR 205** - Representative Linda Belcher (12/10/15)

AN ACT relating to the use of drone for an unlawful purpose.

Create a new section of KRS Chapter 500 to define “drone”; prohibit the use of a drone for purposes of harassment, to commit acts of

voyeurism, or facilitation burglary; allow the use of drones for lawful commercial, personal, or law enforcement use; or provide that a violation of this section for use of a drone for harassment purposes is a violation and for any other purpose enumerated in the section is a Class B misdemeanor.

(Prefiled by the sponsor(s).)

**BR 206** - Senator Ralph Alvarado (10/07/15)

AN ACT relating to credit freezes for protected consumers.

Create a new section of KRS 367.363 to 367.365 to define “protected person,” “representative,” and “sufficient proof of authority”; require a consumer reporting agency to place a security freeze on a protected person’s record or report upon proper request by a representative; require the freeze to be placed within ten days of receiving the request; set forth when the credit reporting agency is required to remove the freeze; allow the credit reporting agency to charge a fee under certain circumstances; establish penalties for violations.

(Prefiled by the sponsor(s).)

**BR 209** - Representative Reginald Meeks (12/11/15)

AN ACT relating to public education concerning historical items.

Create a new section of KRS Chapter 11 to require the Historic Properties Advisory Commission to provide appropriate public education regarding items related to the Confederate States of America, African-American history, Native American history, and the history of other ethnic, cultural, or religious groups having a presence in the Commonwealth and on public display; create a new section of KRS Chapter 148 to require the Tourism, Arts and Heritage Cabinet to provide appropriate public education regarding items related to the Confederate States of America, African-American history, Native American history, and the history of other ethnic, cultural, or religious groups having a presence in the Commonwealth and on public display; create a new section of KRS Chapter 171 to require the Department for Libraries and Archives to provide appropriate public education regarding items related to the Confederate States of America, African-American history, Native American history, and the history of other ethnic, cultural, or religious groups having a presence in the Commonwealth and on public display; define certain terms.

(Prefiled by the sponsor(s).)

**BR 210** - Representative Greg Stumbo (12/11/15)

AN ACT relating to elections.

Amend KRS 121.180 to create a single threshold of \$3,000 for campaign finance reports; require state executive committees that establish a building fund account to make quarterly reports; change the date for executive committees and caucus campaign committees to file reports from

five days after the 30th day following a primary and regular election to January 31 and July 31; amend KRS 121.150 to increase individual contribution limits to \$2,000 as indexed for inflation; increase individual contribution limit to \$5,000 per year to the state executive committee of a political party; allow contributions of \$5,000 per year in the aggregate to subdivisions and affiliates of political parties; make those contributions not applicable to the cap on contributions to the state executive committee's political party building fund account; increase the contribution limit to caucus campaign committees to \$5,000, to increase the aggregate contribution amounts from permanent committees, executive committees, and caucus campaign committees to \$20,000; allow married couples to make a contribution with one check that reflects the combined individual contribution limits of each individual spouse; create a new section of KRS Chapter 117 to allow minors 16 years of age or older to be appointed as student election assistants; amend KRS 116.095 to require county clerks to redact a registered voter's Social Security number from any voter registration record that is requested by a citizen; amend KRS 117.045 and 121.230 to conform; create a new section of KRS Chapter 121 to allow the executive committee of political parties to establish building fund accounts and specify permissible and prohibited uses of funds; amend KRS 121.025 and 121.035 to specify that prohibitions on corporate contributions do not prevent a corporation from contributing to a state executive committee's political party building fund account; amend KRS 116.0452 to establish 4 p.m. local time as the deadline for voter registration applications to be deemed timely received by county clerk before voter registration books are closed; amend KRS 117.235 to allow the posting of political signs on private property that does not serve as a polling station, regardless of distance from the polling place; create a new section of KRS Chapter 160 to identify the process to be followed by a candidate to appear on an election ballot for school board member in a school district that extends across county lines; identify the process for totaling a candidate's votes and issuing a certificate of election; amend KRS 118.425 to conform; specify that certain contribution limits apply to elections after July 15, 2016.

(Prefiled by the sponsor(s).)

**BR 212** - Representative Cluster Howard (12/11/15)

AN ACT relating to unemployment insurance for military spouses.

Amend KRS 341.370 to prohibit disqualification for unemployment benefits for a worker who leaves a job to follow a military spouse who has been reassigned to another military base or duty location that is 100 miles or more from the worker's home; delete requirement that, if spouse is relocated to another state, the state must have adopted a similar statute in order for worker to receive benefits.

(Prefiled by the sponsor(s).)

**BR 213** - Representative James Tipton (11/10/15)

AN ACT relating to autopsy records.

Create a new section of KRS Chapter 72 to limit lawful distribution of autopsy photographs, images, video, or audio recordings to specified persons and agencies; amend KRS 72.992 to provide penalty for violating the prohibition on dissemination of autopsy photographs, images, or video or audio recordings.

(Prefiled by the sponsor(s).)

**BR 214** - Representative Diane St. Onge (08/25/15)

AN ACT relating to preserving the right of Kentuckians to own and use firearms.

Create new sections of KRS Chapter 237 to declare legislative intent; invalidate and nullify all federal laws and regulations restricting ownership or possession of firearms; direct the General Assembly to take all appropriate action to safeguard Kentuckians' rights to possess firearms in accordance with the second Amendment to the Constitution of the United States and Section 1 of the Constitution of Kentucky; amend KRS 527.040 to add persons who have been dishonorably discharged from the Armed Forces of the United States and persons illegally or unlawfully in the United States to the list of persons who shall not possess firearms.

(Prefiled by the sponsor(s).)

**BR 217** - Representative Larry Clark (08/14/15)

AN ACT relating to student assistants.

Create a new section of KRS Chapter 117 to allow minors 16 years of age or older to be appointed as student election assistants; amend KRS 117.045 to conform.

(Prefiled by the sponsor(s).)

**BR 219** - Representative Diane St. Onge (10/23/15)

AN ACT relating to drone harassment.

Create a new section of KRS Chapter 525 to define the new offense of drone harassment; amend KRS 446.010 to define "drone."

(Prefiled by the sponsor(s).)

**BR 222** - Senator Tom Buford (09/21/15)

AN ACT relating to donated clothing, household items, or other items.

Create a new section of KRS 367.650 to 367.670 to require proper labeling on donation boxes and donation drop-off sites when the donations do not qualify as charitable contributions for federal tax purposes; amend KRS 367.668 to require lettering to be not less than 2 inches in height; amend KRS 367.665 to grant the county attorney concurrent jurisdiction and powers with the Attorney General and allow the county attorney to impose penalties which shall be paid to the county.

(Prefiled by the sponsor(s).)

**BR 225** - Representative Kelly Flood (09/15/15)

AN ACT relating to public benefit corporations.

Amend KRS 14A.3-010, 271B.1-400, 271B.2-020, 271B.6-260, 271B.7-400, 271B.8-300, 271B.13-020, and 271B.16-210, and create a new section of Subtitle 11 of KRS Chapter 271B to establish public benefit corporations.

(Prefiled by the sponsor(s).)

**BR 228** - Representative Jim Gooch Jr. (12/09/15)

AN ACT relating to municipal electric authorities.

Create new sections of KRS Chapter 96 which permit municipal utilities to join together to buy and sell electricity and natural gas; specify elements of an agreement to create a municipal electric authority; determine what powers an authority will have, including the power to undertake projects, bonding, and other borrowing power; specify limits to financial transactions; amend KRS 45A.365 and 424.260 to conform.

(Prefiled by the sponsor(s).)

**BR 234** - Representative Jonathan Shell (10/21/15)

AN ACT relating to synthetic drugs.

Amend KRS 218A.1412 to include synthetic drugs in the offense of trafficking in a controlled substance in the first degree; amend KRS 218A.1415 to include synthetic drugs in the offense of possession of a controlled substance in the first degree; amend KRS 218A.1416 to remove reference to synthetic drugs; amend KRS 218A.1401 to include synthetic drugs in the offense of selling a controlled substance to a minor; amend 218A.410 to allow for the forfeiture of real property used to commit or facilitate offenses involving synthetic drugs; amend KRS 530.064 to include synthetic drugs in the offense of unlawful transaction with a minor in the first degree; amend KRS 530.065 to remove reference to synthetic drugs; repeal KRS 218A.1430, relating to synthetic drugs.

(Prefiled by the sponsor(s).)

**BR 236** - Representative Brad Montell (09/08/15)

A CONCURRENT RESOLUTION directing the staff of the Legislative Research Commission to study municipal bankruptcy.

Direct the staff of the Legislative Research Commission to study municipal bankruptcy.

(Prefiled by the sponsor(s).)

**BR 239** - Representative Tom Burch (11/30/15)

AN ACT relating to telehealth services.

Create a new section of KRS Chapter 205 to require the Department for Medicaid Services to submit a waiver or waiver amendment to the Centers for Medicare and Medicaid Services in order to provide coverage for home telemonitoring services and direct-to-patient telehealth services;



define terms; amend KRS 273.443 to permit community action agencies to use federal funds to ensure adequate access to health care; create a new section of KRS 273.410 to 273.453 to require the state administering agency to establish a program to permit telehealth consultation services and require Medicaid coverage; and amend KRS 205.559 to permit state administering agencies to receive Medicaid reimbursement for telehealth consultation services.

(Prefiled by the sponsor(s).)

**BR 241 - Senator Danny Carroll (09/11/15)**

AN ACT relating to the safety of animals. Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle to a person who enters a vehicle with the reasonable, good faith belief that a dog or cat is in immediate danger of death if not removed from the vehicle.

(Prefiled by the sponsor(s).)

**BR 249 - Representative Linda Belcher (11/06/15)**

AN ACT relating to maximum class size.

Amend KRS 157.360 to prohibit the number of pupils enrolled in a class on the fifteenth student instructional day from exceeding the established maximum class size; amend KRS 157.420 to conform.

(Prefiled by the sponsor(s).)

**BR 250 - Representative Linda Belcher (12/10/15)**

AN ACT relating to career readiness.

Create a new section of KRS Chapter 158 to require the Kentucky Board of Education to identify a student who obtains a minimum score of 36 on the Armed Services Vocational Aptitude Battery as career-ready.

(Prefiled by the sponsor(s).)

**BR 251 - Representative Mike Denham (11/16/15)**

AN ACT relating to the public employee health insurance trust fund.

Amend KRS 18A.2254 to prohibit any fund transfers from the public employee health insurance trust fund to the general fund, and direct that as part of the annual premium-setting process any surplus determined to exist in the balance for a prior plan year shall be transferred to the plan year for which premiums are being set so as to reduce the cost of employee premiums in that year to the extent prudently and reasonably possible.

(Prefiled by the sponsor(s).)

**BR 252 - Representative Jill York (12/09/15)**

AN ACT relating to school accountability.

Amend KRS 158.6455 to remove a student's scores from the accountability measure of a school if the student is enrolled in the school but has attended an alternative education program as a result of local school district policies or procedures for the three months prior to testing.

(Prefiled by the sponsor(s).)

**BR 254 - Representative Kim King (09/09/15)**

AN ACT relating to sex offender registrants.

Amend KRS 17.545 to prohibit sex offender registrants from being present on the grounds of a publicly owned playground without advance written permission.

(Prefiled by the sponsor(s).)

**BR 255 - Representative Kim King (09/09/15)**

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any state fiscal measure, including an appropriation or revenue-raising measure, voted upon in the Senate or House or a committee thereof; require identification of any state fiscal measure by the director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for any state fiscal measure.

(Prefiled by the sponsor(s).)

**BR 256 - Representative Kim King (09/09/15)**

AN ACT relating to foreign law.

Create a new section of KRS Chapter 454 to establish legislative intent that the rights of an individual afforded under the Constitutions of the Commonwealth and the United States take precedence over the application of any foreign law in any judicial or quasi-judicial proceeding; define specific terms; strictly construe waivers of constitutional rights; provide exceptions for corporate entities; prohibit choice of venue outside of the Commonwealth or United States to preserve the constitutional rights of the person against whom enforcement is sought.

(Prefiled by the sponsor(s).)

**BR 257 - Representative Kim King (09/09/15)**

AN ACT relating to school notification of persons authorized to contact or remove a child.

Create a new section of KRS Chapter 620 to require the Cabinet for Health and Family Services, if the cabinet is granted custody of a dependent, neglected, or abused child, to notify the school in which the child is enrolled of persons authorized to contact the child or remove the child from school grounds.

(Prefiled by the sponsor(s).)

**BR 258 - Representative Kim King (09/09/15)**

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative

pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.

(Prefiled by the sponsor(s).)

**BR 260 - Representative Tom Burch (10/08/15)**

AN ACT relating to the address protection program and declaring an emergency.

Amend KRS 14.260 to require the Secretary of State or designee to operate the address protection program; clarify that a sworn statement may be used to prove abuse or neglect; require the program to issue a document to a participant to prove the individual's county of residence; amend KRS 14.304 to allow an individual participating in the expanded address program to vote; amend KRS 23A.208 and 24A.178 to allow an administrative fee for a crime found to have an underlying factual basis of domestic violence or abuse; amend KRS 186.412 to require a circuit clerk to accept a participant's verified substitute address for driver's license applications, amend KRS 209.030 and 209A.030 to define an application assistant and exempt that individual from certain reporting requirements, EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 267 - Senator Christian McDaniel (12/11/15)**

AN ACT relating to local government pension plans.

Amend KRS 65.156 to allow local government retirement systems created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 to perform an actuarial valuation once every 5 years instead of every 3 if the system or fund has less than 6 active and retired members; make technical changes; amend KRS 67A.320 to provide that once all liabilities have been satisfied to all persons owed benefits from the pension fund covered by this section, then the board of the fund shall liquidate and distribute to the urban-county government any residual assets of the fund and shall provide a report of the actions taken by the fund to liquidate the residual assets; provide that elected members of the fund's board may also be retirees; make technical and conforming amendments; amend KRS 90.400 and 90.410 to provide that once all liabilities have been satisfied to all persons owed benefits from the pension fund covered by this section, then the board of the fund shall liquidate and distribute to the city any residual assets of the fund and shall provide a report of the actions taken by the fund to liquidate the residual assets; make technical and conforming amendments; amend KRS 95.290, 95.530, 95.622, and 95.869 to provide that once all liabilities have been satisfied to all persons owed benefits from the pension fund covered by this section, then the board of the fund shall liquidate and distribute to the city any residual assets of the fund and shall provide a report of the actions taken by the fund

to liquidate the residual assets; provide that if there are fewer than 6 active and retired members of the fund, the board shall be composed of the mayor, city treasurer or chief financial officer, and employees from the city police or fire department appointed by the mayor; make technical and conforming amendments; amend KRS 95.761 and 95.767 provide that if there are fewer than 6 active and retired members of the fund, the board shall be composed of the mayor, city treasurer or chief financial officer, and employees and members of the city legislative body appointed by the mayor; amend KRS 95.783 and 96.180 to provide that once all liabilities have been satisfied to all persons owed benefits from the pension fund covered by this section, then the board of the fund shall liquidate and distribute to the city any residual assets of the fund and shall provide a report of the actions taken by the fund to liquidate the residual assets; amend KRS 67A.655, 78.531, 95.010, 95.580, 95.590, 95.610, 95.620, 95.628, 95.762, 95.765, 95.768, 95.769, 95.771, 95.772, 95.777, 95.778, 95.779, 95.859, 95.868, 95.872, 95.875, 95.890, and 427.125 to make technical and conforming amendments; repeal 95.785.

(Prefiled by the sponsor(s).)

**BR 271 - Representative Reginald Meeks (12/11/15)**

AN ACT relating to freedom of student speech at public postsecondary education institutions.

Create a new section of KRS Chapter 164 to limit a public postsecondary institution's ability to restrict student speech on campus.

(Prefiled by the sponsor(s).)

**BR 272 - Representative Tom Burch (11/30/15)**

AN ACT relating to temporary removal hearings.

Amend KRS 620.100 to require that counsel appointed prior to a temporary removal hearing to represent a child or an indigent parent, custodian, or other party must have been trained in domestic violence issues.

(Prefiled by the sponsor(s).)

**BR 277 - Representative Tom McKee (11/09/15)**

AN ACT relating to tobacco products.

Amend KRS 138.130 to define "reference tobacco products"; exclude reference tobacco products from the definition of "tobacco products" and "snuff"; EFFECTIVE August 1, 2016.

(Prefiled by the sponsor(s).)

**BR 288 - Representative Myron Dossett (10/02/15)**

AN ACT relating to exemptions from workers' compensation coverage.

Amend KRS 342.650 concerning exemptions from workers' compensation to include lawn services as well as maintenance, repair, remodeling, or similar work on a private home for

not more than 20 days.

(Prefiled by the sponsor(s).)

**BR 289 - Representative Brad Montell (10/16/15)**

AN ACT relating to an income tax deduction for qualified tuition programs.

Amend KRS 141.010 to allow a tax deduction for contributions to a qualified tuition program for higher education.

(Prefiled by the sponsor(s).)

**BR 290 - Senator C.B. Embry Jr. (12/11/15)**

AN ACT relating to problem, compulsive, or pathological gambling and making an appropriation therefor.

Amend KRS 222.005 to define "pathological gambling" and "problem gambling"; create new sections of KRS Chapter 222 to establish the Problem and Pathological Gamblers Awareness and Treatment Program; direct the use of funds and limit annual administrative costs to \$200,000; establish the Gamblers Awareness and Treatment Program Advisory Council; establish the council's membership and responsibilities; require the Cabinet for Health and Family Services to promulgate administrative regulations in collaboration with the council; establish a funding and application process, certify disbursement of funds, and require reports annually; assign responsibilities to the director of the Division of Behavioral Health; amend KRS 222.001 and 222.003 to conform; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR 292 - Representative Lynn Bechler, Representative Tim Couch, Representative Jim DeCesare, Representative Jim DuPlessis, Representative David Floyd, Representative Kim King, Representative Stan Lee, Representative Brian Linder, Representative Tim Moore, Representative Bart Rowland, Representative James Tipton, Representative Ken Upchurch (10/09/15)**

AN ACT prohibiting the use of public resources for abortion services.

Amend KRS 311.720 to define "abortion services"; amend KRS 311.715 to define "affiliate", to provide that public funds shall not be paid to any entity or affiliate of an entity that provides abortion services, and to establish exceptions.

(Prefiled by the sponsor(s).)

**BR 298 - Representative Linda Belcher (11/06/15)**

AN ACT relating to tuition waivers for foster children.

Amend KRS 164.2847 to permit tuition waivers for foster children enrolled in a dual credit or dual enrollment course in high school.

(Prefiled by the sponsor(s).)

**BR 300 - Representative Mary Lou Marzian (10/20/15)**

A CONCURRENT RESOLUTION urging the Congress of the United States to propose an amendment to the Constitution of the United States to allow Congress and the States to set reasonable limits on spending to influence elections.

Urge Congress to propose an amendment to the Constitution of the United States to allow Congress and the states to set reasonable limits on spending to influence elections.

(Prefiled by the sponsor(s).)

**BR 301 - Representative Rick G. Nelson (10/14/15)**

AN ACT relating to Kentucky jobs.

Create new sections of KRS Chapter 336 establish definitions and to require contractors in public works projects over \$250,000 to have 51% of its employees be Kentucky residents and 15% of its employees be apprentices in an approved apprenticeship program for the entirety of the project; require, for public works projects under \$250,000, contractors to have at least one apprentice in an approved apprenticeship program; require a public authority to include the employment requirements in the bid and contract for the public works project and provide written notice of the requirements; grant the Department of Workplace Standards enforcement authority over violations by public authorities or contractors; amend KRS 336.990 to provide civil penalties for violation; designate the Act as the "Kentucky Jobs Act."

(Prefiled by the sponsor(s).)

**BR 303 - Representative Sannie Overly (12/11/15)**

AN ACT relating to credit freezes for consumers.

Amend KRS 367.363 to define "protected person," "representative," and "sufficient proof of authority"; amend KRS 363.365 to require a consumer reporting agency to place a security freeze on a protected person's record or report upon proper request by a representative; require the freeze to be placed within twenty days of receiving the request; establish when the credit reporting agency is required to temporarily lift or remove the freeze; allow the credit reporting agency to charge a fee under certain circumstances; establish penalties for violations.

(Prefiled by the sponsor(s).)

**BR 304 - Representative Bart Rowland (12/10/15)**

AN ACT relating to energy efficiency tax credits.

Amend KRS 141.435 and 141.436 to extend the energy efficiency tax credits for taxable years beginning on or after January 1, 2016, but no later than January 1, 2020, in the case of property used as on-farm poultry or livestock raising facilities.

(Prefiled by the sponsor(s).)

**BR 307 - Representative Dean Schamore (10/20/15)**



AN ACT related to unclaimed property.

Amend KRS 393.280 to require the State Treasurer to promulgate administrative regulations to exempt an administrator or an executor of an estate from submitting a Social Security number and a driver's license when making a claim from unclaimed property on behalf of an estate..

(Prefiled by the sponsor(s).)

**BR 310** - Senator Ralph Alvarado (10/02/15)

AN ACT relating to utilization reviews.

Amend KRS 304.17A-600 to include the Accreditation Association for Ambulatory Health Care (AAAHC) in the definition of nationally recognized accreditation organizations.

(Prefiled by the sponsor(s).)

**BR 319** - Senator Julian M. Carroll (10/07/15)

AN ACT relating to school safety and declaring an emergency.

Create a new section of KRS Chapter 158 to require school resource officers to have basic and advanced training provided by the Department of Criminal Justice Training; amend KRS 158.441 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 322** - Representative Steve Riggs (12/09/15)

AN ACT creating the Office of Inspector General in the Department for Local Government.

Amend KRS 147A.002 to create the Office of Inspector General within the Department for Local Government; create a new section of KRS Chapter 147A to set duties and authorities of the Office of Inspector General.

(Prefiled by the sponsor(s).)

**BR 326** - Representative Arnold Simpson (10/27/15)

AN ACT relating to the distribution of fuel tax revenues and declaring an emergency.

Amend KRS 177.320, regarding allocation of a portion of fuel tax revenue to the rural secondary and county road aid funds, to change the revenue sharing formula to divide 48.2% of motor fuel tax revenues between incorporated and unincorporated areas based on population, road mileage, and land area; clarify that the share of the three splits allocated to incorporated areas shall be used by cities in accordance with Sections 3,4, and 5 of the Act; clarify that the share of the three splits allocated to unincorporated areas shall be used by counties, with 54.8% going to rural secondary roads and 45.2% used for county roads; amend KRS 177.360 to eliminate the formula of fifths for allocation of rural secondary and county road aid funds among the counties and instead allocate funds to counties based on population, road mileage and land area; amend KRS 177.365 to clarify that the allocation of fuel taxes to incorporated areas shall be used by cities for city streets; eliminate references to "urban roads"; amend KRS 177.366

to eliminate the use for population as the sole factor in distributing municipal road aid funds and instead allocate funds based on population, road mileage, and land area; eliminate references to "unincorporated urban places"; amend KRS 177.369 to eliminate references to counties, urban roads, and unincorporated urban places; amend KRS 177.010 to define the term "revenue sharing road" amend KRS 177.330, 179.410, 179.415, 138.220, 177.020, 177.037, and 177.055 to conform; repeal KRS 67.805 and 81.015; EMERGENCY, EFFECTIVE JULY 1, 2016.

(Prefiled by the sponsor(s).)

**BR 332** - Representative Tom Burch (10/14/15)

A JOINT RESOLUTION relating to a per diem increase for the care of children placed in state foster homes.

Direct the Cabinet for Health and Family Services to expend appropriated funds to provide the Department for Community Based Services foster homes with a per diem increase of six percent beginning July 1, 2016; urge the General Assembly to appropriate \$1.5 million for each fiscal year to provide for the six percent increase.

(Prefiled by the sponsor(s).)

**BR 334** - Representative Kenny Imes (10/09/15)

AN ACT proposing to amend Sections 91, 93, and 95 of the Constitution of Kentucky relating to the Commissioner of Education.

Propose to amend Sections 91, 93, and 95 of the Constitution of Kentucky to allow for statewide election for the Commissioner of Education, to be held during regular elections.

(Prefiled by the sponsor(s).)

**BR 337** - Representative Dennis Keene (10/06/15)

AN ACT relating to tax increment financing.

Amend KRS 154.30-060 to expand the definition of "mixed-use" project, and to delete the upper investment limit on a project that can qualify as a mixed-use development project; provide that the provisions of the act are effective for applications received after the effective date.

(Prefiled by the sponsor(s).)

**BR 338** - Senator Julie Raque Adams (12/10/15)

AN ACT relating to open juvenile proceedings.

Create new sections of KRS Chapter 21A to request that the Supreme Court establish a pilot project to permit participating courts to make specified juvenile proceedings presumptively open to the public; establish guidelines; provide a mechanism for a participating court to close a specific hearing upon a finding of cause; create a new section of KRS Chapter 610 to conform.

(Prefiled by the sponsor(s).)

**BR 340** - Representative Kevin D. Bratcher

(11/16/15)

AN ACT relating to military service.

Amend KRS 159.035 to allow for any high school student participating in basic training required by a branch of the United States Armed Forces to be considered present for all purposes for up to ten days.

(Prefiled by the sponsor(s).)

**BR 341** - Senator Ray S. Jones II, Senator Johnny Ray Turner (10/01/15)

AN ACT relating to coal severance revenues.

Amend various sections of KRS Chapter 42 to distribute 100 percent of coal severance revenues among the coal-producing counties on the basis of the tax collected on coal severed or processed in each respective county; amend KRS 143.090, 164.7890, and 164.7891 to make conforming changes; repeal KRS 42.490.

(Prefiled by the sponsor(s).)

**BR 348** - Senator Dennis Parrett (11/09/15)

AN ACT relating to financial literacy.

Create a new section of KRS Chapter 158 to require the Department of Education to develop and implement the Kentucky Financial Literacy Program; require a high school student to complete instruction in financial literacy, included within the existing curriculum, prior to graduation.

(Prefiled by the sponsor(s).)

**BR 356** - Representative Jim DeCesare (11/09/15)

A RESOLUTION encouraging school bus safety.

Encourage the Kentucky Center for School Safety to provide additional support for school bus safety; encourage the Kentucky Department of Education to provide additional training specifically geared for bus safety of young students; encourage the Kentucky School Boards Association to provide model policies to ensure greater safety for young students while boarding and disembarking from school buses.

(Prefiled by the sponsor(s).)

**BR 362** - Senator Ralph Alvarado (10/30/15)

AN ACT relating to evidence in medical malpractice actions.

Create a new section of the Kentucky Rules of Evidence to prohibit the introduction of expressions of sympathy, compassion, commiseration, or a general sense of benevolence in medical malpractice actions.

(Prefiled by the sponsor(s).)

**BR 364** - Senator Ray S. Jones II (10/27/15)

AN ACT relating to prevention-oriented child sexual education.

Amend KRS 156.070 to permit the

establishment of age-appropriate education programs pertaining to the recognition of child physical, sexual, and emotional abuse and neglect and how to report suspected abuse; create a short title, "Erin's Law," for Section 1 of this Act and KRS 156.095(7).

(Prefiled by the sponsor(s).)

**BR 369** - Senator Julian M. Carroll (10/21/15)

A CONCURRENT RESOLUTION encouraging the Kentucky Board of Education to continue and expand collaboration with the Council on Postsecondary Education, the Education Professional Standards Board, the Kentucky Chamber of Commerce, and industry interests to develop and align policies and practices to support strong career pathways that help more students earn industry and postsecondary credentials and obtain good jobs.

Encourage the Kentucky Board of Education to continue and expand collaboration with the Council on Postsecondary Education, the Education Professional Standards Board, and the Kentucky Chamber of Commerce to align policies and practices in support of career and technical education.

(Prefiled by the sponsor(s).)

**BR 371** - Representative Jody Richards (10/30/15)

AN ACT relating to donated clothing, household items, or other items.

Create a new section of KRS 367.650 to 367.670 to require proper labeling on donation boxes and donation drop-off sites when the donations do not qualify as charitable contributions for federal tax purposes; amend KRS 367.668 to require lettering to be not less than 2 inches in height; amend KRS 367.665 to grant the county attorney concurrent jurisdiction and powers with the Attorney General and allow the county attorney to impose penalties which shall be paid to the county.

(Prefiled by the sponsor(s).)

**BR 378** - Representative Jonathan Shell (10/19/15)

AN ACT relating to eligibility for public assistance.

Amend KRS 205.200 to require the Cabinet for Health and Family Services to implement a substance abuse screening program for applicants and recipients of public assistance who have a felony or misdemeanor history of substance abuse; permit the cabinet to design the program and utilize testing of blood or urine or other reliable methods of substance abuse detection; state conditions under which an adult person is ineligible for public assistance; require testing as a requirement before the receipt of public assistance and once each subsequent year; require the cabinet to promulgate administrative regulations governing the program and testing, including requirements that applicants pay for all substance abuse screening costs and receive a

reimbursement if the test is passed; grant the right to additional screenings for applicants who fail a test; require both parents in two-parent families to comply with screening requirements if both parents have a felony or misdemeanor history of substance abuse; require that an individual who fails a test receive a list of licensed substance abuse treatment providers in his or her area; require passage of a drug test before receiving benefits; permit parents or guardians who fail a test to designate another individual to receive benefits for the parent's minor children; require designated individuals to pass substance abuse screenings; create a 60-day grace period to enter a treatment program after the initial positive test; require individuals to pay for a test at the end of the 60-day grace period; provide that if they pass that test, they must pass two additional randomized testings during the next 24 months, or if an individual tests positive after the 60-day grace period, he or she must show evidence of having entered a substance abuse treatment program within 14 days, during which time, benefits may be suspended and only be payable for the benefit of any children in that recipient's home.

(Prefiled by the sponsor(s).)

**BR 380** - Representative Jonathan Shell (10/19/15)

AN ACT relating to welfare to work.

Amend KRS 205.200 to establish a graduated earnings disregard program to incentivize public assistance recipients to seek employment.

(Prefiled by the sponsor(s).)

**BR 396** - Representative Stan Lee, Representative Lynn Bechler, Representative Robert Benvenuti III, Representative Tim Couch, Representative Ron Crimm, Representative Jim DeCesare, Representative Kenny Imes, Representative Jerry T. Miller, Representative Phil Moffett, Representative Addia Wuchner (10/30/15)

AN ACT relating to interscholastic extracurricular activities.

Create a new section of KRS Chapter 158 to authorize participation in a public school interscholastic extracurricular activity by a private school student when the private school does not offer the interscholastic extracurricular activity; establish criteria for participation therein.

(Prefiled by the sponsor(s).)

**BR 402** - Senator Max Wise (11/10/15)

AN ACT relating to cardiopulmonary resuscitation training in schools.

Create a new section of KRS Chapter 158 to require that students receive CPR training one time while enrolled in grades 7-12.

(Prefiled by the sponsor(s).)

**BR 407** - Representative Arnold Simpson (11/12/15)

AN ACT relating to the Kentucky Driver Manual.

Create a new section of KRS Chapter 186 to direct the Office for the Blind to provide the Kentucky State Police with language regarding visually impaired and blind pedestrians to be added to the Kentucky Driver Manual.

(Prefiled by the sponsor(s).)

**BR 408** - Representative Jim Gooch Jr. (12/09/15)

AN ACT relating to state authority to regulate air quality.

Amend KRS 224.20-125 to prohibit the Energy and Environment Cabinet from promulgating administrative regulations or imposing permit conditions to reduce carbon dioxide under federal rules or federal plan unless authorized by either the Kentucky General Assembly or if carbon dioxide is designated by the United States Congress as a criteria pollutant under the Clean Air Act; declare Kentucky a sanctuary state from over-reaching regulatory authority of the United States Environmental Protection Agency to implement carbon dioxide limits under the Clean Power Plan.

(Prefiled by the sponsor(s).)

**BR 409** - Representative Tom Burch (11/30/15)

AN ACT relating to abandoned infants.

Amend KRS 405.075, 216B.190, 211.951, and 620.350 to increase the age limit in the definition of a newborn infant to 30 days for the purposes of The Representative Thomas J. Burch Safe Infants Act; and amend KRS 405.075 and 620.355 to delete a reference to a repealed statute.

(Prefiled by the sponsor(s).)

**BR 413** - Representative Tom Burch (12/10/15)

AN ACT relating to colon cancer prevention.

Amend KRS 214.542 to include eligible underinsured individuals in the colon cancer screening program; direct the Department for Public Health to promulgate administrative regulations to develop a schedule of income-based fees that may be charged for screening, examination, treatment, and rescreening and a data collection system to document the services performed under the program.

(Prefiled by the sponsor(s).)

**BR 416** - Representative Mike Denham (11/16/15)

A JOINT RESOLUTION designating a portion of Kentucky Route 324 in Mason County in honor and memory of Colonel Charles Young for his dedication to service to our country and distinction as the highest-ranking African American officer in the United States Armed Forces until his death.

Direct the Transportation Cabinet to designate a portion of Kentucky Route 324 in Mason County in honor and memory of Col. Charles Young.

(Prefiled by the sponsor(s).)



**BR 418** - Representative Jeffery Donohue (12/11/15)

AN ACT relating to railroads.

Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.

(Prefiled by the sponsor(s).)

**BR 423** - Representative Jody Richards (12/11/15)

AN ACT relating to tax credits promoting research and development at Kentucky public universities.

Amend KRS 141.395 to establish a qualified research income tax credit for certain research expenses paid or incurred by the taxpayer to a Kentucky public university; declare purpose of the credit and require annual reporting to the Legislative Research Commission to enable the impact of the credit to be evaluated; sunset the tax credit currently permitted for the construction of research facilities; provide for the ordering of the credit; declare short title of the Act to be the Kentucky University Research and Development Advancement Act of 2016.

(Prefiled by the sponsor(s).)

**BR 428** - Senator Julian M. Carroll (10/29/15)

AN ACT relating to funding of government services and making an appropriation therefor.

Create a new section of KRS Chapter 42 establishing the county jail restricted fund; establish mechanism for funding; establish process of expending fund receipts; amend KRS 30A.120 to provide direction to circuit clerks on depositing receipts of specified fines collected; amend KRS 56.990, 177.530, 186.991, 187.990, 189.2329, 189.394, 189.751, 189.945, 189.990, 189.993, 189A.010, 534.040, and 534.050 to increase fines resulting from violations of motor vehicle licensing, registration, and traffic law infractions, and increase fines that may be imposed as a result of convictions of violations or Class A or Class B misdemeanor offenses, with a percentage of each fine directed to the fund.

(Prefiled by the sponsor(s).)

**BR 432** - Representative Brent Yonts (11/23/15)

AN ACT relating to government contracts. Amend various sections in KRS Chapter 45A to expand and refine the list of entities included in definition of "contracting body"; allow the Government Contract Review Committee to determine the definition of "governmental emergency"; refine the definition of "memorandum of agreement"; correct references to universities and colleges and institutions of higher education; refine the definition of "personal service contract" to eliminate professional skill or judgment requirement and specifically include contracts for personal or

professional services and group health care for public employees; allow the committee to establish reporting schedule for exempt personal service contracts and memoranda of agreement; exempt contracts between postsecondary institutions and health care providers, but require reporting of such contracts; require committee review of all personal service contracts and memoranda of agreement in excess of \$1,000,000, except for contracts involving child support collections which are exempted; exempt contracts \$40,000 and under from request for proposals process, but require three quotes when feasible, and determination of unfeasibility may be reviewed by the secretary of the Finance and Administration Cabinet or the committee; exempt contracts \$40,000 and under not requiring professional skill or judgment from routine review process, but require filing within 30 days for informational purposes; prohibit delegation of decision-making authority by secretary of the Finance and Administration Cabinet, except with respect to institutions of higher education that have elected to implement procurement procedures in accordance with statutory authority; delete requirement for annual reports; delineate powers of the committee.

(Prefiled by the sponsor(s).)

**BR 435** - Senator Joe Bowen (12/02/15)

AN ACT relating to crimes and punishments.

Create new sections of KRS Chapter 531 to prohibit a person under 18 years of age from transmitting a nude image of himself, herself, or another person under 18 years of age to another person by computer or electronic means as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction; prohibit registration as sex offender; prohibit possession of a nude image of a person under 18 years of age as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction for person under 18 at time of commission of offense and District Court jurisdiction for persons over 18; prohibit registration as sex offender.

(Prefiled by the sponsor(s).)

**BR 436** - Representative Bart Rowland (12/10/15)

AN ACT relating to film industry incentives.

Amend KRS 148.542 to allow all counties covered by the Appalachian Regional Commission to receive enhanced film industry incentives.

(Prefiled by the sponsor(s).)

**BR 441** - Representative Jim Wayne (11/13/15)

AN ACT relating to taxation.

Amend KRS 141.066 and 141.0205 to implement a Kentucky earned income tax credit; amend KRS 141.200 to require combined reporting of business income; amend KRS 141.120 to implement a throwback rule for income not

taxed elsewhere and to provide sourcing of certain sales; amend KRS 141.205 to disallow tax haven transactions and require disclosure of all reportable transactions; amend KRS 136.310, 136.530, 141.040, 141.0401, 141.121, 141.206, and 141.420 to conform; provide that the Act applies to taxable years beginning on or after January 1, 2016.

(Prefiled by the sponsor(s).)

**BR 442** - Representative Jim Wayne, Representative Russell Webber (11/05/15)

AN ACT relating to tax credits for airport noise mitigation.

Create a new section of KRS Chapter 141 and amend KRS 141.0205 to create a refundable income tax credit for the costs of mitigating noise from a commercial airport; make tax credit applicable to tax years beginning on or after January 1, 2016.

(Prefiled by the sponsor(s).)

**BR 452** - Representative Jody Richards (12/11/15)

AN ACT relating to the unemployment tax credit.

Amend KRS 141.065 to allow an income tax credit for taxable years beginning on or after January 1, 2016, but before January 1, 2020, equal to \$1,000 for employers who hire certain unemployed individuals, if the individual was employed in the coal industry immediately prior to becoming unemployed; limit the current unemployment tax credit to taxable years beginning before January 1, 2020; define the purpose of the tax credits and data required to determine if the tax credits achieve the purpose; require the Department of Revenue to provide information on these credits to the Legislative Research Commission; amend KRS 141.0205 to order the credit.

(Prefiled by the sponsor(s).)

**BR 460** - Senator Tom Buford (12/11/15)

A CONCURRENT RESOLUTION directing the staff of the Legislative Research Commission to study the Kentucky Adult Drug Court participant demographics and the correlation, if any, among entry into, access to, participation in, and completion of the drug court program.

Direct the staff of the Legislative Research Commission to study Kentucky Adult Drug Court program participant demographics and associated statistical data; direct that findings be reported to the Legislative Research Commission, for distribution to the appropriate committee or committees, by December 1, 2016.

(Prefiled by the sponsor(s).)

**BR 462** - Representative Darryl T. Owens (12/11/15)

AN ACT relating to student assessments.

Amend KRS 158.6453 to require that, beginning in the 2017-2018 academic year, assessments authorized as part of the state

assessment program shall not collectively consume more than five percent (5%) of any student's instructional time during a student instructional year.

(Prefiled by the sponsor(s).)

(Prefiled by the sponsor(s).)

**BR 463** - Representative Gerald Watkins (12/09/15)

AN ACT relating to nuclear power.

Amend KRS 278.605 to allow construction of a nuclear power facility on or within 50 miles of a site previously used for the manufacture of nuclear products.

(Prefiled by the sponsor(s).)

**BR 466** - Senator John Schickel (11/13/15)

AN ACT relating to school councils.

Amend KRS 160.345 to require the school superintendent or designee to consult with the principal or principal's designee and the school council when establishing school policy, making personnel decisions, determining instructional materials, and student support services; allow a principal vacancy to be filled by the superintendent; require the superintendent to adopt policies to be implemented in the schools; require the superintendent to plan professional development; require the principal or principal's designee to develop and implement a wellness policy; amend KRS 158.197 to allow the principal or principal's designee to authorize the display of specific educational materials; amend KRS 158.153, 158.792, and 158.844 to conform.

(Prefiled by the sponsor(s).)

**BR 467** - Senator John Schickel, Senator Dan "Malano" Seum, Senator Joe Bowen, Senator Jimmy Higdon (11/13/15)

AN ACT relating to judicial redistricting.

Create a new section of KRS Chapter 21A to require the Supreme Court to analyze and propose adjustments to the Commonwealth's judicial circuits and districts and the judicial assignments therein to account for population changes and caseloads in the same years as legislative redistricting is required.

(Prefiled by the sponsor(s).)

**BR 473** - Senator Tom Buford (12/11/15)

AN ACT relating to emergency medical services.

Amend KRS 61.315 to make the survivors of emergency medical services providers who are killed in the line of duty on or after July 1, 2014, eligible for the state lump-sum death benefit; designate as the John Mackey Memorial Act.

(Prefiled by the sponsor(s).)

**BR 474** - Representative Mike Denham (12/09/15)

AN ACT relating to tangible personal

property used in the production of equine.

Amend KRS 139.480 to exempt feed and feed additives, seeds, commercial fertilizers, farm chemicals, farm machinery, water, fuels, and on-farm facilities used in the production of equine from the sales and use tax; amend KRS 130.470 to conform; EFFECTIVE July 1, 2015.

(Prefiled by the sponsor(s).)

**BR 476** - Representative Rick G. Nelson (11/30/15)

AN ACT relating to electric utility billing.

Create a new section of KRS Chapter 278 to place a cap on the amount that an electric utility can bill for a basic service charge.

(Prefiled by the sponsor(s).)

**BR 486** - Representative Stan Lee, Representative Kenny Imes (12/07/15)

AN ACT relating to qualified immunity.

Create a new section of KRS Chapter 161 to limit a school official's civil liability resulting from any act or omission resulting from the supervision, care, or discipline, of students if undertaken under specific enumerated circumstances; provide that this Act does not apply to civil actions filed prior to the effective date of this Act.

(Prefiled by the sponsor(s).)

**BR 489** - Representative Rita Smart (12/10/15)

AN ACT relating to inheritance tax.

Amend KRS 140.070 to modify the inheritance tax exemption and rates for Class A and B beneficiaries; repeal KRS 140.080; make conforming changes; apply to dates of death occurring on or after January 1, 2016.

(Prefiled by the sponsor(s).)

**BR 490** - Representative Linda Belcher (12/09/15)

AN ACT relating to child abuse information in schools.

Amend KRS 156.095 to require every public school to post the Kentucky child abuse hotline number.

(Prefiled by the sponsor(s).)

**BR 492** - Representative Jeff Hoover (12/04/15)

AN ACT relating to insurance coverage of autism spectrum disorders.

Create a new section of KRS Chapter 304.17A requiring that health benefit plans that provide benefits for autism spectrum disorders treatment provide a liaison to the insured to facilitate communication between the insured and the insurer.

(Prefiled by the sponsor(s).)

**BR 800** - Representative Larry Clark (11/24/15)

AN ACT relating to districts of innovation.

Amend KRS 160.107 to allow a waiver or modification of the statewide assessment system for schools participating in a district of innovation

plan, under specific conditions; allow a district of innovation to use student assessments other than those required by the state board, under specific conditions.

(Prefiled by the sponsor(s).)

**BR 801** - Representative Larry Clark (11/24/15)

AN ACT relating to the taxation of electronic cigarettes.

Amend KRS 138.130 to create a definition for "electronic cigarettes" and amend definition of "tobacco products" to include "electronic cigarettes"; EFFECTIVE August 1, 2016.

(Prefiled by the sponsor(s).)

**BR 805** - Representative Rita Smart (12/09/15)

AN ACT relating to chemical munitions disposal and declaring an emergency.

Amend KRS 224.50-130 to delete references to gaps in information on the acute and chronic health effects of exposure to compounds used in chemical munitions; require that, after the compounds in chemical munitions are treated to specific treatment or destruction values set by law or by the Energy and Environment Cabinet, the Energy and Environment Cabinet shall reclassify the residual wastes to ensure proper management and disposal; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 806** - Representative Greg Stumbo (11/20/15)

AN ACT relating to horse racing.

Amend KRS 230.280 to prohibit an applicant from holding more than one racing license, unless a licensee is seeking to acquire a license from another licensee to transfer the location and buys all the assets and liabilities of the other licensee.

(Prefiled by the sponsor(s).)

**BR 809** - Representative Reginald Meeks (12/11/15)

A CONCURRENT RESOLUTION establishing the Gun Safety and Violence Prevention Task Force.

Request that the Legislative Research Commission create the Gun Safety and Violence Prevention Task Force to study public safety, public protection, and gun safety issues.

(Prefiled by the sponsor(s).)

**BR 810** - Representative Gerald Watkins (12/11/15)

AN ACT relating to surface mining.

Amend KRS 350.450 to require coal mine permittees for all types of mining practices to dispose of remaining overburden in the mined area, areas under the abandoned mine land program, or areas approved by the Energy and Environment Cabinet; require use of lifts and compacted fills; prohibit disposal of overburden in streams; amend KRS 350.440 to prohibit disposal of spoil or overburden



in intermittent, perennial, and ephemeral streams or other waters of the Commonwealth; prescribe areas where spoil may be disposed of; amend KRS 350.410 to make internal reference corrections and specify that restoration to approximate original contour includes configuration and elevation of the area prior to mining; require disposal of remaining overburden in the mined area, areas under the abandoned mine land program, or areas approved by the cabinet, and the use of lifts and compacted fills; prohibit depositing overburden in streams.

(Prefiled by the sponsor(s).)

**BR 817** - Representative Mike Denham (12/01/15)

AN ACT relating to the posting of historical documents.

Amend KRS 158.194 to require a principal to determine the most efficient manner to produce classroom copies of the Bill of Rights; allow each teacher to choose the placement of the document within the classroom and to remove during assessments; amend KRS 158.195 to require the postings of the preambles to the United States Constitution and the Kentucky Constitution in all public school classrooms; require a principal to determine the most efficient manner to produce classroom copies of the documents; allow each classroom teacher to choose placement of the documents within the classroom and to remove during assessments.

(Prefiled by the sponsor(s).)

**BR 822** - Senator Christian McDaniel (12/09/15)

AN ACT proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers.

Propose to amend Section 95 of the Constitution of Kentucky to hold the election of the Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State and Commissioner of Agriculture, Labor and Statistics in even-numbered years, every four years, beginning in 2024; provide transitional calendar; submit to the voters for ratification or rejection. Provide ballot language.

(Prefiled by the sponsor(s).)

**BR 824** - Senator Christian McDaniel (12/11/15)

AN ACT relating to the disclosure of public retirement information.

Amend KRS 61.661, 161.585, and 21.540 to require the disclosure, upon request, of the retirement benefit information of current and former members of the General Assembly, including their name, status, and projected or actual retirement benefit payments and benefits of the same from Kentucky Retirement Systems, Kentucky Teachers' Retirement System, Legislators' Retirement Plan, and the Judicial Retirement Plan.

(Prefiled by the sponsor(s).)

**BR 838** - Representative Mike Denham (12/11/15)

AN ACT relating to strangulation.

Create new sections of KRS Chapter 508 to create the new crimes of strangulation in the first degree as a Class C felony, and strangulation in the second degree as a Class D felony.

(Prefiled by the sponsor(s).)

**BR 845** - Representative Rita Smart (12/10/15)

A JOINT RESOLUTION designating the "Officer Daniel Ellis Memorial Highway" in Madison County.

Designate the "Officer Daniel Ellis Memorial Highway" in Madison County.

(Prefiled by the sponsor(s).)

**BR 853** - Representative David Meade (12/11/15)

AN ACT relating to adoption.

Create new sections of KRS Chapter 199 to establish a putative father registry in the Cabinet for Health and Family Services; prescribe the data the registry will contain and who may access the data; amend KRS 199.480 and 199.990 to conform; amend KRS 199.473 to create a unified application for permission to place or receive a child; amend KRS 199.500 to redefine the time at which a voluntary and informed consent to adoption becomes final and irrevocable; amend KRS 199.470 to remove waiting period to file a petition for adoption; amend KRS 406.081 to require courts to resolve cases against alleged fathers who do not comply with ordered genetic testing; amend KRS 406.091 to require the party requesting the paternity action be filed to pay for genetic testing; amend KRS 625.065, 199.490, 625.040, 625.042, and 625.043 to conform.

(Prefiled by the sponsor(s).)

**BR 854** - Representative Mike Denham (12/11/15)

AN ACT relating to student transportation.

Amend KRS 156.153 to allow local boards of education to authorize the transportation of students in privately owned passenger vehicles under specific circumstances; limit liability when transporting students in a privately owned passenger vehicle; amend KRS 160.310 to set insurance requirements for transporting students in privately owned passenger vehicles; authorize the Kentucky Department of Education to promulgate administrative regulations to provide minimum insurance requirements; require boards to obtain and record evidence of adequate insurance.

(Prefiled by the sponsor(s).)

**BR 856** - Representative Rita Smart (12/09/15)

AN ACT relating to nonteaching time for teachers.

Amend KRS 158.060 to require that teachers are provided a minimum of 60 minutes per day for nonteaching activities; require that at least 120 minutes per week be used for self-directed activities; specify the types of activities permitted during self-directed time.

(Prefiled by the sponsor(s).)

**BR 884** - Senator Gerald A. Neal (12/11/15)

AN ACT relating to juries.

Amend KRS 29A.040 to add holders of adult personal identification cards issued within a county to the master list of potential jurors for that county.

(Prefiled by the sponsor(s).)

**BR 885** - Representative Reginald Meeks (12/04/15)

A CONCURRENT RESOLUTION directing the staff of the Legislative Research Commission to study the racial demographics of Kentucky's criminal juries.

Direct the staff of the Legislative Research Commission to study the racial demographics of Kentucky's criminal juries; report findings to the appropriate committee or committees by November 1, 2016.

(Prefiled by the sponsor(s).)

**BR 890** - Representative Gerald Watkins (12/11/15)

AN ACT relating to criminal attempted murder.

Amend KRS 439.3401 to make criminal attempt to commit murder of a peace officer or a firefighter an offense for which at least 85 percent of the sentence must be served before probation or parole.

(Prefiled by the sponsor(s).)

**BR 891** - Representative Gerald Watkins (12/10/15)

AN ACT relating to booking photographs.

Create a new section of KRS 61.870 to 61.884 to prohibit a person from using a booking photograph for a commercial purpose if that photograph will be posted in a publication or on a Web site, and the removal of the booking photograph requires the payment of a fee or other consideration; amend KRS 61.870 to define "booking photograph".

(Prefiled by the sponsor(s).)

**BR 892** - Representative Gerald Watkins (12/11/15)

AN ACT relating to crimes and punishments.

Create a new section of KRS Chapter 218A to apply a uniform penalty of mandatory drug treatment and community service to persons convicted of possessing certain drugs and paraphernalia; amend KRS 218A.140 to lower possession of counterfeit substances from a Class D felony to a Class A misdemeanor; amend KRS 218A.1415 to lower possession of a controlled substance from a Class D felony to a Class A misdemeanor; amend KRS 218A.1437 to lower possession of a methamphetamine precursor from a Class D felony to a Class A misdemeanor; amend KRS 218A.276 to require that defendants

convicted of possession of a counterfeit substance under KRS 218A.140, marijuana pursuant to KRS 218A.1422, synthetic drugs pursuant to 218A.1430, methamphetamine precursors pursuant to 218A.1437, salvia pursuant to KRS 218A.1451, or drug paraphernalia pursuant to KRS 218A.500 complete a drug treatment program; amend KRS 218A.275 to require that defendants convicted of possession of a controlled substance under various sections of Chapter 218A complete a drug treatment program; amend KRS 431.078 to conform.

(Prefiled by the sponsor(s).)

**BR 893 - Representative Gerald Watkins (12/10/15)**

AN ACT relating to life imprisonment for persistent felony offenders.

Amend KRS 532.080 to increase the sentence to life without the possibility of parole for offenders with three or more convictions for Class A or B felonies or capital offenses.

(Prefiled by the sponsor(s).)

**BR 894 - Representative Gerald Watkins (12/10/15)**

AN ACT relating to crimes and punishments.

Amend KRS 532.110 to require sentences for multiple Class A, B, or C felonies to run consecutively.

(Prefiled by the sponsor(s).)

**BR 895 - Representative Gerald Watkins (12/09/15)**

AN ACT relating to mental health.

Amend KRS 202A.051 to require that a District Court consult with a family member or peace officer during proceedings for involuntary hospitalization; amend KRS 202A.171 to require that an authorizing physician consult with a family member and the District Court prior to discharge from involuntary hospitalization; amend KRS 202A.081 to require that all involuntarily hospitalized patients are ordered to receive community-based outpatient treatment for at least six months after release or discharge.

(Prefiled by the sponsor(s).)

**BR 900 - Representative Sannie Overly (12/10/15)**

AN ACT relating to academic credit for military experience.

Amend KRS 164.2951 to require the Council on Postsecondary Education to develop and implement a statewide policy for public postsecondary education institutions to provide academic credit for military service and training for active duty members of the U.S. Armed Forces, Reserves, and National Guard as well as veterans of the Armed Forces.

(Prefiled by the sponsor(s).)

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Appointment of counsel for indigent parties in temporary removal hearings - BR272  
County jail restricted fund, establishment and funding - BR428  
Death penalty, replacement of with life imprisonment without parole - BR109  
DUI, cases pending, reporting of - BR54; BR67  
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Eviction, defense to, protective orders - BR11  
Judicial redistricting, requirements relating to - BR467  
Juries, racial demographics, reporting of - BR885  
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Marriage solemnization, performance of - BR101, 102, 135, 154  
Medical malpractice actions, inadmissibility of statements of compassion - BR362  
Personal identification cards, adult, addition of holders to list of potential jurors - BR884  
Possession of controlled substance, penalty reduction, mandatory treatment and community service - BR892  
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Vulnerable victims, continuing course of conduct crime for offenses against, creation - BR43

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#### **Courts, Circuit**

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Address protection program, administrative fee - BR260  
Adoption, unified application for placement, creation of - BR853  
Autopsy images and recordings, access to - BR213  
Drug court participants and related statistical data, reporting on - BR460  
Judicial redistricting, requirements relating to - BR467  
Parental rights, termination of - BR145  
Tuition waiver, determine eligibility for - BR134  
Vulnerable victims, continuing course of conduct crime for offenses against, creation - BR43

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#### **Courts, District**

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Address protection program, administrative fee - BR260  
Assisted outpatient treatment, establish court orders for - BR14  
Drug court participants and related statistical data, reporting on - BR460  
Involuntary hospitalization, consultation prior to discharge, requirement - BR895  
hospitalization, consultation with family and peace officers, requirement - BR895  
Judicial redistricting, requirements relating to - BR467  
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BR338  
Outpatient treatment, ability of a court to order expansion - BR895  
Patient agreed orders, treatment options and reporting requirements - BR14  
Vulnerable victims, continuing course of conduct crime for offenses against, creation - BR43

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#### **Courts, Family**

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Adoption, unified application for placement, creation of - BR853  
Judicial redistricting, requirements relating to - BR467  
Parental rights, termination of - BR145  
Pilot project, juvenile proceedings, open court - BR338

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#### **Crime Victims**

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Autopsy images and recordings, access to - BR213  
Juvenile courts, public proceedings, pilot project - BR338  
Parental rights, termination of - BR145  
Protective orders, tenant protections relating to - BR11  
Sex offenders, presence on publically owned playground, prohibition of - BR254  
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#### **Crimes and Punishments**

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Booking photograph, use for commercial purpose with removal fee, prohibition - BR891  
Cannabis, regulation of - BR161  
Criminal  
attempt to commit murder of peace officer or firefighter, classification as violent offense - BR890  
records, expungement of - BR17  
Death penalty, replacement of with life imprisonment without parole - BR109  
Drone harassment, creation of offense - BR219  
Drones use of for unlawful purposes, prohibition against - BR205  
Drug court participants and related statistical data, reporting on - BR460  
DUI,  
penalties imposed - BR54; BR84  
penalties imposed, consideration of prior offenses - BR67  
Fines, motor vehicle and misdemeanor, increase of - BR428  
Firearms,  
federal prohibitions, invalidate - BR214  
unlawful possession of, illegal aliens - BR214  
Justifications, use of force - BR21  
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Nude images of minors, transmission or possession prohibited - BR435  
Persistent offenders, life without parole - BR893  
Possession of controlled substance, penalty reduction, mandatory treatment and community service - BR892  
Public transportation, offenses against user or operator of - BR184  
Safe havens for infants, age of subject infant, increase to 30 days - BR409  
Sentences for multiple Class A, B, or C felonies to run consecutively - BR894  
Sex offenders, presence on publically owned playground, prohibition of - BR254  
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#### **Criminal Procedure**

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Body-worn cameras, funds to be used to purchase, allowance of - BR173  
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Drone harassment, creation of offense - BR219  
Drug court participants and related statistical data, reporting on - BR460  
DUI,  
penalties imposed - BR54; BR84  
penalties imposed, consideration of prior offenses - BR67  
Firearms,  
federal prohibitions, invalidate - BR214  
unlawful possession of, illegal aliens - BR214  
Justifications, use of force - BR21  
Juvenile courts, public proceedings, pilot project - BR338  
Persistent offenders, life without parole - BR893  
Public transportation, offenses against user or operator of - BR184  
Safe havens, immunity from civil liability - BR189  
Sentences for multiple Class A, B, or C felonies to run consecutively - BR894  
Sex offenders, presence on publically owned playground, prohibition of - BR254  
Strangulation, offense of - BR838  
Treatment-based alternative sentences, ineligibility for - BR234  
Vulnerable victims, continuing course of conduct crime for offenses against, creation - BR43

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#### **Dairying and Milk Marketing**

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Department of Corrections, expansion of Farm Operations Program - BR95

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#### **Data Processing**

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Marriage licenses, vital statistics - BR154

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Arrest-related, report to medical examiner - BR26  
Autopsy images and recordings, limitations on distribution of - BR213  
Benefits  
for death in the line of duty, emergency medical services providers, inclusion of - BR473  
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Death  
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#### **Deeds and Conveyances**

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Historic graves and cemeteries, disclosure of - BR115

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#### **Disabilities and the Disabled**

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ABLE Account, creation of - BR118  
Assisted outpatient treatment, establish court orders for - BR14  
Exceptional children, authorization to remain in school until year in which they reach age 22 - BR22  
Imminent harm, removal from vehicle, civil immunity - BR64  
Protected persons, credit security freeze on record or report - BR202; BR206  
Visually impaired and blind pedestrians, add information to Kentucky Driver Manual pertaining to - BR407  
Vulnerable victims, continuing course of conduct crime for offenses against, creation - BR43

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#### **Diseases**

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Colon cancer, underinsured individuals, screening, examination, and treatment program - BR413  
Dense breast tissue, information to be provided - BR75  
Emergency response medications, child-care - BR163  
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#### **Distilled Spirits**

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Powder or crystal alcoholic beverage products, prohibition against possession, sale, or use of - BR1

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#### **Dogs**

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Danger of death, removal from vehicle, civil immunity - BR241  
Service animal, lower requirement for assault on - BR15

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#### **Domestic Relations**

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Address confidentiality protection program, expansion of - BR260  
Counsel for indigent parties in temporary removal hearings, court appointment - BR272  
Foreign law, application of, protection of rights - BR256  
Foster homes, per diem increase - BR332  
Marriage  
licenses, issuing and recording of - BR154  
solemnization, performance of - BR101, 102, 135, 154  
Parental rights, termination of - BR145  
Protective  
orders, named individual, civil liability for terminated lease - BR11  
orders, tenant protections relating to - BR11

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**Drugs and Medicines**

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Cannabis, regulation of - BR161  
Colon cancer, underinsured individuals, screening, examination, and treatment program - BR413  
Drug court participants and related statistical data, reporting on - BR460  
Emergency response medications, child-care - BR163  
Epinephrine auto-injectors, storage and use in child-care centers - BR142  
Possession of controlled substance, Class A misdemeanor, mandatory drug treatment - BR892  
Substance abuse screening, public assistance - BR378  
Synthetic drugs, increased penalties for - BR234

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**Economic Development**

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Career and technical education, urge continue collaboration to promote - BR369  
Film industry incentives, enhanced incentives counties - BR436  
Nuclear power facilities, construction moratorium, previous manufacture site or within 50 miles - BR463  
Research and development, tax credit to promote - BR423  
Tax  
increment financing, definition of qualifying mixed use development, expansions of - BR337  
increment financing, mixed use development, upper limit on investment, removal of - BR337  
TVA in-lieu-of-tax payments, direction to economic development activities - BR73

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**Education, Elementary and Secondary**

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Abused or neglected child, custody of, notice to schools - BR257  
Alternative education programs, school accountability for students participating in, limit - BR252  
Career and technical education, urge continue collaboration to promote - BR369  
Career-ready, identification of student as - BR250  
Child abuse hotline number, school posting of, requirement - BR490  
Commissioner of education, Senate confirmation

of - BR180  
Commissioner, nonpartisan election of - BR334  
Compulsory attendance, military service considered present for - BR340  
CPR training in high school, requirement for - BR402  
District  
of innovation, student assessments, use of - BR800  
of innovation, student assessments, waive or modify - BR800  
Exceptional children, authorization to remain in school until year in which they reach age 22 - BR22  
Financial literacy course, requirement for high school graduation in existing curriculum - BR348  
Foster children, tuition waiver - BR298  
Interscholastic extracurricular activities, participation in - BR396  
Local  
board of education, requirements of - BR116  
boards of education, duty to post preambles to Constitutions - BR817  
Maximum class size, prohibit exceeding - BR249  
Preambles  
to United States and Kentucky Constitutions, postings in classrooms - BR817  
to US and Kentucky Constitutions, required postings of - BR116  
School  
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principal, wellness policy developed by - BR466  
resource officers, required training of - BR319  
superintendent, hiring of school personnel by - BR466  
superintendent, school policies established by - BR466  
Sexual abuse awareness and protection - BR364  
Superintendent screening council, add equity council member to - BR167  
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Testing, time spent on, limitation - BR462  
Transportation of students, use of privately owned passenger vehicles for - BR854  
United States Bill of Rights, posting in classrooms - BR817  
Veteran, certification as teacher - BR42

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**Education, Finance**

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Postsecondary education tuition waiver, eligibility of student for - BR134  
Savings plan trust, income tax deduction for - BR289

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**Education, Higher**

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Benefits, inclusion of surviving family of emergency medical services providers - BR91  
Career and technical education, urge continue collaboration to promote - BR369  
Credit for military service and training, statewide policy, creation and implementation of - BR900  
Foster children, tuition waiver - BR298  
Freedom of speech, public postsecondary institution's ability to restrict, limitation of -

BR271  
Public postsecondary institutions, governing boards, required orientation and education program - BR31  
Research and development at public universities, tax credit to promote - BR423  
Savings plan trust, income tax deduction for - BR289  
Tuition waiver, eligibility of student for - BR134  
Veteran, certification as teacher - BR42

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**Education, Vocational**

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Career and technical education, urge continue collaboration to promote - BR369

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**Effective Dates, Delayed**

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Bees and beekeeping supplies, sales and use tax exemption, August 1, 2016 - BR38  
BR  
154, January 1, 2017 - BR154  
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Electronic cigarettes, tobacco products tax, impose, August 1, 2016 - BR801  
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**Effective Dates, Emergency**

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immunity, vehicle damage, minor in danger - BR65  
immunity, vehicle damage, minor or vulnerable adult - BR64  
Consolidated local governments, law enforcement, overtime calculations - BR35  
DUI,  
penalties imposed - BR54  
penalties imposed, consideration of prior offenses - BR67  
Local government economic assistance fund, local distributions - BR122  
Medicaid managed care organization, prompt payments - BR81  
Motor fuel tax, local revenue sharing formula, revisions, 7/1/16 - BR326  
Natural resources severance and processing tax, refunds - BR122  
Parental rights, termination of - BR145  
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School resource officers, required training of - BR319  
TVA in-lieu-of-tax payments, direction to economic development activities - BR73

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Campaign reports, single threshold, establishment of - BR210  
Commissioner of Education, nonpartisan election of - BR334  
Constitutional amendment, change election year of statewide constitutional officers - BR822  
amendment, change election year of statewide constitutional offices - BR178  
amendment, elections, limitation of spending on, urge Congress to propose - BR300  
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General Assembly, terms of members, limit - BR179  
Assembly, terms of members, limitation on number - BR76  
Local option elections, day of election, primary or regular election - BR176  
Poll workers, student election assistants - BR217  
School districts that extend across county lines, process for ballot access and vote totaling - BR210  
Slate of candidates, designation of Lieutenant Governor candidates after primary - BR150  
Voter registration, 4 p.m. local time, deadline for timely submission - BR210  
Voting rights, prohibitions relating to - BR18

**Electricians**

Licensing, credit toward licensing fees - BR72

**Embalmers and Funeral Directors**

Grave space location, recording of - BR196

**Emergency Medical Services**

CPR training in high school, requirement for - BR402  
Emergency response medications, child-care - BR163  
Epinephrine auto-injectors, storage and use in child-care centers - BR142  
Providers, in-the-line-of-duty death and educational benefits, eligibility for - BR91  
in-the-line-of-duty death benefits, eligibility for - BR473

**Eminent Domain and Condemnation**

Abandoned cemeteries, process for public use of - BR115

**Energy**

Coal mining, overburden disposal, requirements and prohibitions for - BR810  
Energy and Environment Cabinet, Clean Power Plan, permit conditions, prohibition for - BR408  
efficiency tax credits, on-farm poultry or livestock raising facilities, extension - BR304  
Municipal electric authority, creation of - BR228

Nuclear power facilities, construction moratorium, exception for, previous site or within 50 miles - BR463

**Environment and Conservation**

Chemical weapons, treatment and disposal of - BR805  
Clean Power Plan, administrative regulations, permit conditions, prohibition of - BR408  
Coal mining, overburden disposal in streams, prohibitions against - BR810

**Explosives**

Chemical weapons, treatment and disposal of - BR805

**Federal Laws and Regulations**

Community action agencies, telehealth services at - BR239  
Firearms, federal laws and rules, invalidate - BR214

**Fees**

Kentucky Horse Racing Commission, historical racing manufacturers and distributors, licensure of - BR144  
Plug-in electric vehicles, annual registration fee - BR61  
Recording of grave space inventories, \$25 fee for - BR196  
Registrar of vital statistics, marriage license, collection by - BR154

**Financial Responsibility**

Financial literacy course, requirement for high school graduation - BR348

**Firearms and Weapons**

Body-worn cameras, funds to be used to purchase, allowance of - BR173  
Chemical weapons, treatment and disposal of - BR805  
Concealed carry training, applicant course fees - BR3  
carry training, handgun cleaning - BR3  
carry training, instructor trainer course fees - BR3  
Drone surveillance or use of armed drones by certain entities, prohibition - BR197  
Federal laws and rules, invalidate - BR214  
Gun safety and violence prevention, study of - BR809  
Unlawful possession of, illegal aliens - BR214

**Firefighters and Fire Departments**

Criminal attempt to commit murder of peace officer or firefighter, classification as violent offense - BR890

**Fuel**

Disposal of overburden, streams, requirements and prohibitions for - BR810  
Motor fuel tax, local revenue sharing formula, revisions - BR326

**Gambling**

Health and Family Services, Problem and Pathological Gamblers Awareness and Treatment Program - BR290  
Horse race tracks, licensing of - BR806  
Problem and Pathological Gamblers Awareness and Treatment Program, establishment of - BR37; BR290

**General Assembly**

Committee meetings - BR20  
Constitutional amendment, compensation suspended - BR258  
County jail restricted fund, establishment and funding - BR428  
Historical horse racing, endorsement of legality, disclaimer of - BR144  
Public employee health insurance trust fund, prohibit fund transfers to the general fund - BR251  
Research and development tax credit, reports to legislature to enable evaluation - BR423  
Retirement, state retirement systems to disclose legislators' retirement account information - BR824  
Roll call vote for appropriation or revenue measure, requirement for - BR255  
Terms of members, limit - BR179  
of members, limitation on number - BR76

**Governor**

Physicians, Board of Medical Licensure composition - BR127  
Slate of candidates, designation of Lieutenant Governor candidates after primary - BR150  
Time of election, move to even-numbered year - BR178; BR822

**Guardians**

Ward, credit security freeze on record or report - BR202; BR206  
credit security freezes on record or report - BR303

**Hazardous Materials**

Chemical weapons, treatment and disposal, residuals, reclassification of - BR805  
Nuclear power facilities, construction moratorium, exception for, previous site or within 50 miles - BR463

**Health and Medical Services**

Abortion services, payments from government to entity providing, prohibition of - BR292  
Accreditation organizations, Accreditation



Association for Ambulatory Health Care (AAAH), inclusion - BR310  
 Assisted outpatient treatment, establish court orders for - BR14  
 Autism treatment, insurance coverage, liaison required for - BR492  
 Breastfeeding awareness, importance of, recognition - BR25  
 Cannabis, regulation of - BR161  
 Claims by Medicaid managed care company, prompt payment of administrative process - BR81  
 Colon cancer, underinsured individuals, screening, examination, and treatment program - BR413  
 Dense breast tissue, information to be provided - BR75  
 Dentistry, board - BR88  
 Determination of distance - BR81  
 Emergency response medications, child-care - BR163  
 Epinephrine auto-injectors, storage and use in child-care centers - BR142  
 Living organ donation, promotion of - BR147  
 MCO provider appeals process - BR131  
 Medicaid, ABLE Account not disqualification of eligibility for - BR118  
 Medical malpractice actions, inadmissibility of statements of compassion - BR362  
 Patient agreed orders, expand treatment options and requirements - BR14  
 Physician, licensure, specialty certification and maintenance testing prohibited - BR125  
 Problem and Pathological Gamblers Awareness and Treatment Program, establishment of - BR37; BR290  
 Telehealth and home telemonitoring, services permitted for - BR239

#### **Health Benefit Mandate**

Autism treatment, insurance coverage, liaison required for - BR492

#### **Highways, Streets, and Bridges**

Memorial highway designation, Officer Daniel Ellis - BR845  
 Bicycles overtaken on roadway vehicles to maintain distance of at least three feet - BR87  
 Ford, Wendell H., designate Jefferson County bridge in honor of - BR141  
 Motor fuel tax, local revenue sharing formula, revisions - BR326  
 Speed bumps, local government requirements for - BR153  
 US 60 in Breckinridge County, "Breckinridge Co. Veterans Memorial Highway" - BR140  
 Visually impaired and blind pedestrians, add information to Kentucky Driver Manual pertaining to - BR407  
 Young, Col. Charles, Mason County highway, designation in honor of - BR416

#### **Historical Affairs**

Items on public display, appropriate public education for, provision of - BR209

#### **Home Rule**

Cannabis, local regulation of - BR161

#### **Homeland Security**

Chemical weapons, treatment and disposal, residuals, reclassification of - BR805

#### **Hospitals and Nursing Homes**

Dense breast tissue, information to be provided - BR75  
 Medical malpractice actions, inadmissibility of statements of compassion - BR362

#### **Housing, Building, and Construction**

Protective orders, tenant protections relating to - BR11  
 Safety requirements for projects using structural steel welding - BR45

#### **Information Technology**

Booking photograph, use for commercial purpose with removal fee, prohibition - BR891  
 Registrar of vital statistics, marriage licensing and recording - BR154

#### **Insurance**

Workers' compensation, exclusion of private home lawn services - BR288  
 Homeowner insurance, liability exclusion for worker's compensation, disclosure required - BR49  
 Property, liability exclusion for worker's compensation, disclosure required - BR49  
 Public  
 employee health insurance trust fund, determinations of plan year deficits and surpluses - BR251  
 employee health insurance trust fund, prohibit fund transfers to the general fund - BR251  
 Transportation of students, adequate insurance required for privately owned passenger vehicles - BR854  
 Unemployment benefits, military spouses whose families are relocated - BR212

#### **Insurance, Health**

Accreditation organizations, Accreditation Association for Ambulatory Health Care (AAAH), inclusion - BR310  
 Autism treatment, insurance coverage, liaison required for - BR492  
 Dense breast tissue, information to be provided - BR75  
 Insurance policy changes, procedures for, adoption requirement - BR126  
 Public  
 employee health insurance trust fund, allocation of prior plan year surplus - BR7

employee health insurance trust fund, direct the use of projected plan year surplus funds - BR251  
 employee health insurance trust fund, prohibit fund transfers to the general fund - BR251

#### **Jails and Jailers**

Arrest-related deaths, coroner investigation - BR26  
 County jail restricted fund, establishment and funding - BR428  
 Sentences for multiple Class A, B, or C felonies to run consecutively - BR894

#### **Judges and Court Commissioners**

Appointment of counsel for indigent parties in temporary removal hearings - BR272  
 Assisted outpatient treatment, establish court orders for - BR14

#### **Juries and Jurors**

Juries, racial demographics, reporting of - BR885  
 Personal identification cards, adult, addition of holders to list of potential jurors - BR884  
 Vulnerable victims, continuing course of conduct crime for offenses against, creation - BR43

#### **Labor and Industry**

Career and technical education, urge continue collaboration to promote - BR369  
 Employers, pregnancy and related conditions, discrimination prohibited - BR113  
 Lawn services for private home for less than twenty days, exemption from workers' compensation - BR288  
 Military spouses whose families are relocated - BR212  
 Public works projects, Kentucky residents and apprentices, employment of - BR301  
 Safety requirements for projects using structural steel welding - BR45  
 TVA in-lieu-of-tax payments, direction to economic development activities - BR73

#### **Land Use**

Cannabis, local regulation of - BR161  
 Requirements for certain cities within a consolidated local government - BR156

#### **Landlord and Tenant**

Protective orders, tenant protections relating to - BR11

#### **Legislative Research Commission**

County jail restricted fund, establishment and funding - BR428  
 Designation of appropriation or revenue measure, requirement for - BR255  
 Drug court participants and related statistical data, reporting on - BR460  
 Government Contract Review Committee, omnibus

revision for - BR432  
Juries, racial demographics, reporting of - BR885  
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Research and development tax credit, reports to legislature to enable evaluation - BR423  
State rate for reasonable and necessary attorneys' fees - BR131

**Libraries**

Tax funds, marriage licenses - BR154

**Licensing**

Cannabis, regulation of - BR161  
Concealed  
carry instructor trainers, prior experience required - BR3  
carry weapons, training for, handgun cleaning - BR3  
Denturity, board - BR88  
Electricians, credit toward licensing fees - BR72  
Horse race tracks, multiple license requirements for - BR806  
HVAC, credit toward licensing fees - BR72  
Kentucky Horse Racing Commission, historical racing manufacturers and distributors, licensure of - BR144  
Physician, licensure, specialty certification and maintenance testing prohibited - BR125  
Plumbers, credit toward licensing fees - BR72

**Lieutenant Governor**

Slate of candidates, designation of Lieutenant Governor candidates after primary - BR150  
Time of election, move to even-numbered year - BR178; BR822

**Loans and Credit**

Protected  
consumers, credit security freezes on record or report - BR303  
persons, credit security freeze on record or report - BR202; BR206

**Local Government**

Cannabis, local regulation of - BR161  
Coal severance tax revenues, distribution of all revenues to counties - BR341  
Local government economic assistance fund, distribution adjustments - BR122  
Marriage solemnization, performance of - BR101, 102, 135, 154  
Motor fuel tax, local revenue sharing formula, revisions - BR326  
Municipal electric authority, creation of - BR228  
Office of Inspector General in Department for Local Government, relationship to - BR322  
Officers, County clerks, real property filing requirements in Kenton County, repeal of 1860 Act - BR58  
Open Records Act, definition of public agency, exemption - BR164

School official, liability, civil actions - BR486  
Sex offenders, presence on publically owned playground, prohibition of - BR254  
Speed bumps, local government requirements for - BR153  
Tax increment financing, definition of qualifying mixed use development, expansions of - BR337  
TVA in-lieu-of-tax payments, direction to economic development activities - BR73

**Malt Beverages**

Powder or crystal alcoholic beverage products, prohibition against possession, sale, or use of - BR1

**Medicaid**

ABLE Account not disqualification of eligibility for - BR118  
Claims by Medicaid managed care company, prompt payment of administrative process - BR81  
Determination of distance - BR81  
Eligibility for benefits, substance abuse screening - BR378  
Home telemonitoring waiver, submission of - BR239  
MCO provider appeals process - BR131  
Medical loss ratio reporting - BR81  
Telehealth, community action agencies providing - BR239

**Memorials**

“Breckinridge Co. Veterans Memorial Highway”, designation - BR140  
Ellis, Officer Daniel, memorial highway designation - BR845  
Ford, Wendell H., designate Jefferson County bridge in honor of - BR141  
Metzger, Audrey Henke, memorializing - BR16

**Men**

Adoption, unified application for placement, creation of - BR853  
Putative father registry, creation of - BR853

**Mental Disability**

Assisted outpatient treatment, establish court orders for - BR14  
Incapacitated persons, credit security on record or report - BR202; BR206  
Voting rights, prohibitions relating to - BR18  
Vulnerable victims, continuing course of conduct crime for offenses against, creation - BR43

**Mental Health**

Assisted outpatient treatment, establish court orders for - BR14  
Involuntary hospitalization, consultation with family members and peace officers, requirement - BR895  
Outpatient treatment, orders for involuntarily

hospitalized, mandate for - BR895  
Patient agreed orders, expand treatment options and requirements - BR14  
Problem and Pathological Gamblers Awareness and Treatment Program, establishment of - BR37; BR290  
Voting rights, prohibitions relating to - BR18

**Military Affairs and Civil Defense**

Academic credit for military service and training, statewide policy, creation and implementation of - BR900  
Armed Services Vocational Aptitude Battery, minimum required score - BR250  
Chemical weapons, treatment and disposal, residuals, reclassification of - BR805  
Compulsory attendance, military service considered present for - BR340  
Drone surveillance by certain entities, exempt military training from - BR197  
Unemployment benefits, military spouses whose families are relocated - BR212

**Minerals and Mining**

Coal mining, overburden disposal in streams, prohibitions against - BR810  
Natural resources severance and processing tax, refunds - BR122  
Property tax on unmined coal reserves, exempt certain reserves from state and local tax - BR199

**Motor Carriers**

Plug-in electric vehicles, annual registration fee - BR61  
Public transportation, offenses against user or operator of - BR184

**Motor Vehicles**

Bicycles overtaken on roadway vehicles to maintain distance of at least three feet - BR87  
Damage,  
civil immunity, removal of dog or cat - BR241  
minor or vulnerable adult in danger, civil immunity - BR64  
DUI,  
penalties imposed - BR54; BR84  
penalties imposed, consideration of prior offenses - BR67  
Plug-in electric vehicles, annual registration fee - BR61  
Public transportation, offenses against user or operator of - BR184  
Trailers, annual registration renewal date, April 30 - BR8

**Nuclear Energy**

Nuclear power facilities, construction moratorium, exception for, previous site or within 50 miles - BR463

**Nurses**

Medical malpractice actions, inadmissibility of statements of compassion - BR362

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**Obscenity and Pornography**

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Sexually explicit images, distribution of without consent - BR52

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**Occupational Safety and Health**

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Breast-feeding locations, penalty for restrictions or interference, establish - BR24  
Cannabis, regulation of - BR161

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**Occupations and Professions**

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Cannabis, regulation of - BR161  
Career and technical education, urge continue collaboration to promote - BR369  
Cemetery registrants, identification and recording of grave spaces - BR196  
Denturity, board - BR88  
Heating, ventilation and air conditioning, credit toward licensing fees - BR72  
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