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RECORD

Lawmakers identify child ID theft as concern

by Jim Hannah
LRC Public Information

FRANKFORT – A Kentucky father was reviewing his credit report when, out of curiosity, he decided to check his 10-year-old son's credit history too. To the man's surprise, his child had a credit score. Someone has stolen the kid's personal information and wrecked his credit.

Incidents like that were cited by House Majority Caucus Chair Sannie Overly, D-Paris, and Sen. Ralph Alvarado, R-Winchester, during their testimony June 28 before the Interim Joint Committee on Banking and Insurance. The two legislators urged their colleagues to pass a law that would allow parents to place a "security freeze" on their children's credit reports. Such a move isn't allowed under current laws.

"As policy makers and parents I think protecting our children is one of the most important things that we do here in Frankfort," Overly said. "That certainly includes protecting children's online identities and their credit profiles."

She knew of a family whose two daughters' identities were stolen after the family's medical insurance had its data hacked.



House Majority Caucus Chair Rep. Sannie Overly, D-Paris, talks about child ID theft during the Interim Joint Committee on Banking and Insurance's June 28 meeting.

"It is a real nightmare for a lot of families," Overly said. She explained that a security freeze is designed to prevent a credit reporting company from releasing someone's credit rating, thus

preventing additional lines of credit from being opened.

In 2014, the Bureau of Justice Statistics found that more than 17 million people, or about 7 percent of the nation, was the victim of a credit theft, Overly said. She added that a privately-funded report from 2012 that found children are 35 times more likely to have their credit stolen than an adult.

Sen. Ralph Alvarado, R-Winchester, said that 25 other states already have laws similar to the one proposed in Kentucky.

"I think we are going to see more and more states align to protect our most vulnerable in our society," he said, "and I think Kentucky needs to join that this upcoming year as well."

After Rep. Ron Crimm, R-Louisville, asked at what age a child gets a Social Security number, Alvarado said the Social Security Administration advises new parents to request the number before they leave the hospital.

Rep. Jonathan Shell, R-Lancaster, expressed disappointment that similar legislation, known as Senate Bill 23 and House Bill 119, didn't pass the General Assembly earlier this year.

"It seems so common sense and so logical,"

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Kentucky hemp has growing market potential, panel told

by Rebecca Hanchett
LRC Public Information

FRANKFORT—More than half of Kentucky's industrial hemp crop this year can be traced to nineteen counties, 58 farmers and one company in Winchester.

With 23,000 pounds of imported hemp seed destined for 2,466 acres, Atalo Holdings is a

superpower in hemp production and processing in Kentucky. Governor's Office of Agricultural Policy (GOAP) Executive Director Warren Beeler told the Tobacco Settlement Agreement Fund Oversight Committee on July 6 that the company's hemp contracts this year cover over half the 4,500 acres planted statewide.

"And so we're intrigued by what they're getting done," said Beeler, sharing news that

pleased committee co-chair Sen. C.B. Embry, R-Morgantown.

"Very good, I think it shows hemp is moving," said Embry.

Atalo got its start with \$492,000 in state funds culled from a 16-year-old settlement between the state and cigarette manufacturers after Kentucky made state-sponsored research legal

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in 2013, said Beeler. It was the first project to receive state tobacco settlement dollars for a hemp-related project, the GOAP reported last year, and it is currently processing its product from last year into protein powder and other legal hemp products.

Other hemp operations are also at work across the Commonwealth. Rep. Tom McKee, D-Cynthiana, said a farmer in his district is growing 20 acres of hemp under black plastic with drip irrigation. Beeler said most hemp grown that way is used for cannabidiol or CBD, a lucrative hemp compound believed to have medicinal benefits. Kentucky passed a law in 2014 that excludes CBD oil from the definition of marijuana—which is illegal in Kentucky—for certain epileptic patients.

And CBD oil is only one product in today's hemp market. How large the hemp market is, Beeler said, remains to be seen.

"How big is the market? We don't know that," Beeler said, telling the committee he hopes hemp production can eventually replace lost tobacco income. "We went from 33 acres (of industrial hemp initially)... to somewhere in the neighborhood of 4,000 to 5,000 this year, and I don't think anybody much is raising this stuff who doesn't have a contract or place to get rid of it."

"Who knows where we might be in 20

Tobacco Settlement
Agreement
Fund Oversight
Committee
Co-Chair Rep.
Wilson Stone,
D-Scottsville,
comments on hemp
issues during the
committee's July 6
meeting.



years?" he later added.

For now, hemp production in Kentucky remains state-sanctioned. Those who grow hemp here must have the government's permission to do so, and every crop must be able to be located by GPS and be tested. Beeler said those requirements are absolutes.

"And then, maybe from that point on, we can get out of the way and let it be a crop," he said.

Committee Co-Chair Rep. Wilson Stone,

D-Scottsville, said marketing hemp likely isn't all that different from marketing tobacco. A contract, price sheet and delivery is key to the process, he explained.

"This thing about tobacco is you know if you've got a contract, you had a price sheet that went along with that contract. And if you grow what that price sheet says you can sell it for that amount of money. So I think we need to get to a place, and hopefully we will soon, where the hemp folks understand that same thing," said Stone.

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he said. "It feels like we missed a real big opportunity ... by not passing it."

Senate Majority Caucus Chair Dan "Malano" Seum, R-Fairdale, asked if the Social Security numbering scheme was based, in part, on the year that it was issued.

Eric J. Ellman, of the credit bureau trade organization Consumer Data Industry Association, testified that the number was no longer related to the year it was issued. He said that change was "unfortunate." He said credit bureaus use to use that additional information to detect fraud.

Committee Co-chair Jeff Greer, D-Brandenburg, said that the proposed legislation is something legislators need to move when the next session starts on Jan. 3.

"I think we can all agree upon that," he said.



Rep. David Osborne, R-Prospect, at left, talks to Rep. Ken Upchurch, R-Monticello, before the June 28 meeting of the Interim Joint Committee on Banking and Insurance.

Panel discusses new drug enforcement tactic

by Jim Hannah
LRC Public Information

FRANKFORT – The newly appointed state police commissioner wants to combat drug addiction across Kentucky by replicating a drug treatment program at work in Massachusetts.

Kentucky State Police Commissioner Richard W. Sanders said the innovative program – which allows addicts to surrender their drugs to police and seek treatment through detox and rehabilitation – would be beneficial after being asked about the ongoing opioid crisis by Sen. Julian M. Carroll, D-Frankfort, during the July 14 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection.

The ANGEL Initiative of Massachusetts has sent 400 people into treatment for drug addiction since being launched in the spring of 2015.

Sanders, who retired from the Drug Enforcement Administration and moved back to his native Kentucky in 2007, acknowledged his answer to Carroll's question was probably going to "shock" some people.

"I have spent most of my life working to make drug cases against cartels," Sanders said. "I spent a lot of time in Central and South

America focusing on the Columbian and Mexican cartels. In Chicago we worked on the Mexican cartels. But I've learned over the years that ... we also have to recognize people who are addicted to drugs are sick."

Called the ANGEL Initiative, the Massachusetts program has made national headlines and been lauded by President Barack Obama as an alternative to incarceration. Since being launched in the spring of 2015, Sanders said ANGEL has sent 400 people into treatment for their addiction. He added that property crime has done down 30 percent during the same period in the town that spearheaded the effort.

"They have continued to focus on the supplier and punish those people severely, but they are also recognizing those addicted as people that need our help," Sanders said. "What the ANGEL Initiative does is it opens the front door of the police department to addicts. It says, 'We are here to help. Come and turn in your drugs. You won't be prosecuted. You will



Senate Minority Whip Julian Carroll, D-Frankfort, comments on Kentucky's drug efforts during the July 14 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection.

actually be placed in detox and then placed in a treatment facility to get help."

The Massachusetts program assigns a volunteer – or "angel" – to guide participants into detox facilities. No one is turned away under the principle that communities can't arrest their way out of the drug problem.

"I'm trying to come up with a plan right now where I can do something similar to the ANGEL Initiative statewide," Sanders said. "We have 16 posts throughout this state. I would love to educate those people working at the posts on how to get people help that need help.

"The other thing is we have to change the mentality. Most people are afraid to come to the police. That is going to take a little bit of work. I also have to encourage my colleagues in law enforcement that this is the right thing to do.

"We need to help people and stop them from getting into the (criminal justice) system," he said.

Sanders has already helped replicate the ANGEL program in Jeffersontown, a suburb of Louisville, where he served as chief for nine years. He was also the first chief in the area to

supply officers with naloxone, a drug used to counter the effects of an overdose on opioids such as heroin or morphine.

In the first three months of that program, Sanders said Jeffersontown officers saved five lives in that small community.

Sanders said he has been asked if the ANGEL Initiative and naloxone use by police is enabling addicts.

"I think it is our job to save lives, and that comes in many different packages," he said. "I don't want anybody here to think I have gone soft on enforcement. If we can help people before they ever get into the criminal justice system, we are all better off."

Rep. Myron Dossett, R-Pembroke, praised Sanders.

"I want to offer my support to both you and our state police officers," Dossett said.

Rep. Will Coursey, D-Symsonia, said Sanders' appointment as state police commissioner was "divine intervention."

"I don't know that you heading this department could come at a better time," Coursey said. "We sincerely appreciate it."

Lawmakers review veto of state Real ID legislation

by Jim Hannah
LRC Public Information

FRANKFORT – After the governor vetoed legislation earlier this year that would have created a new Kentucky driver's license to meet the tougher federal standards of the Real ID Act, a panel of lawmakers gathered this week to discuss a path forward.

The state will first ask federal officials for an extension to meet the tougher standards, Department of Vehicle Regulation Commissioner John-Mark Hack said during the June 23 meeting of the Budget Review Subcommittee on Transportation. He added that Kentucky previously received an extension but that it expires on Oct. 10.

When Committee Co-Chair Rep. Leslie Combs, D-Pikeville, asked the likelihood of another extension being granted, Hack said he was "pretty confident."

Rep. Dennis Keene, D-Wilder, asked what would happen if the extension wasn't granted. Hack said in that unlikely circumstance Kentuckians would need a passport to board

a plane starting as early as January 2018.

Keene said that would create a hardship for many residents because a passport can take weeks to receive and cost \$135 with fees. That's almost \$100 more than a driver's license would have cost under the legislation vetoed by the governor.

Had the governor not vetoed the legislation, known as Senate Bill 245, Kentucky would have joined 24 other states that are certified as Real ID compliant – including Indiana, Ohio, West Virginia and Tennessee. Instead, Kentucky remains one of 24 states operating under an extension that expires in October, including Illinois and Virginia. Missouri is considered to be noncompliant.

Combs said SB 245 was introduced by Sen. Ernie Harris, R-Crestwood, who built a bipartisan coalition to get it passed so Kentucky wouldn't find itself in this spot.



Interim Joint Committee on Appropriations and Revenue Co-Chair Sen. Christian McDaniel, R-Latonia, comments during the June 23 Budget Review Subcommittee on Transportation meeting. McDaniel is an ex-officio member of the subcommittee.

Kentuckians will need a passport to board an airplane starting as early as January 2018 should the federal government not grant the state an extension to meet tougher Real ID standards.

"I want to take just a moment to thank Sen. Harris for his work on that bill ... because that was difficult to get through this session," she said. "He put a lot of time and effort in getting this done."

Hack defended the governor's veto to committee members.

"The governor believes the Commonwealth needs additional time to better understand our current position relative to the demands of a fully unfunded federal mandate of REAL ID," Hack said.

"He also believes that this 2005 federal initiative could, in fact, be substantively changed depending on the outcome of our federal elections in November," he added.

Hack said Kentucky currently complies with many of the Real ID requirements and is addressing additional requirements.

"There are a number of requirements that

Kentucky will request exceptions or workarounds which allow for meeting the spirit and real intent of the Real ID legislation without the extensive cost and inconvenience to the state's citizens," he said, adding Virginia and California have also asked for similar workarounds.

Some of the provisions of Real ID Hack objected to include forcing people with valid Kentucky driver's licenses to make an additional trip to their local driver's license office with verification of their Social Security numbers.

"There are several very costly provisions that go beyond the intent of the federal legislation and impose an unnecessary costly burden on the states," Hack said.

Combs asked Hack to report back in October on the status of the extension request. She said she wants to know if legislation needs to be introduced during next year's regular session to help bring Kentucky in compliance.

2016

Kentucky

GENERAL ASSEMBLY

Senate

Julie Raque Adams (36)

213 S Lyndon Lane
Louisville, KY 40222
(LRC) 502-564-8100
(Home) 502-744-9264

Ralph Alvarado (28)

3250 McClure Road
Winchester, KY 40391
(LRC) 502-564-8100

Joe Bowen (8)

2031 Fieldcrest Dr
Owensboro, KY 42301
(LRC) 502-564-8100
(Home) 270-685-1859

Tom Buford (22)

409 W Maple St
Nicholasville, KY 40356
(LRC) 502-564-8100
(LRC FAX) 502-564-2466
(Home) 859-885-0606
(Home FAX) 859-885-0606

Jared Carpenter (34)

PO Box 100
Berea, KY 40403
(LRC) 502-564-8100

Danny Carroll (2)

220 Cimarron Way
Paducah, KY 42001
(LRC) 502-564-8100
(Home) 270-703-8025

Julian M. Carroll (7)

702 Capitol Ave
Annex Room 254
Frankfort, KY 40601
(LRC) 502-564-8100

Perry B. Clark (37)

5716 New Cut Rd
Louisville, KY 40214
(LRC) 502-564-8100
(Home) 502-366-1247

C.B. Embry Jr. (6)

PO Box 1215
Morgantown, KY 42261
(LRC) 502-564-8100
(Home) 270-791-1879
(Work) 270-526-6237

Carroll Gibson (5)

PO Box 506
Leitchfield, KY 42755
(LRC) 502-564-8100
(Home) 270-230-5866

Chris Girdler (15)

702 Capitol Ave
Annex Room 209
Frankfort, KY 40601
(LRC) 502-564-8100

David P. Givens (9)

PO Box 12
Greensburg, KY 42743
(LRC) 502-564-8100

Denise Harper Angel (35)

2521 Ransdell Ave
Louisville, KY 40204
(LRC) 502-564-8100
(Home) 502-452-9130

Ernie Harris (26)

PO Box 1073
Crestwood, KY 40014
(LRC) 502-564-8100
(Home) 502-241-8307

Jimmy Higdon (14)

344 N Spalding
Lebanon, KY 40033
(LRC) 502-564-8100
(Home) 270-692-6945

Paul Hornback (20)

6102 Cropper Rd
Shelbyville, KY 40065
(LRC) 502-564-8100

Stan Humphries (1)

763 Sinking Fork Rd
Cadiz, KY 42211
(LRC) 502-564-8100
(Home) 270-522-0195

Ray S. Jones II (31)

PO Drawer 3850
Pikeville, KY 41502
(LRC) 502-564-8100
(Work) 606-432-5777
(Work FAX) 606-432-5154

Alice Forgy Kerr (12)

3274 Gondola Dr
Lexington, KY 40513
(LRC) 502-564-8100
(Home) 859-223-3274

Christian McDaniel (23)

PO Box 15231
Latonia, KY 41015
(LRC) 502-564-8100

Morgan McGarvey (19)

2250 Winston Ave
Louisville, KY 40205
(LRC) 502-564-8100
(Home) 502-589-2780

Gerald A. Neal (33)

462 S 4th St
Meidinger Twr, Ste. 1250
Louisville, KY 40202
(LRC) 502-564-8100
(Home) 502-776-1222
(Work) 502-584-8500
(Work FAX) 502-584-1119

Dennis Parrett (10)

731 Thomas Rd
Elizabethtown, KY 42701
(LRC) 502-564-8100
(Home) 270-765-4565

Dorsey Ridley (4)

4030 Hidden Creek Dr
Henderson, KY 42420
(LRC) 502-564-8100
(Home) 270-826-5402
(Work) 270-869-0505
(Work FAX) 270-869-0340

Albert Robinson (21)

1249 S Main St
London, KY 40741
(LRC) 502-564-8100
(Home) 606-878-6877

*** Members of the Kentucky General Assembly may also be contacted by calling 502-564-8100.**

John Schickel (11)

2147 Natches Trace
Union, KY 41091
(LRC) 502-564-8100

Wil Schroder (24)

25 Observatory Pointe Dr
Wilder, KY 41076
(LRC) 502-564-8100

Dan “Malano” Seum (38)

1107 Holly Ave
Fairdale, KY 40118
(LRC) 502-564-8100
(Home) 502-749-2859

Brandon Smith (30)

124 Craig Street
Hazard, KY 41702
(LRC) 502-564-8100
(Home) 606-436-4526
(Home FAX) 606-436-4526

Robert Stivers II (25)

207 Main St
Manchester, KY 40962
(LRC) 502-564-8100
(Home) 606-598-8575
(Work) 606-598-2322
(Work FAX) 606-598-2357

Damon Thayer (17)

105 Spyglass Dr
Georgetown, KY 40324
(LRC) 502-564-8100

Reginald Thomas (13)

702 Capitol Ave
Annex Room 229
Frankfort, KY 40601
(LRC) 502-564-8100
(LRC FAX) 502-564-0777

Johnny Ray Turner (29)

849 Crestwood Dr
Prestonsburg, KY 41653
(LRC) 502-564-8100
(Home) 606-889-6568

Robin L. Webb (18)

404 W Main St
Grayson, KY 41143
(LRC) 502-564-8100
(Home) 606-474-5380

Stephen West (27)

202 Vimont Ln
Paris, KY 40361
(LRC) 502-564-8100

Whitney Westerfield (3)

700 South Main Street
PO Box 1107
Hopkinsville, KY 42241
(LRC) 502-564-8100
(Work) 270-885-7671

Mike Wilson (32)

631 Washington Ave
Bowling Green, KY 42103
(LRC) 502-564-8100

Max Wise (16)

130 High Point Crossing
Campbellsville, KY 42718
(LRC) 502-564-8100

2016 KENTUCKY GENERAL ASSEMBLY

House

Rocky Adkins (99)

PO Box 688
Sandy Hook, KY 41171
(LRC) 502-564-8100
(Home) 606-738-4242
(Work) 606-928-0407
(Work FAX) 606-929-5913

Lynn Bechler (4)

2359 Brown Mines Rd
Marion, KY 42064
(LRC) 502-564-8100
(Home) 270-988-4171

Linda Belcher (49)

4804 Hickory Hollow Lane
Shepherdsville, KY 40165
(LRC) 502-564-8100
(Home) 502-957-2793

Johnny Bell (23)

108 N Green St
Glasgow, KY 42141
(LRC) 502-564-8100
(Home) 270-590-0110
(Work) 270-651-7005

Robert Benvenuti III (88)

2384 Abbeywood Rd
Lexington, KY 40515
(LRC) 502-564-8100
(Home) 859-421-1464

Kevin D. Bratcher (29)

10215 Landwood Dr
Louisville, KY 40291
(LRC) 502-564-8100
(Home) 502-231-3311

George Brown Jr. (77)

424 E Fourth Street
Lexington, KY 40508
(LRC) 502-564-8100
(Home) 859-312-7513

Regina Bunch (82)

179 Mountain St
Williamsburg, KY 40769
(LRC) 502-564-8100
(Home) 606-549-3439

Tom Burch (30)

4012 Lambert Ave
Louisville, KY 40218
(LRC) 502-564-8100
(Home) 502-454-4002

Denver Butler (38)

PO Box 9041
Louisville, KY 40209
(LRC) 502-564-8100
(Work) 502-817-3044

John Carney (51)

202 Southside Dr.
Campbellsville, KY 42718
(LRC) 502-564-8100
(Home) 270-403-7980

Larry Clark (46)

5913 Whispering Hills Blvd.
Louisville, KY 40219
(LRC) 502-564-8100
(Home) 502-968-3546

Hubert Collins (97)

72 Collins Dr
Wittensville, KY 41274
(LRC) 502-564-8100
(Home) 606-297-3152

Leslie Combs (94)

245 E Cedar Dr
Pikeville, KY 41501
(LRC) 502-564-8100
(Home) 606-444-6672

Tim Couch (90)

PO Box 710
Hyden, KY 41749
(LRC) 502-564-8100
(Home) 606-672-8998
(Home FAX) 606-672-8998

Will Coursey (6)

285 Oak Level Elva Rd
Symsonia, KY 42082
(LRC) 502-564-8100
(Home) 270-851-4433

Ron Crimm (33)

PO Box 43244
Louisville, KY 40253
(LRC) 502-564-8100
(Home) 502-245-8905
(Work) 502-400-3838

Jim DeCesare (21)

PO Box 122
Rockfield, KY 42274
(LRC) 502-564-8100
(Home) 270-792-5779
(Work) 270-792-5779

Mike Denham (70)

306 Old Hill City Rd
Maysville, KY 41056
(LRC) 502-564-8100
(Home) 606-759-5167

Bob M. DeWeese (48)

6206 Glen Hill Rd
Louisville, KY 40222
(LRC) 502-564-8100
(Home) 502-426-5565

Jeffery Donohue (37)

PO Box 509
Fairdale, KY 40118
(LRC) 502-564-8100
(Work) 502-439-6175

Myron Dossett (9)

491 E Nashville St
Pembroke, KY 42266
(LRC) 502-564-8100
(Home) 270-475-9503

Jim DuPlessis (25)

102 Utah Ct
Elizabethtown, KY 42701
(LRC) 502-564-8100

Daniel Elliott (54)

16923 Forkland Rd
Gravel Switch, KY 40328
(LRC) 502-564-8100
(Home) 859-332-4204

Joseph M. Fischer (68)

126 Dixie Place
Ft Thomas, KY 41075
(LRC) 502-564-8100
(Home) 859-781-6965
(Work) 513-794-6442

Kelly Flood (75)

121 Arcadia Park
Lexington, KY 40503
(LRC) 502-564-8100
(Home) 859-221-3107

David Floyd (50)

102 Maywood Ave
Bardstown, KY 40004
(LRC) 502-564-8100
(Home) 502-350-0986

Jim Glenn (13)

PO Box 21562
Owensboro, KY 42304
(LRC) 502-564-8100
(Home) 270-686-8760

Jim Gooch Jr. (12)

714 N Broadway B2
Providence, KY 42450
(LRC) 502-564-8100
(Home) 270-667-7327
(Work FAX) 270-667-5111

Derrick Graham (57)

702 Capitol Ave
Annex Room 367
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 502-223-1769

Jeff Greer (27)

PO Box 1007
Brandenburg, KY 40108
(LRC) 502-564-8100
(Home) 270-422-5100
(Home FAX) 270-422-5100

David Hale (74)

1 Hales Ln
Wellington, KY 40387
(LRC) 502-564-8100
(Home) 606-768-3474

Chris Harris (93)

719 Forest Hills Rd
Forest Hills, KY 41527
(LRC) 502-564-8100
(Home) 606-237-0055

Richard Heath (2)

438 Millers Chapel Rd
Mayfield, KY 42066
(LRC) 502-564-8100
(Home) 270-705-7539
(Work) 270-247-2210
(Work FAX) 270-247-2304

Jeff Hoover (83)

PO Box 985
Jamestown, KY 42629
(LRC) 502-564-8100
(Home) 270-343-2264
(Work) 270-343-5588

Dennis Horlander (40)

1806 Farnsley Rd, Ste 6
Shively, KY 40216
(LRC) 502-564-8100
(Home) 502-447-2498
(Work) 502-447-9000

Cluster Howard (91)

476 Kings Ridge
Jackson, KY 41339
(LRC) 502-564-8100

Kenny Imes (5)

4064 US 641 N
Murray, KY 42071
(LRC) 502-564-8100

Joni L. Jenkins (44)

2010 O'Brien Ct
Shively, KY 40216
(LRC) 502-564-8100
(Home) 502-447-4324

James Kay (56)

PO Box 1536
Versailles, KY 40383
(LRC) 502-564-8100

Dennis Keene (67)

1040 Johns Hill Rd
Wilders, KY 41076
(LRC) 502-564-8100
(Home) 859-441-5894

2016 KENTUCKY GENERAL ASSEMBLY

Thomas Kerr (64)	5415 Old Taylor Mill Road Taylor Mill, KY 41015 (LRC) 502-564-8100 (Home) 859-356-1344 (Work) 859-431-2222 (Work FAX) 859-431-3463
Kim King (55)	250 Bright Leaf Dr Harrodsburg, KY 40330 (LRC) 502-564-8100 (Home) 859-734-2173
Martha Jane King (16)	Lake Malone 633 Little Cliff Estates Lewisburg, KY 42256 (LRC) 502-564-8100 (Home) 270-657-2707 (Home FAX) 270-657-2755
Adam Koenig (69)	No 12 170 Harrington Ct Erlanger, KY 41018 (LRC) 502-564-8100 (Home) 859-653-5312
Stan Lee (45)	PO Box 2090 Lexington, KY 40588 (LRC) 502-564-8100 (Home) 859-252-2202 (Home FAX) 859-259-2927
Brian Linder (61)	16 Ridgeview Cir Dry Ridge, KY 41035 (LRC) 502-564-8100
Mary Lou Marzian (34)	2007 Tyler Ln Louisville, KY 40205 (LRC) 502-564-8100 (Home) 502-451-5032
Donna Mayfield (73)	2059 Elkin Station Rd Winchester, KY 40391 (LRC) 502-564-8100 (Home) 859-745-5941
Tom McKee (78)	1053 Cook Rd Cynthiana, KY 41031 (LRC) 502-564-8100 (LRC FAX) 502-564-0152 (Home) 859-234-5879
David Meade (80)	PO Box 121 Stanford, KY 40484 (LRC) 502-564-8100
Reginald Meeks (42)	PO Box 757 Louisville, KY 40201 (LRC) 502-564-8100 (Work) 502-741-7464
Michael Meredith (19)	PO Box 292 Brownsville, KY 42210 (LRC) 502-564-8100 (Work) 270-597-6049
Russ A. Meyer (39)	106 Lone Oak Drive Nicholasville, KY 40356 (LRC) 502-564-8100
Suzanne Miles (7)	PO Box 21592 Owensboro, KY 42304 (LRC) 502-564-8100

Charles Miller (28)	3608 Gateview Cir Louisville, KY 40272 (LRC) 502-564-8100 (Home) 502-937-7788
Jerry T. Miller (36)	PO Box 36 Eastwood, KY 40018 (LRC) 502-564-8100
Terry Mills (24)	690 McElroy Pk Lebanon, KY 40033 (LRC) 502-564-8100 (Home) 270-692-2757
Phil Moffett (32)	812 Brookhill Rd Louisville, KY 40223 (LRC) 502-564-8100
Brad Montell (58)	543 Main St Shelbyville, KY 40065 (LRC) 502-564-8100 ((Work) 502-633-7017
Tim Moore (26)	417 Bates Rd Elizabethtown, KY 42701 (LRC) 502-564-8100 (Home) 270-769-5878
Rick G. Nelson (87)	117 Gumwood Rd Middlesboro, KY 40965 (LRC) 502-564-8100 (Home) 606-248-8828 (Home FAX) 606-248-8828
Lewis Nicholls (98)	1205 Main St Greenup, KY 41144 (LRC) 502-564-8100 (Home) 606-473-6607
David Osborne (59)	PO Box 8 Prospect, KY 40059 (LRC) 502-564-8100 (Home) 502-228-3201 (Work) 502-645-2186
Sannie Overly (72)	340 Main St Paris, KY 40361 (LRC) 502-564-8100 (Home) 859-987-9879
Darryl T. Owens (43)	1018 S 4th St, Ste 100 Louisville, KY 40203 (LRC) 502-564-8100 (Home) 502-584-6341
Ruth Ann Palumbo (76)	10 Deepwood Dr Lexington, KY 40505 (LRC) 502-564-8100 (Home) 859-299-2597
Marie Rader (89)	PO Box 323 McKee, KY 40447 (LRC) 502-564-8100 (Home) 606-287-7303 (Work) 606-287-3300 (Work FAX) 606-287-3300
Rick Rand (47)	PO Box 273 Bedford, KY 40006 (LRC) 502-564-8100 (Home) 502-255-3392 (Work) 502-255-3286 (Work FAX) 502-255-9911

Jody Richards (20)	817 Culpeper St Bowling Green, KY 42103 (LRC) 502-564-8100 (Home) 270-842-6731
Steve Riggs (31)	PO Box 24586 Louisville, KY 40224 (LRC) 502-564-8100 (LRC FAX) 502-564-6543
Tom Riner (41)	1143 E Broadway Louisville, KY 40204 (LRC) 502-564-8100 (Home) 502-584-3639
Bart Rowland (53)	PO Box 336 Tompkinsville, KY 42167 (LRC) 502-564-8100
Steven Rudy (1)	350 Peppers Mill Drive Paducah, KY 42001 (Home) 270-744-8137 (LRC) 502-564-8100
Sal Santoro (60)	596 Walterlot Ct Florence, KY 41042 (LRC) 502-564-8100 (Home) 859-371-8840 (Home FAX) 859-371-4060
Dean Schamore (10)	120 Ball Park Rd Hardinsburg, KY 40143 (LRC) 502-564-8100
Jonathan Shell (36)	PO Box 138 Lancaster, KY 40444 (LRC) 502-564-8100
John Short (92)	PO Box 1133 Hindman, KY 41822 (LRC) 502-564-8100 (Work) 606-785-9018
Arnold Simpson (65)	112 W 11th St Covington, KY 41011 (LRC) 502-564-8100 (Home) 859-581-6521 (Home FAX) 859-261-6582 (Work) 859-261-6577
Kevin Sinnette (100)	PO Box 1358 Ashland, KY 41105 (LRC) 502-564-8100 (Home) 606-324-5711 (Home FAX) 606-329-1430
Rita Smart (81)	419 W Main St Richmond, KY 40475 (LRC) 502-564-8100 (Home) 859-623-7876
Diane St. Onge (63)	PO Box 17351 Lakeside Park, KY 41017 (LRC) 502-564-8100
Fitz Steele (84)	176 Woodland Ave Hazard, KY 41701 (LRC) 502-564-8100 (Home) 606-439-0556 (Home FAX) 606-439-0556
Jim Stewart III (86)	545 KY 223 Flat Lick, KY 40935 (LRC) 502-564-8100 (Home) 606-542-5210

2016 KENTUCKY GENERAL ASSEMBLY

Wilson Stone (22)

1481 Jefferson School Rd
Scottsville, KY 42164
(LRC) 502-564-8100
(Home) 270-622-5054

Greg Stumbo (95)

PO Box 1473,
108 Cassidy Dr
Prestonsburg, KY 41653
(LRC) 502-564-8100
(Home) 606-886-9953

Chuck Tackett (62)

134 Robinson Ln
Georgetown, KY 40324
(LRC) 502-564-8100
(Home) 502-868-1438

Jeff Taylor (8)

1814 Hopper Ct
Hopkinsville, KY 42240
(LRC) 502-564-8100
(Home) 270-886-4543

Tommy Thompson (14)

PO Box 458
Owensboro, KY 42302
(LRC) 502-564-8100
(Home) 270-926-9736
(Work) 270-926-1740
(Work FAX) 270-685-3242

James Tipton (53)

8151 Little Mount Rd
Taylorsville, KY 40071
(LRC) 502-564-8100

Tommy Turner (85)

175 Clifty Grove Church
Somerset, KY 42501
(LRC) 502-564-8100
(Home) 606-274-5175

Ken Upchurch (52)

PO Box 969
Monticello, KY 42633
(LRC) 502-564-8100
(Home) 606-340-8490

David Watkins (11)

1280 Taransay Drive
Henderson, KY 42420
(LRC) 502-564-8100
(Home) 270-826-0952
(Home FAX) 270-826-3338

Gerald Watkins (3)

4317 Pines Rd
Paducah, KY 42001
(LRC) 502-564-8100
(Home) 270-558-5139

Jim Wayne (35)

1280 Royal Ave
Louisville, KY 40204
(LRC) 502-564-8100
(Work) 502-451-8262

Russell Webber (49)

PO Box 6605
Shepherdsville, KY 40165
(LRC) 502-564-8100
(Home) 502-543-8209

Susan Westrom (79)

PO Box 22778
Lexington, KY 40522
(LRC) 502-564-8100
(Work) 859-266-7581

Addia Wuchner (66)

PO Box 911
Burlington, KY 41005
(LRC) 502-564-8100
(Work) 859-525-6698

Brent Yonts (15)

232 Norman Cir
Greenville, KY 42345
(LRC) 502-564-8100
(Home) 270-338-6790
(Work) 270-338-0816
(Work FAX) 270-338-1639

Jill York (96)

PO Box 591
Grayson, KY 41143
(LRC) 502-564-8100
(Work) 606-474-7263
(Work FAX) 606-474-7638

*** Members of the Kentucky General Assembly may also be contacted by calling 502-564-8100.**

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INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Minutes of the 1st Meeting
of the 2016 Interim

June 2, 2016

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, June 2, 2016, at 1:00 PM, in Room 149 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; Representative Fitz Steele, Co-Chair; Senators C.B. Embry Jr., Chris Girdler, Ernie Harris, Ray S. Jones II, John Schickel, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives Hubert Collins, Tim Couch, Jim DuPlessis, Daniel Elliott, Jim Gooch Jr., Chris Harris, Cluster Howard, Reginald Meeks, Rick G. Nelson, Lewis Nicholls, Marie Rader, John Short, Kevin Sinnette, Jim Stewart III, Chuck Tackett, and Jill York.

Guests: Dr. Jeff Stringer, University of Kentucky, Department of Forestry, Mr. Robbie McKenzie, Director Domestic Mills, Independent Stave Company, Mr. Justin Nichols, Log Procurement, Independent Stave Company, Mr. Bob Bauer, Executive Director, Kentucky Forest Industries Association, and Mr. Jason Underwood, Buffalo Trace Distillery.

LRC Staff: Tanya Monsanto, Stefan Kasacavage, and Marielle Manning.

Describing Kentucky's Forestlands and Sustainability of White Oak

Dr. Stringer, Department of Forestry, University of Kentucky provided basic information on the supplies and sustainability of white oak, demographics of Kentucky's forested lands, and issues facing the forest products industry. Roughly 2.5 million acres of Kentucky lands are forestlands. Kentucky has maintained stable shares of tree crops including white oak. White oak is found in the South Central part of the United States. Kentucky is one of the leading producers of white oak which is found in three principal areas: Eastern Kentucky, the Western Coal Fields and South Central Kentucky. There is also white oak on federal lands such as Daniel Boone National Forest and the Land between the Lakes (LBL). The majority of white oak is non-industrial, privately held forestland.

The bourbon industry is the major buyer of white oak. White oak is used to make stave logs which are used in the production of bourbon

barrels. Not every white oak tree has a stave log because these logs must be large, of very good quality and with no knots in the wood. Only a small percentage of white oak trees at maturity can produce a stave log.

White oak is also used for high quality lumber and veneers, and the demand for white oak by other industries affects the price of stave logs. From 2008 to 2015, the price of stave logs increased and price increases are anticipated into the future as the availability of white oak decreases in the long term.

To sustain the future of white oak availability, forest management plans are essential to culture high quality trees. However, there must be landowner incentives and technical assistance. The management of seedling in research plots and assistance to forest landowners to implement stewardship plans are two top priorities. Biological threats need to be addressed to see tree improvement along with research into tree genetics to make them more resistance to disease and pests. There needs to be a stave log monitoring program at the mills. Right now timber reports do not include stave logs. Finally, there must be a positive environment for the logging industry.

In response to inquiry as to how the committee determined that this was an essential topic, Senator Carpenter explained that there was considerable discussion of white oak sustainability during the 2016 general session.

Senator Webb discussed the relationship between the sustainability of white oak and the support of outdoor sports such as hunting. Dr. Stringer added that forest management practices are compatible with hunting and the white oak acorns are good food supply for wildlife.

In response to a question by Senator Westerfield about how white oak are counted, Dr. Stringer explained that the Division of Forestry and the United States Forest Service (USFS) have physical plots and count 20 percent of the trees. The periodic physical counts allow USFS to determine gains and losses in tree types.

In response to a question by Senator Schickel about the percent of trees that are farmed and how long it takes to bring a tree to harvest, Dr. Stringer said that from a seedling to a stave log it takes 60 to 80 years. On low quality land, it may take as long as 90 years. The percentage of tree farmed land under forest management plan is low. Most Kentucky woodlands are not under good management.

In response to a question about how to fix the bottleneck in the availability of stave logs when it takes more than 75 years to produce the right sized tree, Dr. Stringer said that the problem can be minimized but not corrected.

Forest management can speed up the growth of trees, which will increase availability of trees more quickly.

In response to a question about how to educate landowners of the need to implement good forest management practices, Dr. Stringer said that the Division of Forestry responds to specific landowner requests.

White Oak and The Cooperage Industry

Mr. Robbie McKensie and Mr. Justin Nichols, Independent Stave Company, described the company and one of the leading cooperages in the world with locations in Benton, Morehead, and Lexington. The company purchases white oak to make stave logs for bourbon barrels. There is a good supply of stave logs.

In response to a question about whether a barrel can be reused after bourbon has been aged in it, Mr. Nichols said no. The barrels are sent overseas for Scotch whiskey.

In response to a question from Representative Meeks about Independent Stave indicating there are sufficient supplies and Dr. Stringer stating there are shortages, Dr. Stringer clarified that the shortages will occur in the medium to long term which is in 20 to 30 years. In the short to immediate term, there are good supplies of stave logs.

In response to another question about whether Tennessee is looking to Kentucky for stave logs for their expanding bourbon industry, Dr. Stringer said that Kentucky is a good supply and well situated to be a supplier to Tennessee.

In response to a question about technology that imparts similar characteristics to bourbon that white oak offers without using white oak logs, Mr. Nichols said that there are enzymatic formulas to impart flavors but I cannot speak to that technology and its value.

Dr. Stringer said that incentive packages to help landowners conduct good management is very important. Tax incentives are good inducements, but there appears to be some problems with this in Kentucky. The state must also keep research and data to help with technical assistance to landowners.

In response to a question about what barrels are used for after usage, Mr. Nichols said that they are used for Scotch Whiskey.

Bob Bauer, Executive Director Kentucky Forest Industries Association discussed various aspects of the forest industry. This is a major industry for Kentucky with over 30,000 people employed and it supports other industries that use wood products such as flooring, palates. All the related industries are significant revenue streams for Kentucky and there should be as many staves going into the bourbon industry from Kentucky. At a national level, there is discussion of obtaining white oak from national forests like Daniel Boone; however, over the past several years that opportunity has closed.

In response to a question about why the board feet from federal lands has declined, Mr. Bauer said that ecological groups and short staff to aid in the process of locating trees and conduct the sale has closed that resource.

Implications for the Bourbon Industry: A Distiller's Perspective

Jason Underwood, representing Buffalo Trace Distillery, testified that national forests are being treated as parks. Forests are being managed via lawsuit and logging now occurs for purposes other than providing timber such as clearing sick and damaged trees and creating wildlife habitats. At the national level, there are some federal initiatives to add white oak to the management plan for short leaf pine. At the state level, forest management is limited. Budgets are constrained and nurseries are needed to keep white oak stocks strong and resilient.

From the distiller's perspective, the crisis in obtaining white oak staves occurred three years ago. The company projects that 15 percent growth in demand for stave logs each year. The supply crisis is already in effect and it is driving up prices for stave logs.

In response to a question about the percent of Kentucky stave logs going to the bourbon industry, Mr. Underwood said that Buffalo Traces buys logs from Independent Stave. Kentucky is the second largest supplier of stave logs, but the company cannot disclose the percent of purchases in state. Independent also buys from Missouri.

In response to a question about the bourbon industry being regulated by the state to only use barrels once and whether the bottleneck would be resolved if that were changed, Mr. Underwood said that in Scotland barrels can be used many times. In Kentucky, they are used only once, but Buffalo Trace holds to honoring the tradition to produce bourbon. The current formula is working just fine.

Documents distributed during the meeting are available with meeting materials in the LRC Library. There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 1st Meeting of the 2016 Interim

June 10, 2016

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, June 10, 2016, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Dennis Keene, 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, Paul Hornback, Christian McDaniel, Dan "Malano" Seum, and Damon Thayer; Representatives Tom Burch, Denver Butler, Larry Clark, Daniel Elliott, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Charles Miller, Jerry T. Miller, Brad Montell, David Osborne, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, Diane St. Onge, and Susan Westrom.

Guests: Larry Disney, Director, Kentucky Real Estate Appraisers Board; C.W. Wilson, The Wilson Education Group, Shelly Saffron, Director of Administration, Kentucky Real Estate Commission; Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education; Mary Kathryn DeLodder, Director, Kentucky Home Birth Coalition; Rebecca Dekker, PhD., APRN, Researcher, Evidence Based Birth; Franklin S. Kling, Chairman, Marc Guilfoil, Executive Director, Kentucky Horse Racing Commission.

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

Approval of minutes for November 13, 2015 meeting.

A motion to approve the minutes of the November 13, 2015 meeting was made by Representative Charlie Miller and seconded by Representative Burch. The motion carried by voice vote.

Kentucky Real Estate Appraisers Continuing Education

Larry Disney, Executive Director of the Kentucky Real Estate Appraisers Board, told the committee that in July 1990, the General Assembly created the Kentucky Real Estate Appraisers Board (KREAB). This was necessary because Congress had passed the Bank Lending Reform Act after the savings and loan collapse in the 1980s. The lack of appraiser education was noted as a common denominator throughout the United States. The federal act is unique in that it recognizes three groups to work together for appraiser licensing enforcement; state agencies that enforce programs, a private non-profit organization that establishes national minimum appraisal standards and qualifications, and a federal agency that monitors both the state programs and the a private non-profit that approves the education courses. The course curriculum for the programs offered must comply with the minimum education requirements established by the Appraiser Qualification Board of the Appraisal Foundation in Washington, D.C. The KREAB continually receives high achievement recognition for the process used to approve appraisal education courses, providers, and instructors. Reciprocity has been approved and offered to any state in the U.S. that offers federally approved courses. Kentucky has been cited as a model for offering approved courses. Most providers in Kentucky offer five courses a year, although some only offer one course. Classes are often 10 or fewer students. Most providers do not have staff or a fixed location.

In March 2016, KREAB began receiving notices from education providers that they were going to stop offering courses in Kentucky because of added requirements for approval from the Kentucky Commission on Proprietary Education. Providers complained that the cost of initial application and renewal were not only expensive, \$2,000 to \$5,000, but they are burdensome due to the amount of staff time to prepare documentation that was more applicable

to colleges and universities than the smaller education providers. Some providers have said it would be more cost effective to apply for course approval in one of the seven surrounding states, then offer those courses to Kentucky residents. Because of reciprocity, KREAB will recognize and approve the education offered in other states. There is no college or university in Kentucky that offers a course of study for real property credential for appraising.

The KREAB has met with the Kentucky Council on Post-Secondary Education to request exemption, however, because of existing language in KRS 165A no exemption can be allowed for the education providers for Kentucky appraisers. The KREAB's mission is to protect both the public and regulated lenders through approved education. There are other existing boards that are exempt from requirements the Commission on Proprietary Education enforces. The KREAB would ask that, because they are regulated by federal regulatory oversight, it would also be recognized as exempt from the Kentucky Commission on Proprietary Education licensing requirements. It is believed that this exemption would allow Kentucky to continue the same quality, reliable service, competency and professionalism that has been provided since 1990.

In response to a question from Representative Keene, Mr. Disney said KREAB is a regulatory body and must comply with the federal criteria for appraiser education.

C. W. Wilson, representing The Wilson Education Group, said his school has provided real estate appraisal continuing education classes since 1991. The classes are approved by KREAB and meet the requirements listed in the Minimum Qualifications Criteria of the Appraiser Qualification Board of the Appraisal Foundation, as enforced by the Appraisal Subcommittee of the Federal Financial Institution Examination Council.

Until two years ago, he received his business license through the State Board of Proprietary Education. However, in 2016, the Kentucky Commission on Proprietary Education began to require a range of criteria, including copies of student transcripts and statements of student accounts that are not applicable to the scope of his particular school. This places barriers that are not relevant and are duplicative of the primary scope and mission of the KREAB. It will also be difficult to recruit new individuals to teach continuing education classes because of these new requirements.

In response to a question from Representative Burch, Mr. Wilson said the education being presented was the result of a federal act in 1990 because of the lack of education in the industry at the time. The duplication of layers of approval is the issue. Mr. Disney added that there are no intervening groups regarding the KREAB and the Kentucky Real Estate Commission that make decisions regarding the level of continuing education. Most providers are small providers for both the commission and the appraisers'

board. However, because of a recent change in statute, providers are now required to provide a catalog of courses offered and a policy for transfer of credits. These providers do not offer credits. They provide education or continuing education that is mandated by the KREC or the KREAB, very specific course content. The market controls what a real estate appraiser is paid.

In response to a question from Senator McDaniel, Mr. Disney said he would like for KREAB and KREC to be included in the group of boards that is exempted in KRS 165A from the criteria the Commission on Proprietary Education requires. Most of the requirements they have been asked to meet are not relevant to the scope of their providers.

In response to a question from Representative Westrom, Mr. Disney said the cost to prepare the documentation for licensure was between \$3,000 to \$5,000.

Shelly Saffron, Director of Administration for the Kentucky Real Estate Commission said she was present because the commission has many of the same concerns as the appraisers' board. There are currently 13,000 active licensees; they are required to obtain six continuing education hours annually. To obtain a license, they must have 96 hours of education in the field. There are 14 pre-license providers and 20 continuing education providers. The approval process requires providers to submit a course application, an instructor application, and payment of required fees. They must submit evaluations of course completions and the Real Estate Commission has monitoring rights to all of the providers.

The real estate pre-license providers do not operate like typical colleges and universities. The pre-license providers are prohibited, by statute, from recruiting. Real estate license holders have independent contract agreements. The proprietary schools are small independent business. For these reasons, KREC is asking for an exemption.

Misty Edwards, Executive Director of the Kentucky Commission on Proprietary Education, said the commission was established in 2012, replacing the Board of Proprietary Education. The commission's role is to protect consumers enrolling in a school or taking a course at a proprietary school. KRS 165A authorizes the commission to license schools located or doing business in the state, including resident or non-resident schools that are charging a fee or tuition. The commission oversees the Student Protection Fund, which is a \$500,000 fund to reimburse students in the event a school closes.

The commission regulates any for-profit, proprietary school. The Kentucky Real Estate Appraisers Board falls into the definition of privately owned for-profit school: a school that is privately owned, offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged. KRS 165A exempts a school or educational

institution, or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the Kentucky Board of Nursing, the State Board of Embalmers and Funeral Directors, or the Kentucky Council of Postsecondary Education. But only those specifically mentioned are exempted from the provisions of the law.

The commission licenses 152 schools, most of which are small business owners with one to five staff members, covering a broad spectrum of fields. In 2014, changes to administrative regulations allowed schools that were already accredited to forgo submitting a curriculum catalog. However, schools that are licensed by the commission must submit a course catalog, student transcript records, and other documentation with the application for license. When a school makes an application, it must submit a surety bond at a minimum of \$20,000. If the school employs staff enrolling people in the state of Kentucky, the school must have an agent bond at \$5,000.

The overall mission of the commission is to protect the student and to help small businesses in the Commonwealth to be successful.

Representative Keene said that he sponsored the 2012 proprietary education legislation. It was not intended to be so far-reaching and has resulted in unintended consequences. As a result, the legislation will be revisited.

In response to a question from Representative Jerry Miller, Ms. Edwards said that since she has been Executive Director there have not been any real estate appraisal schools go out of business that left students with a large amount of debt. She added that, depending on the school's profit, there is a tier that is relevant to what the application fee is.

In response to a question from Senator Seum, Ms. Edwards said there was a fee increase in 2014 and she would get that information to him.

Kentucky Home Birth Coalition

Mary Kathryn DeLodder, volunteer leader with the Kentucky Home Birth Coalition, said home birth was different today than it was 60 years ago. There are many reasons people choose home birth. Home birthers are very informed about pregnancy and home birth.

There are two types of midwives. There are nurse midwives, licensed in all 50 states, who have completed graduate level courses. These advanced practice registered nurses specialize in midwifery. There are 87 practicing in Kentucky. Only four of these attend home birth, and there are no physicians who attend home birth.

The Kentucky Home Birth Coalition is asking for licensure of non-nurse midwives who have completed specific education and training to be nationally credentialed as what is known as a Certified Professional Midwife (CPM). The program is accredited with competency based clinical requirements from the North American Register of Midwives. Currently home birth is an underground market in Kentucky. You have

to know someone who can put you in contact with a home birth midwife. There is no way to verify if the person is trained in home birth.

A CPM provides care from the beginning of pregnancy through the post-partum period. Appointments last about an hour and can be either at the home or in the office of the CPM. The standard for home birth is two trained individuals. The midwife brings supplies of everything needed for the birthing process. After the birth the midwife performs routine checks of mom and the baby. The midwife will return to evaluate the mom in 24 hours, 48 hours, one week, two weeks and then finally at six weeks.

The coalition has support from the Kentucky Chapter of the American College of Nurse Midwives. The coalition has met with The American Congress of Obstetricians and Gynecologists to discuss similar legislation that will soon become effective in Maine. There are plans to meet with the Kentucky Hospital Association to discuss their concerns. The coalition has yet to meet with the Kentucky Medical Association.

In response to a question from Senator Schickel, Ms. DeLodder said there is nothing to require parents to have a licensed midwife in the home at the time of the birth. Rebecca Dekker, Ph.D., APRN, Researcher, added that there are accidental births at home so putting restrictions on who could be there would be difficult.

Senator Schickel commented that now was the time for all interested parties to have a discussion rather than wait until the session to ask for changes.

Senator Thayer commented that he agreed with Senator Schickel and asked that the coalition not become discouraged. He and Senator Alvarado have discussed this topic, and Senator Alvarado is going to sponsor legislation during the next session.

In response to a question from Representative Westrom, Ms. DeLodder said the PKU test is done and there is ultra sound access through local hospitals.

Senator Buford commented that next session would be the fourth time that this bill would come before the session. He added that midwifery is not illegal in Kentucky, but the coalition is trying to become licensed to do the right thing.

In response to Representative Burch, Ms. DeLodder said the state test, PKU, is done by a heel prick. The midwife came back the day after the birth of her daughter, pricked her daughter's heel, blotted it on a card and mailed the card to a lab in Frankfort. Local audiologists provide hearing screenings for the home birth babies.

In response to a question from Senator McDaniel, Ms. DeLodder said nurse midwives provide services in hospitals. The coalition would like a license for those who are trained in home birth. The coalition is using the North American Registry of Midwives for credentialing of certified midwives. Kentucky law requires a state permit to practice. In 1975, administrative regulations were changed to prohibit permits

from being issued. Since 1975, a permit has been required, but no agency has issued the required permit.

Kentucky Horse Racing Commission

Marc Guilfoil, Executive Director of the Kentucky Horse Racing Commission, said he has been with the commission 28 years and has been accredited as a racing steward throughout that period. Since becoming the executive director, he has addressed the Jockey Mount Fee and successfully increased the losing mount fee. Recently, a lawsuit was brought against Kentucky regarding claiming races that went to the Supreme Court, where the state prevailed. However, he has advised horseman to consider changing rules regarding claims and losing horses to other states. The staff has recently been reassigned and new people are coming to enhance the ability to work toward safer racetracks.

Franklin S. Kling, Chairman of the Kentucky Horse Racing Commission, told the committee that this was his third appointment to the commission. The Governor has appointed all the members of the new commission. There are also nine committees that will soon have all appointments filled.

In response to a question from Representative Keene, Mr. Kling said in general there are two priority areas, safety of the horse and jockey, and to add value to the industry. The second is very challenging because the state is not on a level playing field. There are 38 entities Kentucky is competing against. However, the commission looks forward to working on improving what the state has now.

Senator Thayer said he wanted to endorse the appointments that Governor Bevin had made.

Representative Palumbo thanked Marc Guilfoil for the outstanding job he has done and his dedication to the horse industry in Kentucky.

Representative Osborne stated that he believed this commission was the most qualified Kentucky has had.

In response to a question from Representative Burch, Mr. Guilfoil said the commission is awaiting results of a study regarding the use of Lasix 24 hours before a race. Lasix issues are the biggest issues that need to be settled. This medication issue is very divisive. This commission is dedicated to a resolution. He explained that the Breeders Incentive Fund is an awards program that gives a bonus to Kentucky-bred race winners.

In response to a question from Representative Clark, Mr. Guilfoil said that even though HB 102, regarding the excise tax for the development fund and the splits for Red Mile and Keeneland, did not pass in the last session, it is the opinion of the Revenue Cabinet that the commission can implement the intent of the legislation.

In response to a question from Representative Westrom, Mr. Guilfoil said the administration of Lasix on race day is limited to four hours before the race. That is supported by studies.

In response to a question from

Representative Jenkins, Mr. Guilfoil said there are two women on the racing commission but no minorities. Regarding expanded gaming, that would be a decision that the commission on the whole would have to take a position on.

Representative St. Onge stated that she would like to welcome Mr. Kling as commissioner.

Senator Thayer commented that he did not believe it was appropriate for the commission as a regulatory body to make policy recommendations on expanded gaming.

There being no further business, the meeting was adjourned at 11:31 AM.

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

Minutes of the 1st Meeting of the 2016 Interim

June 9, 2016

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, June 9, 2016, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Albert Robinson, 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 Julian M. Carroll, C.B. Embry Jr., Carroll Gibson, Ernie Harris, Gerald A. Neal, Dennis Parrett, Whitney Westerfield, Mike Wilson, and Max Wise; Representatives Linda Belcher, Tom Burch, Larry Clark, Leslie Combs, Tim Couch, Ron Crimm, David Hale, Kenny Imes, James Kay, Martha Jane King, Donna Mayfield, David Meade, Terry Mills, Tim Moore, Rick G. Nelson, Tom Riner, Rita Smart, Jeff Taylor, and Russell Webber.

Guests: General (Ret.) Norman Arflack, Commissioner, Department of Veterans Affairs; Sherry Whitehouse, Lady Vets Connect; and Phyllis Abbot, Sheppard's Hands.

LRC Staff: Erica Warren, Jonathan Philpot, Lesley Nash, and Rhonda Schierer.

Department of Veterans Affairs: Introduction and Vision

General (Ret.) Norman Arflack, Commissioner, gave a brief introduction and discussed the vision of the Kentucky Department of Veterans Affairs (KDVA). General Arflack was appointed as Commissioner of KDVA in April. He stated that he is fortunate to keep Heather French Henry on staff as the Deputy Commissioner as she brings a wealth of knowledge to the department. He gave a brief update on how things are going with the veteran's nursing homes and cemeteries since his appointment. The nursing homes are all doing well and have set the standard across the nation for the right way to do business. Radcliff is close to coming online; the construction date has been moved from June to July 11, 2016. The

veteran's cemeteries are much to be proud, and the construction of the south east cemetery will start soon.

In response to a question from Representative King, General Arflack stated that KDVA is continuing to work on behavioral health issues among soldiers and look at ways to cut down the number of suicides and serious tragedies that are occurring as soldiers return home. He added that there is an emphasis on helping those with PTSD and other conditions by making them aware of all the organizations that are available to them for help and support.

Lady Vets Connect & Sheppard's Hands: Addressing Homelessness among Female Veterans

Sherry Whitehouse, Founder of Lady Vets Connect and Phyllis Abbot, Founder of Sheppard's Hands, gave a PowerPoint presentation on Lady Veterans Hands for Hope. Ms. Whitehouse discussed the merger between Sheppard's Hands and Lady Vets Connect. Originally operating as two non-profit organizations, they joined forces to become Lady Veterans Hands for Hope. The new organization streamlined the work of both entities into one to provide high quality, comprehensive services to transitioning women veterans. The planned merger completion date is July 1, 2016.

Ms. Abbot stated that Jim Thurman, a member of NABVETS, donated the first home for lady veterans to Sheppard's Hand. The dedication and ribbon cutting for the home is scheduled for July 1, 2016, at 10:00 AM, 980 De Porres Avenue, Lexington, Kentucky. Mayor Gray and KDVA Deputy Commissioner, Heather French Henry, will be present. The home will house three homeless women veterans for a year. During that year, the goal is to empower these three women and their children with health care, counseling, and job training skills.

There is a great need to continue the mission of serving women veterans. To do so, Lady Veterans Hands for Hope needs support and funding (grants, donations, temporary or permanent properties available), visibility, participation at events, and creating more legislation pertaining to women veterans.

Ms. Whitehouse discussed why a Veteran Resources United Lexington (VRUL) is needed. Veterans have distrust and fear, and the solution is communication and connections through the VRUL to the 19 Lexington and surrounding area Veteran Service Organizations (VSOs). Creating the VRUL helps increase visibility to the VSOs, VA, and Lexington Fayette County Government (LFUCG). The VRUL would increase numbers served by VSOs and the VA, leverage resources, identify gaps, and avoid duplications of services. On any given night, nearly 5,000 women veterans are homeless.

Ms. Whitehouse discussed why a transitional home is needed. Forty percent of women veterans have reported sexual trauma, one out of ten homeless veterans are now women, other shelters serving homeless veterans are not equipped for children, there is a need for

bridging relationships with the VA and other resources, and women veterans struggle to be seen as veterans.

Upcoming events for Lady Veterans Hands for Hope are:

July 10th – Speaking at VFW State Convention Louisville

June 17th – Speaking at American Legion Conference

June 23rd – Rally Pont Veteran Resource Fair, Louisville

June 25th – Meet & Greet Louisville

July 1st – Ribbon Cutting Thurman-Abbott Home for Lady Veterans

July 9th – Kentucky Speed Way NASCAR Veterans Fair

September – TBA – KDVA Women's Veterans Conference, Hazard

A copy of the PowerPoint and other meeting materials are a part of this official record in the Legislative Research Commission Library.

Other Business

Senator Embry thanked Ms. Whitehouse and Ms. Abbot for their assistance and dedication on SB 128 and invited them to the ceremonial signing of SB 128 and SB 217 in the Governor's office on June 21st at 3:45 PM.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 1st Meeting of the 2016 Interim

June 13, 2016

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Education was held on Monday, June 13, 2016, at 1:00 PM, at the iLead Academy in Carrollton, Kentucky. 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 Danny Carroll, Alice Forgy Kerr, Reginald Thomas, and Max Wise; Representatives Linda Belcher, George Brown Jr., John Carney, Jim DeCesare, Jeffery Donohue, David Hale, James Kay, Tom Riner, Sal Santoro, Rita Smart, Jim Stewart III, Wilson Stone, Addia Wuchner, and Jill York; and interim guest member Representative Arnold Simpson.

Guests: Representative Rick Rand; Leon Mooneyhan, Chief Executive Officer, Ohio Valley Educational Cooperative; Alicia J. Sells, Director of Innovation, Ohio Valley Educational Cooperative; Tim Abrams, Superintendent, Henry County; Rob Stafford, Superintendent, Owen County; Larrissa McKinney, instructor, iLead Academy; Oscar Garcia, student, iLead Academy; Ethan Searcy, student, iLead Academy; Grace Chilton, student, iLead Academy; Michaela Strethen, student, iLead Academy; Lori Porter, student, iLead Academy; Laura Arnold, Associate Commissioner, Office

of Career and Technical Education, Kentucky Department of Education; Leslie Slaughter, Policy Advisor, Office of Career and Technical Education, Kentucky Department of Education; and Melissa Aguilar, Executive Director, Kentucky Workforce Innovation Board.

LRC Staff: Jo Carole Ellis, Janet Stevens, Avery Young, and Maurya Allen.

Representative Rick Rand welcomed members of the committee to his district and spoke briefly regarding the funding for iLead Academy that had been approved in the biennium budget. He also informed members that a new campus for Jefferson Community and Technical College was being built in the area and invited members to observe its progress.

Presentation: iLead Academy

Leon Mooneyhan, Chief Executive Officer, Ohio Valley Education Cooperative, welcomed members to the iLead Academy and introduced Alicia J. Sells, Director of Innovation, Ohio Valley Educational Cooperative. Ms. Sells spoke briefly on the cooperation among the five school districts which send students to iLead Academy; Henry County, Carroll County, Gallatin County, Trimble County, and Owen County. She gave an overview of the curriculum used at iLead, Project Lead the Way, which is an expensive program and requires teachers to receive special instruction in order to teach it to the students at iLead. It was only through sharing resources that these schools could access the curriculum and build this model of education. The students here are intensely motivated to go into a specific career pathway and everything at iLead is workforce development training. The students enter as high school freshmen and when they graduate they are prepared to enter a high skilled, high paying job or go on to career and technical school.

Another unique aspect of iLead Academy is that all instruction is self-paced and instructors serve more as mentors than teachers. The material is all provided to students online and they participate in group projects at the Academy. Students take benchmarking tests upon completion of their online coursework to certify proficiency. Additionally, they will enroll at the new Jefferson Community and Technical School in their junior year so they will graduate with a high school diploma and an associate's degree. Many field trips also make up the curriculum and allow students to visit colleges as well as job opportunities throughout the state. Ms. Sells also noted that it was the combined monetary support of each district, contributing \$75,000 each, and a \$250,000 planning grant, which made it possible to furnish the building and curriculum for this pilot class.

Tim Abrams, Superintendent, Henry County, spoke briefly about how the project came out of the districts' desire to provide another educational opportunity for their students who are not well served in a traditional classroom environment. Rob Stafford, Superintendent, Owen County, added that it was not an "elitist" model as students at iLead are reflective of a wide range of GPAs. They apply and are

accepted based on their ability to self-motivate and work collaboratively as well as an interest in the engineering and informatics career pathways. He spoke highly of the pioneer class and their courage to go into an untried program.

Chairman Graham asked what specific process was used to determine which students would be accepted. Ms. Sells answered that in the first year, superintendents met in assembly with their middle school students and informed them about the opportunity. Interested students then applied through their local school districts with a plan to accept six students from each district. After initial applications, however, the decision was made to accept nine students from each district for a total class size of 45. This represented almost every student who applied. Those whose math scores were very low were the only ones turned away, as that would indicate a challenge in an engineering academy. This year, following the application essays, the school instructors, Ms. Larrissa McKinney and Ms. Jenna Gray, were asked to interview the families as well because it is a very different and challenging learning environment, which includes a great deal of work at home.

Chairman Graham followed up asking if laptops or tablets were issued to students to facilitate their study. Mr. Abrams answered that all students have a laptop and if a family does not have internet access, as many rural families in the area do not, they are also issued a MiFi card to provide access at home.

Representative Smart asked how student success was measured at iLead Academy versus the testing performed in a traditional school. Ms. Sells said that they use the same assessment that all Kentucky students use. The online learning platform used in the Academy allows for a pre-test before each course and final course exams, as well as the Kentucky end-of-year exams. They additionally take the end-of-year assessment from Project Lead the Way, on which this cohort of students did exceptionally well. Their performance was so exceptional that it has prompted administrators from Project Lead the Way to inquire about the environment at iLead Academy and how these students performed so well in order to use it to assist other Project Lead the Way schools. Ms. Sells attributed it to the students' hands-on learning opportunities.

Regarding the SEEK money for each student, Representative Stone asked if it remains in the student's local district or if it is pooled as well. Ms. Sells answered it remained in the district. Representative Stone followed up with a question regarding transportation of students to the Academy. Mr. Abrams replied that all five districts already had bus service for students attending the area technology center that now additionally brings these students to iLead. Representative Stone concluded asking if these students still participated in extracurricular activities. Mr. Abrams answered that many of the students participate in extracurricular sports and other activities, and it has been an intentional effort by the school districts to keep

these students engaged with the social networks of their home districts, including bussing them back for pep rallies if they desire to participate.

Senator Carroll asked about the nature of the partnership between iLead Academy and the local business community. Ms. Sells stated that Carroll County has several structured organizations of their business community which brings together many of their manufacturing entities, and she has ties to business communities in Louisville. These organizations have provided job shadowing opportunities as well as providing insight into the skill sets required for specific industry jobs.

Senator Wilson commented that iLead Academy presented an exciting opportunity, and he hoped it would become a model for other areas in the state. Chairman Graham agreed and stated that this was an excellent example of a community coming together and designing a way to address local needs for jobs and education.

Representative Carney asked if there was a minimum number of school districts that would be needed to construct an academy such as this. Mr. Abrams answered that depending on the size of the districts, it could be possible with two districts, but three would be better. Ms. Sells added that the concentration of businesses would also be a factor. Following up, Representative Carney asked about the job shadowing and internship opportunities provided to students. Ms. Sells indicated that they hope to adopt the TRACK program to provide apprenticeships for students in their last semester before graduation. Representative Carney closed by commenting that this represented, for him, the future of instruction. It has to be personalized, and the students have to have a personal investment in their own learning to keep them engaged in school.

Senator Kerr asked about the leadership staff at iLead Academy and their credentials. Ms. Sells said there is a director, Ms. Larrissa McKinney, and a lead teacher on Project Lead the Way. A second teacher will be joining the staff this fall. They are all in the building every day. Ms. Sells is the project manager at Ohio Valley Educational Cooperative. All the teachers are fully certified through the state of Kentucky. Senator Kerr closed asking if there were any barriers that the legislators could address to help the Academy. Ms. Sells said that a lot of what has been put in place legislatively over the last few years has made this possible. Going forward, their primary need is going to be monetary resources.

Representative Wuchner commented that the collaboration among the districts to try something different was inspiring and perhaps another option from the legislature would be ways to incentivize the business communities' involvement in schools such as iLead Academy.

Representative York asked about the maximum number of students for the Academy. Ms. Sells commented that space will be tight in the fall to accommodate all the new students. However, based on the previous year, at the

beginning of the year they expect to have a few students choose to return to traditional school because they desire the structure. A couple of students may also be lost over the year because of poor academic performance or disciplinary issues. Mr. Abrams stated that they have narrowed the focus to students interested solely in engineering pathways. But, in the future they would like to expand to accept students in medical and biomedical pathways because there are many students who would prefer that pathway.

Chairman Graham closed by asking how the various boards of education of the five districts reacted to the iLead Academy program. Mr. Stafford stated that he received a lot of support from his board of education in thinking differently about education. Mr. Abrams echoed that and said that the students and parents have been vocal and supportive which has bolstered his board of education. Ms. Sells said that the iLead Academy was formed through an interlocal agreement approved by all five districts, the Commissioner of Education, and the Attorney General which established it as a legal entity. Mr. Mooneyhan shared that the boards are the governing body, but that they contracted with Ohio Valley Educational Cooperative to run the facility.

Following questions, Ms. McKinney and several students came forward to speak about their projects and what they felt was valuable about iLead Academy to them personally. Oscar Garcia, Ethan Searcy, and Grace Chilton all spoke regarding Exhibition Nights where members of the community and prospective students were brought in to visit the facility and see the projects worked on by students. Michaela Strethen spoke about the Jefferson Community and Technical Center and students' participation in the programs there. Lori Porter spoke about the online instruction portal the students use to take classes and turn in assignments as well as some of the interdisciplinary projects they do at iLead Academy to demonstrate their knowledge. She also spoke regarding their participation in statewide competitions such as the Student Technology Leadership Program (STLP).

Senator Thomas asked if the move away from rigid grades to self-paced curriculum was a viable model for traditional schools. Ms. McKinney answered that it is a challenge not just to keep students on track, but to keep them from going too fast. Some highly motivated students are too caught up in completing courses quickly and do not go into the material deeply enough. It takes a balance and could be a struggle for a teacher in a traditional classroom with students at many different levels on many different tracks.

Senator Wilson asked how many students had enrolled versus how many remained at the end of the year. Ms. Sells stated that 45 had enrolled, and 39 finished the year. Two had been dismissed for disciplinary issues, two returned to their home districts because they voluntarily wanted more structure, and two were dismissed at midterm for low academic performance.

Chairman Graham asked about the demographics of the school. Ms. McKinney answered that they were fairly evenly split male/female. Roughly 10 percent are on free or reduced lunch and 10 percent are bilingual Hispanic. There are currently no students of color. Ms. Sells stated that the demographics are a fairly accurate representation of the five districts which comprise iLead Academy.

Presentation: Career & Technical Education: New Skills for Youth Initiative

Laura Arnold, Associate Commissioner, Office of Career and Technical Education, Kentucky Department of Education (KDE) came forward and gave a brief introduction to the New Skills for Youth Initiative. Leslie Slaughter, Policy Advisor, Office of Career and Technical Education, KDE, gave an overview of the enrollment data for career and technical education in Kentucky. There are approximately 132,000 students enrolled in grades 9 through 12 in career and technical education (CTE) programs. Students in 165 districts are impacted by CTE, and of the remaining eight, five are K-8 districts and do not participate in exploratory opportunities in middle school levels. Ms. Slaughter then showed the national CTE Career Clusters model that forms the basis of CTE program development in Kentucky. She concluded by stating that 69.3 percent of Kentucky high school students are enrolled in a CTE program, and 98 percent of Kentucky's preparatory CTE seniors graduated from high school in 2015.

Ms. Arnold then spoke about the current structure of CTE program distribution and what could be changed to facilitate more programs like the iLead Academy. There are 42 locally-operated career and technical centers and 53 state-operated centers. Additionally, the department receives approximately \$17 million in Carl D. Perkins grant funds, 85 percent of which is distributed to schools and districts, 5 percent remains for administration, and 10 percent is used toward state leadership training. In December, the Every Student Succeeds Act was put into effect at the federal level which allows time for the assessment and allocation of funding, as well as the accountability system throughout the state. This could be a pathway to incentivize counties to participate in or create programs such as iLead Academy. Much of the state funding goes to support the 53 state centers and includes a SEEK line item of approximately \$22 million. Ms. Arnold also showed the relationship of Kentucky's spending on CTE compared to the spending of surrounding states.

Earlier in 2016, the KDE applied for a New Skills for Youth (NSFY) Initiative grant using funds from J.P. Morgan Chase grants. This is a two-phase grant, and the department has already received funds through phase one totaling \$100,000. This will go toward a six-month planning and design phase. Then the department will apply for phase two monies, which can be up to \$2 million yearly for three years to reshape CTE in the state. The four large visions for this

grant are to create CTE that: 1) is employer-led through regional workforce areas ensuring cross-institutional involvement; 2) encompasses career pathways that have seamless transitions from secondary to postsecondary education; 3) involves shared resources and funding among all partners; and 4) provides valuable industry certifications and credentials that are recognized by business and industry. Grant partners include the Cabinet for Economic Development, Kentucky Chamber of Commerce, Council on Postsecondary Education, Education and Workforce Development Cabinet, Kentucky Center for Education and Workforce Statistics (KCEWS), Kentucky Community and Technical College System (KCTCS), Kentucky Department of Education, and the Kentucky Labor Cabinet. Ms. Arnold emphasized that this project was not just a KDE project but involved many interested partners throughout the state.

Melissa Aguilar, Executive Director, Kentucky Workforce Innovation Board, gave an overview of the state sector data being used to inform the decision making during the phase one planning process. Kentucky's top employment sectors are business and technical services, construction, health care, manufacturing, and transportation. Initial findings indicate that Kentucky will see the most growth in these five sectors with over 280,000 job openings in the next five years. These are highest in healthcare and business and technical services. Top demand is in high skill/high wage, but jobs representing low skill/low wage will also be needed and the CTE programs will need to address these needs as well. According to the timeline for phase one, the board will present the study to state-wide organizations seeking validation at all levels before moving forward.

Ms. Arnold closed by referencing the phase two goals to develop a plan to regionalize the delivery of CTE based on labor data. Application for the phase two money will be in November with a focus on the existing locally-operated and state-operated CTE centers, and developing a system of governance that is employer-led and requires collaboration between districts. Going forward, the Office of Career and Technical Education will look to the committee for guidance and input on what the future of funding for CTE needs to look like to ensure all students have access to high quality, high wage career pathways.

There being no questions, Chairman Graham announced that the next meeting of the committee would be July 18, 2016, at 1:00 p.m. in Frankfort, Kentucky. Senator Wilson will preside as chair. The meeting adjourned at 3:19 p.m.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Minutes of the 1st Meeting of the 2016 Interim

June 16, 2016

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, June 16, 2016, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Chris Girdler, Ernie Harris, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Lynn Bechler, Linda Belcher, Regina Bunch, Larry Clark, Will Coursey, Jeffery Donohue, Jim DuPlessis, Dennis Horlander, Adam Koenig, Charles Miller, Jerry T. Miller, Terry Mills, Tom Riner, John Short, Jim Stewart III, and James Tipton.

Guests: Commissioner Beth Kuhn, Department of Workforce Investment, and Andy Hightower, Chief of Staff, Education and Workforce Development Cabinet.

LRC Staff: Carla Montgomery, Adanna Hydes, Andrew Manno, Sasche Allen, and Jay Jacobs.

Tour of Workforce Issues

Commissioner Beth Kuhn outlined the two main goals that the Department of Workforce Investment currently has in regards to Kentucky's workforce, which include leveraging partnerships to build the state's talent pipeline and building a service delivery system that represents excellence in customer service while reflecting budget realities. A strong partnership between the education system and employers in the workforce must be maintained to incentivize opportunities for those who may have barriers to employment and those who receive public benefits to join the workforce. With the assistance of the Kentucky Center for Education and Workforce Statistics, Kentucky has a unique supply data system that allows the transition between benefits coaching to career coaching. More demand data is needed, however to ensure that the needs of employers is being met. The Kentucky Career Center in conjunction with the department provides customer service for businesses and employers as well as for job seekers to offer services such as talent recruitment assistance, candidate pre-screening and assessment, access to local job openings, and professional resume services.

Unemployment Insurance Update

During the recession the Unemployment Insurance Trust Fund fell into the negative by almost \$1 billion, but as of January 2016 Kentucky has a positive trust fund balance. It has been estimated by the end of 2016 there should be a net positive balance of \$240 million. On September 30, 2016 the trust fund balance is likely to cause an increase in maximum benefits from \$415 per week to approximately \$450 per week, a decrease in employer contributions, and a freeze in the taxable wage base for four years. The commissioner expressed some legislative priorities for the department during the upcoming session such as the clarification of the surcharge

period, modernization of the employer payment process, revision of the employer protest period for appeals that is currently out of compliance with Federal timeliness requirements, revision of the unemployment benefits for military spouses, and clarification of successorship regulations.

Worker Adjustment and Retraining Notification (WARN)

In 1988 Congress passed the WARN Act, which required employers to provide adequate notice, 60 days, to workers to seek other employment before losing their jobs in the event of a plant closing or mass layoff. The department encourages employers to notify the Kentucky Division of Workforce and Employment Services as quickly as possible so comprehensive WARN materials can be distributed and services referenced to workers and employers. There is a Rapid Response Team in each local workforce development area to assist employers with customized services. The Rapid Response team can provide services such as assisting dislocated workers apply for unemployment benefits or finding financial assistance for job training.

Workforce Innovation and Opportunity Act (WIOA) Implementation

WIOA was passed in 2014 and has a large focus on operating comprehensive, technology-enabled career centers; developing and expanding partnerships to provide seamless assistance; regionalizing planning and administrative/management structure when appropriate; providing greater technical assistance, training, and monitoring of local workforce development areas; and focusing on career coaching and employer services. Integrated services are emphasized through WIOA by making it mandatory to maintain partnerships between the Department of Workforce Investment, which includes the Office for Vocational Rehabilitation, the Office for Employment and Training, and the Office for the Blind, and the local workforce boards. WIOA also has data requirements called common measures that make it mandatory for all of these offices to report the same type of data. Some of WIOA's major milestones include the establishment of a new Kentucky Workforce Innovation Board and the agreements completed amongst the local workforce development boards. Fiscal agents have been competitively procured for all of the local workforce areas and the contracts are currently being finalized. Once the Federal WIOA regulations are received local and regional plans can be established and WIOA performance measures can be put in place.

Newly Funded Initiatives

Andy Hightower gave the members details about the Workforce Investment Fund and the Dual Credit Expansion that were made possible by legislation passed in the 2016 Regular Session. The Workforce Investment Fund is a \$100 million bond pool that will fund qualifying projects to invest in Kentucky's workforce. The objective of the fund is to require local education institutions to partner with employers to develop training that is in demand amongst employers with the intentions to continue building

Kentucky's talent pipeline. The Dual Credit Expansion will create a seamless transition to postsecondary education into the workforce by making it possible for high school students to earn college credit or industry-recognized certification. Costs of tuition will be capped at 33 percent of KCTCS full tuition, which is about \$154 per course.

In response to Representative DuPlessis, Mr. Hightower stated that the federal government has just announced a pilot program that will allow high school students to utilize Pell Grant funds for dual credit courses. He also said the cabinet is willing to have conversations about the effectiveness of KEES funds and other ways to expand opportunities.

Addressing Representative Charles Miller, Mr. Hightower said that there are already schools in the state that offer dual credit programs, but the idea behind the dual credit expansion is to offer the opportunity to all students across the state. Due to fund restrictions in the budget, the first year of implementation the dual credit program will only be offered to high school seniors. A school's original allotment will be based on the number of seniors within the school, but Mr. Hightower explained that this is not a direct scholarship program. The program has been designed to reimburse schools for successful completion of the dual credit courses.

Responding to a question posed by Representative Bechler, Commissioner Kuhn said that the department is building the requirements for modernization of the unemployment insurance system and employment services. Security and privacy of data collected from employees and employers is pertinent, and there is a market scan being done for the best system to do so.

Representative Clark suggested that the employers should furnish equipment for job training in an effort to make a better use of funds. He also mentioned that he had met with Secretary Hal Heiner, Commissioner Stephen Pruitt, and Secretary Derrick Ramsey to discuss the possibility of KEES money being available for apprenticeship programs. Representative Clark said that one barrier our education system has is high school counselors not advocating technical training or apprenticeship programs to students. Lastly, he commended Hardin County schools for their Work Ethic Certificate program. Commissioner Kuhn commented, saying career oriented guidance counselors is an area of interest for the department to study.

Addressing a concern of Representative Nelson's, Commissioner Kuhn said she would be in favor of discussing altering the number of days workers are given notice before a plant closing or mass layoff required under the WARN Act.

After comments and concerns from Representative Belcher, Mr. Hightower stated that the cabinet intends to advertise the schools taking advantage of the dual credit program in an effort to increase the number of participating schools. Commissioner Kuhn affirmed that the

department is focused on all students, including those with disabilities. She pointed out that under WIOA there will be pre-employment transition services offered to individuals starting at age 14.

Representative Horlander made brief remarks about a dual credit program he participated in through Bellarmine University in 1968.

In response to Senator Thomas, Commissioner Kuhn described demand data as anticipated needs of employers. Mr. Hightower followed up by informing members that all data collected will be published and updated annually, including supply and demand data, in combination with data from the Kentucky Center for Education and Workforce Statistics and other partners.

Responding to Senator Gibson, Commissioner Kuhn explained that the unemployment insurance trust fund is maintained by a combination of state and federal regulations and requirements. Mr. Hightower reiterated that on September 30, 2016 the trust fund balance is likely to trigger a freeze in the taxable wage base for the next four years. Commissioner Kuhn concluded by restating that one issue the department wants to resolve during the upcoming session is the clarification of the surcharge period and where those funds are allocated after they are collected.

There being no further business, the meeting was adjourned at 11:18 a.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 1st Meeting of the 2016 Interim

June 17, 2016

Call to Order and Roll Call

The 1st meeting of the Special Subcommittee on Energy was held on Friday, June 17, 2016, 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; Senators Ernie Harris, Dorsey Ridley, Brandon Smith, and Robin L. Webb; Representatives Rocky Adkins, Hubert Collins, Tim Couch, Will Coursey, Jim Gooch Jr., Jerry T. Miller, Sannie Overly, Tom Riner, John Short, Kevin Sinnette, Fitz Steele, and Jeff Taylor.

Guests: Elizabeth Caywood, Internal Policy Analyst IV, Office of the Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Todd Trapp, Branch Manager, Policy Development Branch, Division of Family Support, Department for Community Based Services, Cabinet for Health and Family Services, Roger McCann, Executive Director, Community Action Kentucky and Cathy Hinko, Metropolitan Housing Coalition.

LRC Staff: D. Todd Littlefield, Stefan Kasacavage, and Susan Spoonamore, Committee

Assistant.

Presentation and Public Hearing on the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application – FY 17

Elizabeth Caywood, Internal Policy Analyst IV, Office of the Commissioner, Department for Community Based Services (DCBS), Cabinet for Health and Family Service, Todd Trapp, Policy Development Branch, Division of Family Support, Department for Community Based Services, Cabinet for Health and Family Services and Roger McCann, Executive Director, Community Action Kentucky.

Ms. Caywood gave an overview of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application. She explained that LIHEAP offers assistance for low-income individuals and family a safety net for their heating and cooling costs and energy conservation measures. Most of the low-income households pay the highest proportion of their income for home energy. Community Action Agencies are the designated agencies to distribute the federal funds for LIHEAP. The program is 100 percent federally funded with no state match requirement. It is anticipated for FY 2017, the award will be approximately \$30 million of which ninety percent is used for direct benefits to Kentucky citizens. The DCBS contracts with Community Action of Kentucky, Inc. (CAK) to provide administrative training, monitoring and technical support through subcontracts with the twenty-three agencies of Kentucky's Community Action Network. She said that \$25,000 is retained by DCBS for preventative assistance to provide families with an energy payment if the payment will prevent the removal of a child from the home or assist in returning a child to their home. Approximately \$30,000 is available to design and initiate leveraging activities to help increase the resources available to eligible households to reduce their residential energy costs for consumption. The Cabinet for Health and Family Services (CHFS) plans to transfer exactly fifteen percent of the LIHEAP allocation to the Kentucky Housing Corporation (KHC) for the weatherization program. Community Action agencies retain a small percentage of their individual allocations to provide budget counseling, assist with energy vendors and develop utility plans to promote the self-sufficiency of the household served. Ms. Caywood said that ten percent of the award that is left is used for combined administrative activities and that includes the DCBS and federal contract monitoring, CAK, and KHC.

Todd Trapp explained that LIHEAP serves households whose incomes are at or below 130 percent of the federal poverty level. For a household of one, the monthly income cannot exceed \$1,287 or for a household of four, the income cannot exceed \$2,633 per month. There are two types of payment assistance benefits, the subsidy component and the crisis component. Benefits are available in all of Kentucky's 120 counties through their Community Action

Agency. From November 2015 through April 2016, the weatherization program served 894 homes.

Roger McCann, Executive Director, Community Action Kentucky, Frankfort. Mr. McCann said that CAK represents twenty-three community action agencies across the state. Each agency is operated by a board of local elected officials and representatives from the low-income in that area. The intent of the programs is to provide stability to the vulnerable families and to help reduce the effects of poverty. In order to get out of poverty a person needs to have a job, so CAK assists in getting them job training so they can become self-sufficient. Mr. McCann noted that 81,941 households across the state received a subsidy benefit for a total of \$11,339 million. He said the crisis component was extended through the end of April because of surplus funds. The number of households receiving crisis benefits was 79,216 which totaled \$23,617 million in benefits. The weatherization program is handled by the Kentucky Housing Corporation who provides allocations to the different Community Action agencies.

Chairman Carpenter agreed that people who have to spend a disproportionate share of their income on utilities will forego other necessities such as medications and food.

Cathy Hinko, Metropolitan Housing Coalition, which is a research policy analysis and advocacy organization focused on fair and affordable housing. Ms. Hinko stated that she spoke to the committee last year with concerns about LIHEAP and the way it was being unfairly administered for areas like Louisville whose utilities are metered. This year Louisville returned \$500,000 unspent crisis money. Last year Louisville returned approximately \$300,000. There are concerns that the returned money may violate Title VI of the Civil Rights Act of 1964. In part, she stated that public funds may not be spent in any fashion which encourages, entrenches, subsidizes or results in racial (color or national origin) discrimination. Ms. Hinko said that the poverty rate in Louisville for African Americans is thirty percent and the poverty rate for white families is eleven percent. Ms. Hinko asked that the Special Subcommittee on Energy recommend a quarterly report from the cabinet on their progress to achieve parity and their progress on redesigning the program so that it is fair. As a final note, she was told that there would not be a cooling program this year.

In regards to the cooling component, Ms. Caywood said that there are no funds for this year.

In response to Rep. Miller's question about returning unused crisis funds, Mr. McCann said the program is operated on reimbursement. Any funds that are unrequested remain in the pot. The unspent money will be used toward next year's funding of the subsidy component. Mr. Trapp stated that there is a limit on what can be carried forward from one federal fiscal year to another fiscal year. The money needs to be spent in the given fiscal year because the cabinet is limited to

carrying forward ten percent.

In response to Representative Overly, Ms. Caywood said that the cabinet would be happy to provide staff with quarterly updates.

In response to Representative Taylor, Ms. Caywood said that the cabinet is reaching out to other states on how to improve the waiting time for funding. There are some bulk fuel vendors who do go out and they can provide a limited quality assurance measure for the cabinet.

The Proposed Findings of Fact were adopted, by unanimous voice vote, upon motion by Representative Collins and second by Senator Ridley. (A copy of the Findings of Fact can be found in the committee's meeting folder in the LRC Library.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 1st Meeting of the 2016 Interim

June 22, 2016

Call to Order and Roll Call

The first meeting of the Interim Joint Committee on State Government was held on Wednesday, June 22, 2016, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Brent Yonts, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Brent Yonts, Co-Chair; Senators Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Damon Thayer; Representatives Kevin Bratcher, John Carney, Leslie Combs, Joseph Fischer, Jim Gooch, Derrick Graham, Kenny Imes, James Kay, Martha Jane King, Lewis Nicholls, Sannie Overly, Tom Riner, Steven Rudy, Sal Santoro, Rita Smart, Diane St. Onge, Tommy Turner, and Ken Upchurch.

Guests: Donnie Holland and Bill Novak, Department of Parks; Phillip Brown and Laura Brooks, Tourism, Arts and Heritage Cabinet.

LRC Staff: Judy Fritz, Alisha Miller, Karen Powell, Kevin Devlin, Jennifer Hans, Roberta Kiser, and Peggy Sciantarelli.

Kentucky State Parks "Refreshing the Finest" Campaign

Guest speakers from the Tourism, Arts and Heritage Cabinet were Donnie Holland, Commissioner, Department of Parks; Phillip Brown, Chief of Staff and Legislative Liaison, Office of the Secretary; Laura Brooks, Office of the Secretary; and Bill Novak, Director of Facilities Management, Department of Parks.

Commissioner Holland thanked the General Assembly for its support and for the additional \$18 million in funding appropriated for Kentucky state parks. He said the funding will be used to improve safety and aesthetics at the parks, including structural repairs, painting, and much needed interior and exterior upgrades. The work for the Refreshing the Finest campaign will be carried out during 2016 and 2017. Bids must

be sought for most of the park projects. About a year ago an in-depth study of the parks indicated that deferred maintenance costs for the parks was approximately \$240 million. In the majority of years since 2008, the parks have received only maintenance funding to “keep the doors open” and no funding for deferred maintenance. The \$18 million will be a great help in refurbishing the parks. Public awareness of the campaign has already resulted in increased visitation to the parks, especially at Lake Barkley and Cumberland Falls. The national parks are also in need of funds. Deferred maintenance costs for the National Park Service has grown to \$11.5 billion and is in the lower billions for the United States Forest Service.

A lot of business has been lost because of deteriorating conditions at the parks. The lodges at Greenbo Lake and Jenny Wiley are out of service due to fires caused by roof leaks and faulty wiring. The lodge at Greenbo also has structural problems. At Jenny Wiley a new cafeteria has been opened in the conference building while the lodge is closed. The conference center at Cumberland Falls was condemned and will have to be torn down. Replacement will cost \$6 million and cannot be done now; in the meantime, other rooms are being used for meetings, and a private building in Corbin is available for large groups.

Commissioner Holland’s slide presentation described individual projects that are underway, scheduled, or in the design stage. Nine projects are expected to be completed in summer 2016 (cost \$1.5 million), 34 projects in fall 2016 (cost \$4.7 million); 54 projects in summer 2017 (cost \$10.8 million) and nine projects in fall 2017 (cost \$1.0 million). Project costs are estimates. A few examples of completed projects are concrete walk and wall repair at Rough River, replacement of the golf cart fleet at Lake Barkley, and exterior painting of cottages at Pennyryle Forest and Kenlake. Safety issues are being given priority. Concrete repair is underway at Lake Cumberland, and tennis center exterior painting is underway at Kenlake. Other projects that are scheduled, in design, or soon to be bid include repair and reopening of the swimming pool at Cumberland Falls, truss repair at Greenbo, conference center window replacement at Buckhorn, lodge exterior painting at Dale Hollow, tennis center siding replacement at Lake Barkley, and safety railing repairs at Cumberland Falls. Buffet line upgrades at Natural Bridge are in the procurement stage.

Commissioner Holland said that about \$5 million of the \$18 million will be used to address safety issues, with special attention to electrical problems. Plans are to spend the \$18 million by the fall of 2017, with the bulk of the funds going toward makeovers at the resort parks. Estimated total investment at Buckhorn Lake, Cumberland Falls, Jenny Wiley, and Pine Mountain is \$2.2 million. Estimated total investment at Barren River, Dale Hollow, Lake Cumberland, and Rough River is \$4,885,000. Total investment at Kentucky Dam Village, Lake Barkley, Kenlake, and Pennyryle Forest is estimated at \$3,760,000.

Estimated total investment for Carter Caves, Greenbo Lake, Natural Bridge, and General Butler is \$2,820,000. Approximately \$1.3 million has been set aside for campground upgrades.

Commissioner Holland said they are trying to restore a favorable image of Kentucky state parks. Events are being held statewide to announce the Refreshing the Finest campaign. The kickoff event was held at Cumberland Falls on June 2. Other events are planned at Lake Barkley on June 28, Carter Caves on July 26, and Lake Cumberland on August 9. All events are scheduled for 11:30 a.m., local time. He encouraged members of the committee to attend the events and spread the message.

Mr. Brown said that administrative regulations pertaining to the recently enacted public-private partnership (P3) legislation have not been finalized. It is not yet clear what a typical public-private partnership for the parks system will entail. The P3 legislation extends beyond the parks system to other sectors of the Kentucky economy. From the Cabinet’s perspective, P3s should provide greater flexibility to finance park improvements and should facilitate attracting private capital and expertise. The Cabinet will explore the applicability and relevance of public-private partnerships and will only enter into a P3 if it would improve the parks and be good for the Commonwealth and the taxpayers.

Representative Combs commended the Cabinet for its plans to take advantage of P3s for the parks system. She said their efforts will serve as an example to other public entities that are considering the P3 approach. Commissioner Holland again thanked the General Assembly for helping to restore the parks system and begin the P3 process. He also expressed appreciation to the many “friends” volunteer groups throughout the state.

Representative Yonts inquired about Wi-Fi capability in the lodges. Commissioner Holland said that boosters have been installed in several parks and that Wi-Fi is being enabled in locations that are able to receive a wireless signal. Some parks—Pennyryle, for example—cannot access wireless because they are not within signal range.

Responding to Representative Smart, Commissioner Holland said that work in the parks is currently being performed by state employees. For work that is competitively bid, the Department intends to use Kentucky contractors whenever possible.

In response to Representative Carney, Commissioner Holland said that insurance will pay for the fire damage at Greenbo and Jenny Wiley but will not cover the truss repair at Greenbo. He said that some upgrades are scheduled for Green River Lake and that he would look into the issue of parking lot repairs that are needed at the park marina.

Representative Carney said that good ideas have been proposed in the past but were not followed through. For example, about six years ago he worked with three professional golfers

to produce a TV commercial promoting golf at the parks, but the commercial was eventually viewed only on social media. He acknowledged that funds are limited but encouraged the agency to “think outside the box” when meeting the challenges facing the parks. He stated, too, that success of the parks does not depend entirely on state government. It is also important that local communities do their part in promoting the parks.

Responding to Representative Overly, Commissioner Holland said that specific parks have not been targeted for P3s. The Cabinet is waiting until the administrative regulations are in place before having discussions with potential partners, but some large companies have shown interest. He envisions that RFPs (Request for Proposal) will be for individual properties rather than the entire parks system. The state of Tennessee issued a \$55 million RFP for its park system as a whole and received no bids.

Representative Overly asked whether there has been discussion about closing or selling any of the parks. Commissioner Holland said no parks have been targeted for closure at this time. Before considering action that severe, the Cabinet would want to evaluate the potential of P3s and try to increase visitation at the parks. While the parks have never made a profit, so far as he knows, they do have a positive economic impact on local communities and the Commonwealth. Data estimates the economic impact to be approximately \$889 million per year, with \$92 million of that going into the state treasury.

When Representative Nicholls asked about the timeline for repairs and renovation at Greenbo Lake, Mr. Novak said design is complete for the Greenbo projects. They are to be bid soon, and he estimates that construction will be finished by the end of 2016.

Representative St. Onge said she believes the parks system may be able to make good use of P3s. She asked Commissioner Holland to provide the committee with a one-page map showing all the parks, and he agreed to do so.

Representative Imes commended Commissioner Holland for doing an outstanding job. He pointed out that Land Between the Lakes (LBL), one of the most visited tourist attractions in the state, is located near three Kentucky state parks. He asked whether the Department of Parks plans to work with the National Park Service and the U. S. Forest Service to promote reciprocal advertising of Kentucky’s state and national parks. Commissioner Holland said that is a good idea. Already there have been meetings with Tina Tilley, Area Supervisor for the LBL National Recreation Area, and a few weeks ago Department of Parks staffer LaDonna Miller and LBL’s marketing manager agreed to help each other on web advertising for LBL and the surrounding state parks. In a meeting with four national park managers who are involved in Kentucky, agreement was reached to trade brochures advertising two Civil War historic sites—Fort Donelson National Battlefield in

Dover, Tennessee, and Perryville Battlefield State Historic Site in Perryville, Kentucky.

Representative Imes said that public service announcements (PSAs) might provide another opportunity to publicize the Refreshing the Finest campaign. He suggested that committee chairs, where practicable, schedule some legislative meetings at state parks. He said he and his wife have committed much of their vacation time this summer to overnight stays at state parks. He believes that by visiting the parks legislators can learn more about the state and be in a better position to help constituents.

Representative Yonts asked whether any projects are planned for recreational parks—specifically, Lake Malone, which is in his district. He said the boat dock there has been closed for almost a decade, and the swimming area has no lifeguards. Commissioner Holland said they had obtained estimates of approximately \$200,000 to either replace or repair the boat dock, but funding for the boat dock is not included in the \$18 million. However, the Department is looking at possible roof repair and campground improvements at Lake Malone.

Representative Yonts requested that the Department of Parks give future consideration to a miniature golf course at Lake Malone. He said funding for the golf course was included in the state budget two years ago but was vetoed. The estimated cost was \$250,000. At that time, the Department of Parks indicated it could be paid for from a bond issue, but the course was never been built.

Representative Yonts asked whether there are any plans for needed upgrades to the Capitol Annex cafeteria. Commissioner Holland said that the Department does not pay rent at the other state-run cafeterias in Frankfort but has to pay the Finance and Administration Cabinet \$90,000 annually for rent and utilities for the Annex cafeteria. They will look at “freshening up” the cafeteria and are also looking at possible price increases and better ways to buy food and manage inventory to prevent food spoilage.

Representative Combs said that a key concern during development of the P3 legislation was that it might be the last available financial tool to fund needs and services of the state parks and enable all 49 parks to remain open. She said members of the General Assembly believe the parks are much needed. Even though the parks may not make a profit their economic impact is significant to the state and the communities where they are located.

Senator Thayer said that five or six years ago, then Governor Beshear by executive order moved some money from a state park fund for the purpose of building the new outdoor stadium at the Kentucky Horse Park for the World Equestrian Games. He requested that Commissioner Holland report back to the Interim Joint Committee on State Government regarding when that occurred, how much money was moved, and how it affected the deferred maintenance plan for the state parks. Commissioner Holland agreed to provide the

information.

Representative Yonts thanked the Commissioner and his staff for their efforts on behalf of the parks and for today’s presentation. He announced that the Committee will not meet in July. With business concluded, the meeting was adjourned at 2:00 p.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 1st Meeting of the 2016 Interim

June 22, 2016

Call to Order and Roll Call

The first meeting of the Interim Joint Committee on Local Government was held on Wednesday, June 22, 2016, 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: Representative Steve Riggs, Co-Chair; Senators Ralph Alvarado, Christian McDaniel, Morgan McGarvey, Albert Robinson, Dan “Malano” Seum, and Damon Thayer; Representatives George Brown Jr., Mike Denham, Jim DuPlessis, Richard Heath, Cluster Howard, Adam Koenig, Brian Linder, Tom McKee, Michael Meredith, Jonathan Shell, Arnold Simpson, Chuck Tackett, James Tipton, and Susan Westrom.

Guests: Representative Russell Webber; Bennie Brown, Shepherdsville City Council; Tim Wade, Shepherdsville City Police Officer; Tim House, Jared Downs, and Duane Curry, Department of Housing, Buildings and Construction; Dwight Lovan, Department of Workers’ Claims; J. D. Chaney and Bert May, Kentucky League of Cities; Shellie Hampton, Kentucky Association of Counties; Kamp Purdy, Fogle, Keller, Purdy Law; Bob Weiss, Homebuilders Association of Kentucky; Bill Kauffolz and Jason Finch, Fischer Homes; Finley Messick, Jill Smith, and Laura Owens, Kentucky Ready Mixed Concrete Association; Prentice Harvey, State Farm Insurance; Ron Wolf, Associated General Contractors of Kentucky; Judy Piazza, Finance and Administration Cabinet; and Mike Sunseri, Office of Homeland Security.

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

Consideration of Referred Administrative Regulations

The committee considered referred administrative regulations promulgated by the Department of Housing, Buildings and Construction: 815 KAR 7:120 (Kentucky Building Code); 815 KAR 7:125 (Kentucky Residential Code); 815 KAR 8:095 (HVAC: vehicle identification); 815 KAR 20:084 (Plumbing: storage and installation of cross-linked polyethylene piping); 815 KAR 20:191 (Plumbing: minimum fixture requirements); and 815 KAR 20:195 (Plumbing: medical gas piping installations). Tim House, Deputy Director, Mr.

Jared Downs, General Counsel, Duane Curry, Director of Codes Enforcement represented the department.

In response to a question from Senator Seum, Mr. Curry said the Board of Housing is represented by industry individuals and those individuals notify their constituents about potential changes to the codes.

In response to a question from Senator McDaniel, Mr. Curry said the changes will apply to residential occupancies. The board intended for all residences to conform to the 2009 Energy Conservation Code. The board felt that the 2009 code was more cost effective while meeting minimum energy requirements. The 2009 code allowed for 7 “air changes” per hour versus the three allowed in the 2012 code for certain residential occupancies.

Ms. Laura Owen, legislative agent, Mr. Finley Messick, Executive Director, and Ms. Jill Lewis Smith of the Kentucky Ready Mixed Concrete Association (KRMCA) voiced their opposition to the changes proposed to 815 KAR 7:120 and 815 KAR 7:125. Mr. Messick said the change would revert the Energy Conservation Code from 2012 code standards to 2009 code standards. KRMCA felt the changes would move Kentucky backwards in energy efficiency. The changes affect apartments and dormitories and other residential applications in addition to single-family residences. The changes are for monetary reasons and are not in the best interest of the health and welfare of the final consumer which are renters or owners. The association has been invited by the department for input into future discussions relating to the building codes.

Ms. Smith said that no notice was provided to the American Institute of Architects in Kentucky regarding the changes. She was not aware of any other place in the nation where anyone is trying to mesh the 2009 residential code with the 2012 commercial code. Nineteen states use the 2012 commercial code, and six states use the 2015 commercial code. Drury Inns is an example of cost-effective buildings demonstrating energy efficiency.

In response to a question from Representative Riggs, Ms. Owen said that the benefits to owners and occupants from a more stringent code would be savings in energy costs.

Ms. Smith said that building costs were cited as a reason for going back to the earlier code. In her experience it did not cost any more to design a building to the later code. Owners and occupants will always be responsible for paying the energy bills.

In response to a question from Representative DuPlessis, Ms. Smith said that it is no more difficult to meet the air exchange standard in a stick-built house versus a concrete panel house if you use correctly-installed insulation, wraps, or liquid-applied wrap. An insulated concrete form home in Louisville was built for \$126 a square foot, the same as for homes nearby that had difficulty meeting the air-tightness test.

Representative DuPlessis commented that he, as a consumer, would like to have the option

to build to a higher energy code standard, rather than be required to.

Ms. Smith commented that she would prefer one category of codes, rather than picking and choosing from different code versions.

In response to a question from Representative Tipton, Mr. Messick said that the proposed change applies to multifamily residences—not single family residences. Ms. Smith added that if wraps and windows were installed correctly, the residences would meet 2012 energy code standards.

Representative Linder said that the type of air conditioner or heater used has a cost on energy consumption in addition to air-tightness.

Representative Linder requested a copy of the two standards to be sent to him.

Representative Meredith commented that a commercial building built last year under the 2012 code was twice as expensive as a residence he is building under the 2009 code. The market could contribute in part to the difference. People may not have “up-front” money.

Mr. Messick said that, while costs of a more expensive building may be passed on to a renter, that the renter may save energy costs.

Senator Robinson noted the committee’s limited jurisdiction over the administrative regulation. He said that a legislative change may be required to effect change.

Mr. Bob Weiss, Executive Vice-President of the Home Builders Association of Kentucky, and Mr. Bill Kauflolz, an architect with Fischer Homes, addressed the committee.

Mr. Weiss said that the regulation has gone through the administrative process. In addition, the code is meant to be a minimum code. Under the regulations, one and two family residences are presently under the 2009 code. The purpose of the regulation is to bring all residential construction under the same code.

Mr. Kauflolz said that the biggest concern is associated with cost. Condominiums are the most affordable product his company produces. The differences between the codes are more than a blower door test. Meeting the 2012 code requirements can impact the engineering decisions used to construct the building adding to the total construction cost.

In response to a question from Representative Koenig, Mr. Kauflolz said that there was a \$900 difference per home for his company. Switching codes may always include new costs.

Senator McDaniel commented that increasing standards will increase costs.

Representative Riggs stated that a written report of the review will be submitted to LRC.

Workers’ Compensation as it relates to Local Governments as Employers

Commissioner Dwight Lovan, Department of Workers’ Claims, Mr. J.D. Chaney, Deputy Executive Director, Kentucky League of Cities (KLC), Ms. Shellie Hampton, Director of Governmental Affairs, Kentucky Association of Counties (KACo), and Mr. Kamp Purdy, Attorney with Fogle, Keller, and Purdy Law, PLLC, were invited to address the committee.

Representative Riggs explained that workers’ compensation is important to the committee and to local governments as they are employers.

Commissioner Lovan background information relating to the entitlement of temporary total disability (TTD) from a legal standpoint. There are three kinds of disability as it relates to income benefits: temporary total disability, permanent total disability, and permanent partial disability. KRS 342.0011(11) (a) defines temporary total disability as “the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment.”

“Maximum medical improvement” is generally defined as the date after which further recovery from or lasting improvement to an injury or disease can no longer be anticipated, based upon reasonable medical probability. While improvement is not ruled out, the individual has reached a plateau in substantial improvement.

Determination of income benefits for disability is found in KRS 342.730(1)(a) which reads: “(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows: (a) For temporary or permanent total disability, 66 2/3 percent of the employee’s average weekly wage when the person sustained the injury.”

W.L. Harper Construction Co., Inc., v. Baker was the first case that defined “maximum medical improvement”, and it said: “temporary total disability is payable until the medical evidence establishes the recovery process, including any treatment reasonably rendered in an effort to improve the claimant’s condition, is over, or the underlying condition has stabilized such that the claimant is capable of returning to his job, or some other employment, of which is capable, which is available in the local labor market. Moreover, the question presented is on of fact no matter how temporary total disability is defined.”

This case was decided in 1993. Persons become eligible for TTD when they are off work for more than seven days.

The schedule of maximum and minimum amounts paid for injuries is found in KRS 342.730(1)(a). For example, the maximum amount paid for temporary and permanent disability for January 1-December 31, 2016 was \$798.63 and the minimum amount paid was \$159.72.

Decided in 2000, Central Kentucky Steel v. Wise was the first case to modify the W.L. Harper Case. An individual was released to go back to work but at a less strenuous level than before. The court expanded the definition saying that the person needed to be able to do their customary work. This decision was based on the question of whether or not being released to some kind of work terminated TTD benefits. It did not deal with the situation of a person going back to work in a different category of job.

Magellan Behavioral Health v. Helms focused on the return to employment question. In Central Kentucky v. Wise, “return to employment” was interpreted to mean a return to the type of work which is customary for an injured employee or that which the employee had been performing prior to injury. Prior to those time frames, if an individual was released and returned to work, the individual’s TTD status may have been terminated if that person had not reached maximum medical improvement.

In three subsequent cases: Mull v. Zappos.com, Inc., Nesco Resources v. Arnold, and Delena Tipton v. Trane Commercial Systems, which occurred around 2014, the Court of Appeals seemingly substantially altered the standard for determining an employee’s entitlement to total temporary disability benefits. The Nesco case in particular seemed to imply that a person could return to work at a different capacity and still receive TTD benefits.

In Livingood v. Transfreight, the Supreme Court declined to hold that a claimant is entitled to total temporary disability benefits simply because he or she is unable to perform the work performed at the time of the injury.

The case with the greatest impact was the decision in the Supreme Court appeal to Delena Tipton v. Trane Commercial Systems. The reversal clarified that “customary work” does not mean that one had to do the same job that one performed before in order to no longer qualify for TTD payments. It clarified that TTD decisions will be made on a case by case basis and includes evaluations of the actual work done when it is different than the employee’s original position.

In response to a question from Representative Riggs, Mr. Purdy said the statistics show that if an employee returns to work prior to reaching maximum medical improvement, there is a better chance of seeing that person succeed in the workforce later on. The goal, ultimately, has to be to return people to the workforce as early as possible, medical restrictions notwithstanding. Whatever restrictions there are should be accommodated, but if the employer is willing to and can accommodate, double dipping on the employer’s dime is not productive for anyone.

Mr. Chaney said that KLC worked with KACo, Kentucky Chamber of Commerce, and Kentucky Employers Mutual Insurance on 2016 SB 151 that Senator Steve West sponsored, which passed the Senate but did not get a hearing in the House because of disagreements with labor and trial attorneys on exactly how the situation should be remedied. But both private industry and governmental employers had a big problem with the Court of Appeals opinion that Commissioner Lovan highlighted. Employers were having potential situations where the employees were receiving both their wages for the light duty or modified duty work, and at the same time, receiving TTD benefits. This did not serve the purpose of the worker’s compensation statutes for wage replacement if employees were getting both their wages for

light duty and total temporary disability benefits at the same time. SB 151, if enacted, would have clarified that if an employee returns to modified duty, the wages earned would be offset against the total temporary disability benefits. KLC and the other groups will continue the effort to get that legislation enacted in the next session of the General Assembly. HCR 185, the worker's compensation task force, will hopefully look at this as part of its efforts. Regarding the court decisions and legislation, there should be a consistent standard where employers can predict situations where they might fall into a double indemnity.

Ms. Hampton reiterated Mr. Chaney's remarks on behalf of KACo.

Mr. Purdy noted that there could be a situation where an employee could be drawing TTD benefits and a salary when on light duty and actually make more money than before. This is not a palatable situation for an employer.

Mr. Chaney noted that TTD benefits are not considered creditable compensation toward retirement.

In response to a question from Representative Meredith, Mr. Chaney replied that the creditable compensation issue could affect a spiking situation as well in consideration of the new spiking laws that have passed recently.

Representative Meredith commented that an employee in one of his counties was told there was no light duty for her, so she resigned. She did not receive any disability benefits and was told the reason was because she resigned. Mr. Purdy said she should have received disability benefits. Resigning from a job does not impact whether or not an employee receives disability benefits.

Representative Riggs commented that when he hears an employer say there is no light duty work, the employer needs more education, not the employee.

In response to a question from Senator Seum, Commissioner Lovan replied that the TTD benefits are not taxed and do not need to be claimed.

In response to another question from Senator Seum, Commissioner Lovan said that the restarting of TTD benefits versus simply continuing to pay a person's salary varies from company to company when an employee takes time off due to an injury.

In response to a question from Representative Riggs, Mr. Chaney said that KLC is still interested in pursuing legislation, especially since the Trane decision does not solidly define "customary work."

Representative Riggs announced that the committee will not meet in July. The next meeting will be held in August.

There being no further business, the meeting was adjourned at 12:00 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 2nd Meeting of the 2016 Interim

July 5, 2016

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Transportation was held on Tuesday, July 5, 2016, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes from the June 7, 2016 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, Gerald A. Neal, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Whitney Westerfield; Representatives Tim Couch, Donna Mayfield, Tom McKee, Russ A. Meyer, Charles Miller, Jerry T. Miller, Terry Mills, Rick G. Nelson, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Diane St. Onge, Fitz Steele, Jim Stewart III, Tommy Turner, and Addia Wuchner. Senator Dorsey Ridley and Representative David Watkins attended the meeting via telephone conference.

Guests: John-Mark Hack, Commissioner, Department of Vehicle Regulation, KYTC, Godwin Onodu, Assistant Director, Division of Motor Vehicle Licensing, KYTC, Heather Stout, Executive Director, Office of Information Technology, KYTC, Jay Grundy, Lebanon City Council, Stevie Stewart, cousin of Representative Jim Stewart, and Louie Emmons.

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

Registration of Surplus Military HMMWVs in Secondary Public Market

John-Mark Hack, Commissioner, Department of Vehicle Regulation, KYTC, Godwin Onodu, Assistant Director, Division of Motor Vehicle Licensing, KYTC, discussed the issue of surplus military high mobility multi-purpose wheeled vehicles (HMMWVs) that are currently hitting the secondary public market. Commissioner Hack stated that in 2012 the federal government approved HMMWVs to be donated, transferred or sold to local law enforcement and fire department agencies for use in emergencies. KRS 186.060 permits registration of such vehicles for governmental units or emergency and ambulance nonprofits organized by units of government. In December 2014, the Department of Defense began auctioning used HMMWVs to the general public for off-road use only.

Commissioner Hack stated there have been three citizen inquiries from Bourbon County, Marion County and Monroe County as to private citizens owning the HMMWVs and registering them for highway use. The manufacturer states that the 16-inch ground clearance of the HMMWV is an engineering feat, considering the vehicle stands only 72-inches high. Full-

time four-wheel drive, independent suspension, steep approach and departure angles, 60 percent slope-climbing, 40 percent side slope and 60-inch water-fording capabilities combine with the high ground clearance makes the HMMWV an exceptional off-road vehicle. The vehicles are demilitarized prior to the Department of Defense sale, but DoD sells to the general public by identifying the vehicle as being for off-road use only. Commissioner Hack stated that KRS 189.860 states that off-road vehicle means a motor vehicle capable of cross-country travel, without the benefit of a road or trail. It does not include a farm vehicle, a vehicle used for military or law enforcement purposes, a vehicle used in construction, mining, or other industrial-related purposes, aircraft, or any other vehicle registered under state law. No person shall operate an off-road vehicle on any private or public property without the consent of the landowner, tenant, or governmental agency responsible for the property. Those registered to law enforcement agencies in Kentucky used an official license plate.

Commissioner Hack stated that key considerations were that military configurations do not meet federal motor vehicle safety standards. Also, in cases of federal donations to eligible agencies, such agencies must sign a "hold harmless" agreement that includes the following statement: "extra operator competence and caution should be exercised in the operation and use of this vehicle outside the design specifications because the vehicle does not comply with federal motor vehicle safety standards and is designed for use under conditions unique to the Department of Defense. In accepting the transfer/donation, the undersigned acknowledges that there may be hazards associated with the use of the vehicle." Recipient agencies must provide appropriate operator training.

He added that other considerations were that Kentucky certified inspectors do not inspect mechanics of a vehicle, instead focusing attention on VIN verification and odometer readings per KRS 186A.115(4). De-militarized HMMWV's are not being certified by the original manufacturer as road worthy. Surrounding states that do not register HMMWVs for road use include Ohio, Indiana, Virginia, Missouri, and West Virginia. The cabinet is awaiting response from Illinois. Tennessee allows registration and titling on condition of issuing a Tennessee VIN plate.

In response to a question Senator Higdon asked, Mr. Onodu stated the cabinet is awaiting more information about Tennessee and its policies on this issue. HMMWVs must be demilitarized and must go through safety inspections as well as the VIN must be relinquished, but he is awaiting further information on the subject.

In response to a question asked by Chairman Harris, Commissioner Hack stated the vehicles will be looked into and made sure that they are compliant with federal regulations before they are deemed road worthy.

In response to a question asked by Co-Chair Collins, Commissioner Hack stated he has observed the disclaimer statements that are required, as well as the hold harmless agreements that must be signed by the receiving agencies of the vehicles and added that he does not feel qualified to give an opinion on the allowance of these vehicles becoming road worthy although it does give him some pause. He added that some people may want the HMMWVs to be deemed road worthy due to their powerful, versatile nature and their capabilities as an overall vehicle. Co-Chair Collins voiced his concern for the safety of other vehicles if the HMMWVs were allowed on the roadway.

In response to a question asked by Representative Wuchner concerning a standard list of modifications needed for HMMWVs to become road worthy, Commissioner Hack stated KRS gives a specific list of vehicle characteristics that have to be met for a vehicle to be deemed road worthy. One criteria that the department goes by is the manufacturer's original intent of the vehicle, even if the vehicle is modified to be able to be used on the road. Mr. Onodu stated if modifications are made, the vehicle specifications are sent back to the original manufacturer. Its determination whether the vehicle has been made road worthy will be taken into consideration.

In response to a question asked by Representative Jerry Miller, Commissioner Hack stated he is unsure if insurance companies will insure these vehicles. Representative Miller also voiced his concerns of the possibilities of dangers that having HMMWVs on the road would pose.

Senator Bowen cautioned the committee that special mechanics and skill sets are needed to work on HMMWVs.

In response to a question asked by Representative Mills concerning the role the federal government would play in Kentucky changing the statutes or regulations to allow the HMMWVs to become road worthy, Commissioner Hack stated at this time it is unclear the role the federal government will play.

Mr. Louie Emmons, concerned citizen spoke in favor of allowing HMMWVs to become road worthy stating his personal wishes to own one himself. He referenced documentation from other states, such as Utah, that have registered these vehicles for highway use.

Representative McKee inquired about the cost difference between a commercially available Hummer and a Military Surplus HMMWV. Mr. Emmons replied that the cost difference is approximately \$100,000. As to speed, Mr. Emmons stated they go approximately 60 MPH.

Chairman Harris stated if the requirements can be met to deem these vehicles road worthy, he takes no issue with allowing them to be put on the road.

Mr. Jay Grundy spoke in favor of allowing the HMMWVs to become road worthy. He stated if a vehicle conforms to all of the federal guidelines, then he is unsure how it cannot be

allowed to be licensed for on road use.

Update on KAVIS Vehicle Information Program

Heather Stout, Executive Director, Office of Information Technology, KYTC updated the Committee on the progress of KAVIS. She stated the KAVIS:2 approach has two objectives: to enhance the use of AVIS minimally through interfaces to gain benefits for citizens and stakeholders; and to replace AVIS gradually through implementation of modules.

Director Stout stated the print on demand decal and scanning was fully implemented in May, 2015. The cabinet received the AAMVA Regional Award: Improvement through efficiencies Award for Kentucky's print on demand decal project. There has been a process improvement in title approvals from the original 41 days it took to now only taking one day. The new web renewal site deployed fall 2015, and an enhanced web renewal will be deployed in the spring 2016.

Director Stout stated the future objectives of the project include automating web renewal for Clerks, fleet renewal improvements, temporary tag system improvements and a centralized issuance of license plates. The benefits of a modular approach include the ability to roll out smaller pieces over time, incrementally remove functionality from AVIS, a minimized risk, the enhancement of data cleansing and conversion, enabling the cabinet to focus for training efforts and the ability to organize by vehicle type and volume.

Director Stout stated module one, disabled placards, is complete. The cabinet is working on pieces of software after each sprint and is focused on value-added functionality. Because of the modular approach, there will be multiple releases and which increases functionality, decreases complexity and increases the credibility of the agile process. The next module, boat titling, will encompass new areas such as ad valorem taxes, fees, and liens, which will be transferrable to other modules such as motor vehicles and commercial vehicles.

Director Stout stated the cabinet is maximizing the success replacing AVIS by having project management reviews throughout the process including KiZAN process guidance. KiZAN was hired by the cabinet to assist in overseeing and implementing the process. KiZAN has indicated the project team is self-correcting, and its guidance is no longer needed. The cabinet is seeing independent verification and validation through the Commonwealth Office of Technology, which has provided very positive feedback and stated the KAVIS: 2 team could serve as a good model/example for other Commonwealth teams and organizations of the agile discipline at work.

The cabinet has further maximized success on replacing AVIS by having Microsoft technical assessments done in which technical recommendations are being implemented. The "scrum" process (an iterative and incremental agile software development framework

for managing product development) is run effectively and the solution architecture is sound. The production infrastructure hosting the application is adequately sized. The code metrics analysis has found that most code elements have good maintainability with exception of two with moderate maintainability.

The issues and risks that have arisen in the challenge to replace AVIS include the time requirement needed of the clerks to implement the new process, the buy-in needed of stakeholders, the challenge of adhering to the guiding principles, the acceptance of the agile methodology, the decentralized execution, sharing resources, scheduling issues and assessment service issues.

Ms. Stout stated the positive momentum in going forward to replace AVIS involves a highly motivated team which has a sense of pride and will to prove their capabilities to complete the task. The resources, both existing and new, have formed into a cohesive team and feedback on work completed thus far has been positive. The project has encouraging and supportive stakeholders that accepted the modular approach easily. A working committee that includes various stakeholders meets weekly to validate requirements of the process and program.

Ms. Stout stated there was an initial \$11,295,013 budget for the project. KAVIS: 2 began in January of 2015 and \$2,679,106 was spent from January 2015 to May, 2016. She added that \$4,292,188 was returned from the previous vendor, 3M, which brings the remaining balance for the project to be \$12,952,820, which is more funds than KAVIS: 2 began with.

Chairman Harris praised the cabinet for their ability to rectify the project with a new approach after 3M's failed methodology. The committee echoed those sentiments. Chairman Harris announced the next meeting of the Interim Joint Committee on Transportation to be August 2, 2016.

With no further business, the chairman adjourned the meeting at 2:04 P.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Transportation Minutes of the 1st Meeting of the 2016 Interim June 23, 2016

Call to Order and Roll Call

The first meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, June 23, 2016, at 10:30 AM, in Room 131 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Leslie Combs, Co-Chair; Senators Ernie Harris, Christian McDaniel, Dennis Parrett, and Robin L. Webb;

Representatives Hubert Collins, Jeff Greer, Dennis Keene, Sal Santoro, John Short, and Jim Stewart III.

Guests: Greg Thomas, Secretary, Transportation Cabinet; Asa James Swan, Chief of Staff, Office of the Secretary, Transportation Cabinet; John-Mark Hack, Commissioner, Department of Vehicle Regulation, Transportation Cabinet; Bob Drakeford, Internal Policy Analyst III, Office of Budget and Fiscal Management, Transportation Cabinet; Paul Looney, Deputy State Highway Engineer, Transportation Cabinet; Ron Rigney, Director, Division of Program Management, Transportation Cabinet; and, Jon Wilcoxson, Director, Division of Maintenance, Transportation Cabinet.

LRC Staff: Justin Perry, Jeff Schnobrich, and Spring Emerson.

Update on REAL ID

Commissioner Hack provided an update on the REAL ID program.

In response to questions from Chair Combs, Commissioner Hack said he is confident that an extension of the deadline would be considered. The Department of Homeland Security uses three criteria in considering an extension: 1) progress made by a jurisdiction in implementing the minimum standards of the Act; 2) a justification for non-compliance and plans for implementing those requirements; and, 3) the existence of external factors that would delay implementation, such as resources, contract cycles, and/or operations issues. Extensions are granted on an annual basis. He said the current drivers' license system contract expires in January 2017. There are a number of companies that provide new technologies that would allow the manufacture and distribution of secure drivers' license cards. It has not been decided whether or not to request an extension of the current contract or to re-bid the contract.

In response to questions from Representative Keene, Commissioner Hack said travel restrictions would not be imposed until January 2018, with a final deadline of 2020. The cost of an eight-year drivers' license would be \$48, according to the provisions of Senate Bill 245 of the 2016 Regular Session.

In response to a question from Representative Collins, Commissioner Hack said the medical review board attached to the Commissioner's office has a mechanism in place to deal with medical issues that would affect the safety of the driving public.

Chair Combs stated that the REAL ID program would be discussed again in the October meeting.

Road Fund Cash Management Plan Discussion: Update on Salary Study Required by HB 304

Transportation Cabinet Secretary Thomas provided an update on the Road Fund Cash Management Plan and the Salary Study Required by HB 304.

In response to questions from Senator Webb, Secretary Thomas said the list of state-funded projects that were halted as part of the Cabinet's

cash management approach was prioritized from an engineering prospective. Criteria included size of project, stage of development, safety, congestion, and community impact. Projects from all over the state were included. Chair Combs stated that local economies are affected by these projects.

In response to questions from Senator McDaniel, Secretary Thomas said the Road Fund cash model forecasts project expenses over a three-year time frame to model the daily cash balance. He said there is no additional cost for delaying the projects. The \$100 million floor is a recommendation rather than a statute.

In response to a question from Chair Combs, Secretary Thomas said the cabinet is using the same cash model, but it is now being evaluated on a daily basis to monitor the low day of the month.

In response to questions from Representative Stewart, Secretary Thomas said maintenance activities such as mowing and striping have been cut back to trim expenses in order to meet a critical cash flow objective. He said the State Highway Engineer is looking at all aspects of projects from start to finish, from preliminary design, to design, construction, utilities, right-of-way, etc. all across the state.

In response to questions from Chair Combs, Secretary Thomas said the cabinet spends approximately \$10 million per day, and \$100 million is the implied safety mark. The maintenance and resurfacing fund will be spread across the state, where it is most needed. The Pause 50 plan is in response to an 18 percent decrease in funding, and is a better way to manage. When more money comes in, it will be spent on the paused projects according to the prioritization model.

There being no further business before the subcommittee, the meeting was adjourned at 11:40 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection Minutes of the 1st Meeting of the 2016 Interim

June 23, 2016

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, June 23, 2016, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Jeffery Donohue, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Jeffery Donohue, Co-Chair; Senator Perry B. Clark; Representatives Terry Mills, Ruth Ann Palumbo, Dean Schamore, John

Short, and Susan Westrom.

Guests: Donnie Holland, Commissioner, Department of Parks, Tourism, Arts, and Heritage Cabinet (TAHC); Rob Richards, Director, Financial Operations, Department of Parks, TAHC; and Phillip Brown, Chief of Staff and Legislative Liaison, TAHC.

LRC Staff: Joe Lancaster, Stephanie Rich, Greg Troutman, and Benjamin Thompson.

Tourism, Arts, and Heritage Cabinet-Department of Parks

Commissioner Donnie Holland presented an update on the budget for the Department of Parks.

In response to a question from Chair Donohue, Commissioner Holland noted that there is currently a splash park in the E.P. Sawyer State Park in Louisville.

In response to a question from Representative Westrom, Commissioner Holland stated that the Department of Parks would consider possible partnerships with Workforce Investment Boards statewide to help provide job training while reducing departmental costs.

In response to a question from Representative Palumbo, Mr. Richards confirmed that the Department of Parks pays a small fee of ten to fifteen percent to travel websites, such as Travelocity and Expedia, for any rooms rented through their sites.

In response to questions from Chair Donohue, Commissioner Holland confirmed that Kentucky has the most state resort parks (17 parks) in the country. Commissioner Holland stated that the average number of resort parks per state is 4. Commissioner Holland stated that the Department of Parks has \$1.3 million set aside for campground improvements.

In response to a question from Representative Mills, Commissioner Holland noted that the Department of Parks sponsors frequent radio advertisements in certain regions and employs a social media team that advertises through social media networks.

In response to questions from Sen. Girdler, Commissioner Holland noted that while increased bond resources have been discussed for increasing the Department of Parks' maintenance pool, no further legislative action occurred. Commissioner Holland noted that he had not been involved in any tax reform conversations.

There being no further business, the meeting was adjourned at 11:05 AM.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the June Meeting

June 14, 2016

Call to Order and Roll Call

The June meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, June 14, 2016, 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.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgry Kerr; Representatives Linda Belcher, Will Courtney, and Tommy Turner.

Guests: Leanne Diakov, Board of Medical Licensure; Melanie Abner, John Marcus Jones, Granville Smith, Board of Ophthalmic Dispensers; David Cox, Board of Engineers & Surveyors; Nathan Goldman, Paula Schenk, Board of Nursing; John Brunjes, Karen Waldrop, David Wicker, Department of Fish and Wildlife Resources; Sean Alteri, Division of Air Quality; Amy Barker, Oran McFarlan, Deanna Smith, Department of Corrections; Ann D'Angelo, Transportation Cabinet; Jessica Sharpe, Charles Vice, Department of Financial Institutions, and Curt Duff.

LRC Staff: Sarah Amburgey, Ange Bertholf, Emily Caudill, Betsy Cupp, Emily Harkenrider, Karen Howard, Carrie Klaber, and Donna Little.

The Administrative Regulation Review Subcommittee met on Tuesday, June 14, 2016, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:016. Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances. Leanne Diakov, general counsel, represented the board.

In response to a question by Co-Chair Harris, Ms. Diakov stated that because she was not a medical specialist, she was unable to answer questions regarding amphetamine and amphetamine-like anorectic controlled substances.

201 KAR 9:025. Interpretation and application of KRS 311.571(10).

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (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 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:081. Disciplinary proceedings.

In response to a question by Co-Chair Harris, Ms. Diakov stated that the board had not encountered an instance of multiple failures by a single licensee or applicant to report a criminal conviction or action taken by another licensing board.

A motion was made and seconded to approve the following amendments: to amend Section 9 to: (1) reference statutory exceptions; and (2) clarify board procedures. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:240. Emergency orders and

hearings; appeals and other proceedings.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph to add citations. Without objection, and with agreement of the agency, the amendments were approved.

Office of Occupations and Professions: Board of Licensure for Ophthalmic Dispensers: Board

201 KAR 13:040. Licensing; application; examination; experience; renewal; and inactive status. Melanie Abner, secretary; Marcus Jones, assistant attorney general; and Granville Smith, chair, represented the board. Curt Duff, executive director, Opticians Association of Kentucky, appeared in support of this administrative regulation.

In response to a question by Co-Chair Harris, Mr. Smith stated that a licensed ophthalmic dispenser may work for an optometrist or an ophthalmologist or may have an independent dispensary.

Mr. Duff stated that Opticians Association of Kentucky represented approximately 570 of the 650 licensed ophthalmic dispensers. The fees for licensure continued to be the lowest in the nation, and the association supported the modest fee increases.

In response to a question by Co-Chair Harris, Mr. Duff stated that the fee increases should cover the board's costs for the foreseeable future.

A motion was made and seconded to approve the following amendments: to amend Sections 1 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 13:050. Apprentices.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 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.

State Board of Licensure for Professional Engineers and Land Surveyors: Board

201 KAR 18:020. Application forms. David Cox, executive director, represented the board.

Board of Nursing: Board

201 KAR 20:520. Telehealth. Nathan Goldman, general counsel, and Paula Schenk, executive director, represented the board.

In response to a question by Co-Chair Harris, Mr. Goldman stated that the board opted to leave the determination up to the provider regarding if the initial meeting in a telehealth situation should be in person. There were many different types of licensed nurses involved, and many functioned in call centers, which made face-to-face meetings impractical. Additionally, a case from Texas challenged such a requirement as a possible monopoly (anti-trust) violation.

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; (2) to amend Section 5 to add items to the list of what a nurse shall include under informed consent; (3) to add Section 6 to establish that a continuing education provider may utilize telehealth pursuant to 201 KAR 20:220 in continuing education courses; and (4) to amend Sections 4 and 5 to comply with the drafting and formatting 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: Game

301 KAR 2:095. Importation of cervid carcasses and parts. John Brunjes, migratory bird coordinator; Karen Waldrop, deputy commissioner; and David Wicker, general counsel, represented the department.

In response to questions by Co-Chair Harris, Ms. Waldrop stated that the department performed extensive testing of deer and elk for chronic wasting disease, and Kentucky had not identified any instances of chronic wasting disease to date. Chronic wasting disease had been detected in many surrounding states, including in far eastern regions of Virginia and West Virginia. The department relied on data from other states regarding expansion of chronic wasting disease and used biological data and modeling to determine high-risk areas for targeted surveillance and testing.

Co-Chair Harris encouraged the department to keep up the good work regarding the department's impressive efforts to build Kentucky's elk populations.

In response to questions by Senator Kerr, Ms. Waldrop stated that, while the Zika virus was a public health concern, it was not a wildlife issue. The department contributed to the Kentucky State Zika Conference, which took place in May, and was making efforts to educate hunters in the field about the risks and precautions. The department was unaware of statewide procedures to address Zika.

301 KAR 2:122. Seasons, methods, and limits for small game.

In response to questions by Co-Chair Harris, Ms. Waldrop stated that slingshot requirements only authorized manufactured hunting ammunition because using other ammunition, such as rocks, may reduce the efficacy of the projectile. Manufactured ammunition was developed to maintain a constant velocity and to effectively penetrate game, making a more lethal and ethical kill. Mr. Brunjes stated that manufactured ammunition was developed to maintain a consistent velocity. Ms. Waldrop stated that manufactured ammunition was in pellet form of standardized weights and came in different weights for different slingshot styles and hunting situations.

A motion was made and seconded to

approve the following amendments: (1) to amend Section 1 to make a technical correction; and (2) to amend Section 4 to correct a cross-reference citation. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:226. Youth waterfowl, moorhen, and gallinule hunting seasons.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 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.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division for Air Quality: Ambient Air Quality

401 KAR 53:010. Ambient air quality standards. Sean Alteri, director, represented the division.

In response to questions by Co-Chair Harris, Mr. Alteri stated that this administrative regulation was amended commensurate with updates to the federal ambient air quality standards, some of which had become more restrictive as a result of better data and health information. The previous one (1) in eight (8) hour average ozone concentration standard (seventy-five (75) ppb) was replaced in 2015 with an ozone standard of seventy (70) ppb. All Kentucky counties met that previous standard; however, the new seventy (70) ppb standard may be more difficult to meet, especially in Louisville and Northern Kentucky. The division received many legislative inquiries regarding replacing reformulated gasoline in these areas with, for example, Reid vapor pressure gasoline requirements consistent with Jeffersonville, Indiana and Cincinnati, Ohio. The division was considering these options in the context of U.S. EPA requirements. Requirements pertaining to dust monitoring should not affect agricultural activities, such as tilling or cutting hay, because particulate matter standards involved particles two and five tenths (2.5) microns or less, which could be trapped in the lungs. Particulate matter from typical agricultural activities was much larger and would not register with the monitoring equipment. U.S. EPA required ultra-low sulfur diesel fuel, which was making a difference regarding sulfur dioxide monitoring in Kentucky. Fuel producers and distributors and engine manufacturers were subject to the emissions standards from the operation of engines. This administrative regulation established ambient air quality standards, but the administrative regulation that establishes implementation may include additional requirements that may significantly impact the regulated community. That administrative regulation was not yet before this Subcommittee for consideration.

A motion was made and seconded to approve the following amendments: to amend Section 2

and a footnote to Appendix A to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:020. Correction policies and procedures. Amy Barker, assistant general counsel, represented the department.

In response to questions by Representative Belcher, Ms. Barker stated that the Prison Rape Elimination Act protected vulnerable classes of inmates. The Prison Rape Elimination Act regulated how vulnerable classes of inmates are housed and provided training and reporting requirements, including the option for anonymous reporting. Ms. Barker stated that the department would follow up with more information regarding specific training details.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; (2) correct citations; and (3) update the edition dates of the revised policies. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Office of the Secretary: Administration

600 KAR 1:031. Repeal of 600 KAR 1:030 and 600 KAR 1:045. Ann D'Angelo, assistant general counsel, represented the cabinet.

Toll Facilities

600 KAR 2:011. Repeal of 600 KAR 2:010, 2:020, 2:030, and 2:040.

Department of Vehicle Regulation: Motor Carriers

601 KAR 1:032. Repeal of 601 KAR 1:030, 601 KAR 1:031, 601 KAR 1:045, 601 KAR 1:050, 601 KAR 1:065, and 601 KAR 1:070.

Motor Vehicle Tax

601 KAR 9:056. Repeal of 601 KAR 9:055.

Division of Vehicle Enforcement: Commissioned Employees

601 KAR 15:030. Repeal of 601 KAR 15:010 and 601 KAR 15:020.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: Division of Nondepository Institutions: Check Cashing

808 KAR 9:050. Required forms, procedures, and fees for applicants and licensees. Jessica Sharpe, general counsel, and Charles Vice, commissioner, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY 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 through 5 and 8 to comply with the drafting 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 July 14, 2016, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:250. Registration and oversight of pain management facilities.

Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:400. ABC basic application and renewal form incorporated by reference.

The Subcommittee adjourned at 1:40 p.m. until July 14, 2016, at 1 p.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

June 21, 2016

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met on Tuesday, June 21, 2016, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Chris Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Chris Harris, Co-Chair; Senators Julian M. Carroll, Chris Girdler, Stan Humphries, and Christian McDaniel; and Representative Steven Rudy.

Guests: Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Ms. Janice Tomes, Deputy State Budget Director; Ms. Elizabeth Baker, Planning Director, University of Kentucky; Ms. Brandi Norton, Financial Analyst, Kentucky Infrastructure Authority; Mr. Ryan Barrow, Executive Director, Office of Financial Management; and Mr. Steve Collins, Bluegrass Station Division Director, Department of Military Affairs.

LRC Staff: Josh Nacey, Committee Staff Administrator; Julia Wang, Analyst; and Jenny Wells, Committee Assistant.

Election of Senate Co-Chair

Representative Harris, Chair, said that Senator Girdler recently stepped down as committee co-chair. Pursuant to KRS 45.790, a Co-Chair position is to be addressed by election. Senator McDaniel nominated Senator Humphries for the position of Senate Co-Chair. The motion was seconded by Senator Girdler. Senator Carroll moved that nominations cease and that Senator Humphries be elected by acclamation. The motion was seconded by Senator Girdler and approved by voice vote.

Approval of Minutes

Senator Carroll moved to approve the minutes of the May 24, 2016 meeting. The motion was seconded by Representative Rudy and approved by voice vote.

Correspondence Items

Mr. Nacey, Committee Staff Administrator, reported on a letter between the committee and Mary Vosevich, Vice President for Facilities Management, University of Kentucky, regarding the committee's disapproval of the funding revision proposal for the Construct Housing 1-Alpha Gamma Rho Fraternity project at its May 24, 2016 meeting.

Information Items

Mr. Nacey said there was one information item for the committee members' review. This item is a lease advertisement for the Department of Parks in Franklin County, exceeding \$200,000. This lease advertisement is due to the need to relocate current tenants of the Capital Plaza Tower.

Project Reports from the Universities

Ms. Elizabeth Baker, Planning Director, University of Kentucky (UK), reported on a lease renewal for UK, College of Social Work, Small Business Administration, College of Agriculture, located in the Kentucky Utility Building. The lease renewal will reduce the square footage from 32,684 square feet to 16,342 square feet. The cost per square foot is \$7.48 and the annual cost is \$122,238. Representative Rudy made a motion to approve the lease renewal, seconded by Senator McDaniel. The motion passed by roll call vote of 6 yeas, 0 nays.

Lease Reports from Finance and Administration Cabinet

Mr. Scott Aubrey, Director, Division of Real Properties, Finance and Administration Cabinet, presented one item which was for a lease modification for the Cabinet for Health and Family Services, Department for Community Based Services in Boone County. The lease modification will relieve over-crowding, provide offices for new employees, and accommodate the realignment for regional staff members. All the original terms of the lease will remain in place and an additional four automatic renewals have been added to the lease modification. This lease modification will increase the square footage from 21,454 square feet to 27,236 square feet. The costs per square foot is \$13.45 and the annual cost is \$366,342. Representative Rudy made a motion to approve the lease modification, seconded by Senator Carroll. The motion passed by a roll call vote of 6 yeas, 0 nays.

Project Reports from the Finance and Administration Cabinet

Ms. Janice Tomes, Deputy State Budget Director, reported on two pool projects from the Finance and Administration Cabinet. The first project was for the Department of Parks in Henderson County in the amount of \$1,317,236. The land acquisition is funded from the Kentucky Heritage Land Conservation Pool, and involves the purchase of 649 acres adjacent to John James Audubon State Park. No action was required.

The second project was for an appropriation increase for Military Affairs for the renovation of Bay A at Bluegrass Station in Fayette County. The requested appropriation of \$2,300,000 is funded from Bluegrass Station Agency

Restricted Funds. The project was authorized with a budget of \$2 million dollars from Agency Restricted Funds by the 2016 General Assembly in HB 303. This request is for an increase of \$300,000 in restricted funds for the project which involves renovation of 18,000 square feet at Bluegrass Station.

In response to a question from Senator McDaniel, Steve Collins, Bluegrass Station Division Director, Department of Military Affairs (DMA), said that the bid for the project was for \$1.9 million dollars. A contingency and architectural work pushed it over \$2 million. Senator McDaniel stated that his recollection was that the project was initially authorized for the use of restricted funds. Ms. Tomes and Mr. Collins said this is correct. Mr. Collins also said these funds are provided to the Commonwealth through a lease with the federal government. In response to a question from Senator McDaniel, Mr. Collins confirmed that the distribution of these funds is controlled by DOD. Mr. Collins further said that DMA is allowed to retain an overage that it costs to run the facility, so it is using those retained funds for this project. This is a headquarters for Special Operations Forces Support Activity (SOFSA) which has occupied the building for 18 years and has done most of the renovations to it. SOFSA has asked DMA to do the renovations which justifies the lease increase for this project. Senator McDaniel made a motion to approve the appropriation increase, seconded by Representative Rudy. The motion passed by roll call vote of 6 yeas, 0 nays.

Report from the Office of Financial Management

Ms. Brandi Norton, Financial Analyst, Kentucky Infrastructure Authority (KIA), reported on six items. Senator Carroll made a motion to consolidate all the projects in one vote, seconded by Senator Humphries. The motion was approved by voice vote.

The first item was for a Fund A loan for the City of Elkhorn City in Pike County. The request was for \$560,000 for the Wastewater Treatment Plant project. The loan will have a 30 year term, an interest rate of .75 percent and an annual estimated debt service payment of \$12,179.

In response to a question from Senator McDaniel, Ms. Norton said she did not know specifically the extent to which the consent decrees, as compared to the plant's failure, contributed to the rate increases. She stated that the city is facing a lot of challenges right now including a dwindling population and existing debt which will be addressed later in this meeting.

The second item was for a Fund A loan for the City of Hawesville in Hancock County. The request was for \$3,000,000 for the Hawesville Sewer Plant Rebuild project. The loan will have a 20 year term, an interest rate of 1.75 percent and an annual estimated debt service payment of \$184,427.

The third item was for a Fund A loan for the Farmdale Sanitation District in Franklin County. The request was for \$300,000 for the

Ridgelea Investments, Inc., Package Treatment Plant Abandonment project. The loan will have a 1 year term, an interest rate of 1.75 percent and an annual estimated debt service payment of \$15,227.

The fourth item was for a Fund B loan for the City of Lewisport in Hancock County. The request was for \$115,000 for the Lewisport Water Tank Rehab project. The loan will have a 20 year term, an interest rate of 2.75 percent and an annual estimated debt service payment of \$7,744.

The fifth item was for a Fund B loan for the City of Elkhorn City in Pike County. The request was for \$402,061 for the Wastewater Treatment Plant project. The loan will have a 15 year term, an interest rate of .75 percent and an annual estimated debt service payment of \$29,194.

Senator McDaniel noted the importance of distinguishing between the two factors mentioned during the discussion of the first loan for Elkhorn City: the consent decree versus the overall status of the plant. He also mentioned that, in addition to borrowing just to maintain the facilities, they are now borrowing to upgrade those facilities to comply with the consent decree. Senator McDaniel stated that he would like for KIA to be more proactive in terms of identifying cash flow problems facing local governments. Representative Harris said that Senator McDaniel's point is well taken. He said that Elkhorn City is in his district and it is a very poor town with little economic activity and a wastewater treatment plant that is in terrible shape. It has been under a consent decree for some time and the city has been able to get some federal funding to pay the lion's share of the new sewage treatment plant. Representative Harris also noted that the city has annexed some additional areas that will help them gain additional tax revenue.

The final item was for a Fund B loan for the City of Lancaster in Garrard County. The request was for \$406,868 for the Wastewater Treatment Plant Sand Filter Replacement project. The loan will have a 20 year term, an interest rate of .75 percent and an annual estimated debt service payment of \$22,759.

Representative Rudy made a motion to approve these six items, seconded by Senator Carroll. The motion was approved by roll call vote of 6 yeas and 0 nays.

Office of Financial Management

Mr. Ryan Barrow, Executive Director, Office of Financial Management (OFM), reported on two items. The first item was the Kentucky Infrastructure Authority (KIA) Wastewater and Drinking Water Revolving Fund Revenue Bonds, Funds A and F with a par amount of \$49,070,000, a net present value savings of \$3.6 million over the life of the bonds, which represents 7.1 percent. Proceeds from this bond issue will partially advance refunded KIA's 2010A bonds and 2012A bonds. No action was required.

The second item was the Northern Kentucky University General Receipts Refunding Bonds,

Series 2016 A. This bond issue refunded outstanding General Receipts 2007 Series A bonds with a par amount of \$25,765,000, true interest cost of 2.20 percent, and a net present value savings of \$2.5 million dollars which represents about 9.4 percent in savings. No action was required.

New School Bond Issues with School Facilities Construction Commission (SFCC) Debt Service Participation

Mr. Barrow, reported on 14 items, 3 will finance school renovations and the remaining 11 will refinance previous bond issues. These bond issues do not involve tax increases. Representative Rudy made a motion to approve the school bonds, seconded by Senator Humphries. The motion was approved by roll call vote of 6 yeas and 0 nays.

Local School Bonds – New School Bonds Issues with 100 Percent Locally-Funded Debt Service Participation

Mr. Nacey reported that three local school bond issues have been reported to the committee. These bond issues are 100 percent locally funded and do not involve tax increases. The purposes for these bonds include refunding of previous issues, the financing of energy conservation measures, the financing of improvements to an existing school building, as well as the construction of a new school building. No action was required.

Mr. Nacey said that the updated debt issuance calendar was included in the members' folders.

With there being no further business, the meeting was adjourned at 1:27 p.m.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

June 21, 2016

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee (EAARS) was held on Tuesday, June 21, 2016, at 10:00 AM, in Room 129 of the Capitol Annex. Representative James Kay, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative James Kay, Co-Chair; Representative Linda Belcher

Legislative Guest: Representative Derrick Graham

Guests: David Wickersham, Deputy Director, Office of Education Accountability; Karen Timmell-Hatzell, Education Accountability Division Director of Investigations, Office of Education Accountability; Clyde Caudill, KASA; Wayne Young, KASA; Erin Klarer, KHEAA.

LRC Staff: Jo Carole Ellis, Joshua Collins, and Chris White.

Representative Kay stated that a quorum was not present at the meeting and that the December 1, 2015 minutes of the EAARS meeting could not be approved until the next EAARS meeting, to be held August 16th, 2016.

Representative Kay recognized the respective chairmen of the Senate and House Education Committees, Senator Mike Wilson and Representative Derrick Graham.

Representative Kay introduced David Wickersham, Deputy Director of the Office of Education Accountability (OEA), and Karen Timmell-Hatzell, OEA Division Director of Investigations. Mr. Wickersham introduced members of his staff: Rosemary Oaken, Tammy Daniel, Angie Jones, Sabrina Olds, Brenda Landy, Albert Alexander, Yvette Perry, Deborah Nelson, Bryan Jones, Roya Ghazi, Alicia Sneed, Bryan Moore, and Logan Rupard.

Mr. Wickersham discussed the findings of the 2015 OEA Annual Report in detail. The committee was informed by Mr. Wickersham that under KRS 7.410, OEA is required to present an annual report of the status and results of the annual research. OEA is also required to provide a summary of the complete investigative activity and a written report of the findings.

Mr. Wickersham explained that OEA's outreach program has regular meetings and frequent contact with its educational partners. The outreach program is designed to ensure all inquiries receive consistent answers as provided through OEA and its educational partners. OEA conducts monthly meetings with Kentucky Department of Education (KDE) and maintains frequent contact with the Kentucky School Board Association (KSBA), Kentucky Association of School Superintendents (KASS), Kentucky Association of School Administrators (KASA) and the Educational Professional Standards Board (EPSB). The purposes of these meetings are to give an opportunity to identify common concerns and ensure those concerns are interpreted according to the laws and regulations required to be followed in local districts and provide an avenue for open feedback from a customer service standpoint that allows an opinion to be given on both the performance of the OEA employees and in an effort to ensure that all educational partners are on the same radar.

Mr. Wickersham gave an overview of OEA's investigative duties. Under KRS 7:410, the OEA has the duty to investigate allegations involving the wrongdoing of any person or agency in violation of the Kentucky Education Reform Act (KERA). OEA is obligated by statute to make referrals to any agency that has the authority to take enforcement action, upon determining a violation has occurred. After gathering relevant information but prior to conclusions, OEA will provide information to the districts regarding the allegations. The districts then have an opportunity to provide a written response.

Mr. Wickersham said that any state agency

with knowledge of a violation of KERA also has an obligation to make a referral to OEA for investigation. OEA is the state clearinghouse for any complaint. An investigation is conducted and OEA then refers back to those agencies for action upon the conclusion of the investigation.

Mr. Wickersham said that KRS 160.345 provides anyone who has been, or believes they have been, adversely affected by a school-based decision making (SBDM) matter the opportunity to file a written complaint. OEA is obligated to investigate all complaints and is required to either resolve that issue or to forward that matter on to the Kentucky Board of Education (KBE) for action.

In 2013, OEA opened a 80 new investigations and closed 77. In 2014, OEA opened 66 investigations and closed 63. OEA received 612 written complaints in 2015 that required formal action. This does not include phone calls, emails, or hotline messages. From the written complaints, OEA opened 49 cases, which is approximately 8 percent of the total complaints that were received. Three hundred ninety-three of the 612 written complaints were anonymous complaints. In 2015, there were 49 new cases opened and 59 closed. In 48 of the closed cases, OEA identified 80 violations of law. Mr. Wickersham said that it is important to remember that an initial complaint may raise other issues during the investigation that lead to additional issues which are substantiated. In 11 of these closed cases, there were no findings of any violations whatsoever.

Mr. Wickersham stated that another concern frequently expressed to the investigators is the possibility of retaliation or negative repercussions to an individual who has filed the report should their identity become known or confirmed. Although OEA's intention is to shield the identity of the complainant, it is not possible to guarantee confidentiality. Under no circumstance does OEA staff release or verify the source of the complaint, because anonymous information and protection against disclosure of a complainant's history are worthwhile and necessary practices. OEA makes every effort to shield the identity of the complainants. Mr. Wickersham stated that the effort to shield identities encourages others to continue to come forward and raise complaints consistent with statutory obligations.

Mr. Wickersham offered that one of his greatest satisfactions is that OEA can investigate and demonstrate to the district that the law has been followed. Mr. Wickersham stressed it is important to remember that a complaint does not automatically mean that there has been a violation of the law.

Mr. Wickersham explained that upon receipt of a complaint, OEA will review past files to determine if previously received complaints about similar issues have occurred under that same district leadership. If a similar issues has been addressed, it may suggest that there is a repetitive behavior in a particular area. Before taking action to begin an investigation, OEA

must consider the specificity of the information received, the seriousness of the allegation, issues of proof, possible outcomes, and availability of witnesses.

Mr. Wickersham testified that OEA declines and refers over 90 percent of the matters that come before them, including written complaints. These complaints are not ignored; however, they are steered to more appropriate resources that have both statutory and regulatory authority to act or investigate and reach a determination.

Mr. Wickersham said that testing violation or special education matters are referred to KDE. OEA notifies the Kentucky Human Rights Commission or federal authorities regarding discrimination since they are empowered to act upon those matters. OEA refers criminal activity to the appropriate police or investigative agencies, fiscal matters to the Auditor of Public Accounts, and open meetings and open records matters that OEA is unable to resolve on their own to the Office of the Attorney General.

Mr. Wickersham explained that OEA will frequently refer a matter back to a district for resolution, often for a disgruntled parent or a disgruntled employee. There are procedures in place inside a district that perhaps the district has not yet had an opportunity to address itself. Often, a person that contacted OEA lacks awareness about what those processes and procedures are, so the district will have an opportunity to address that locally.

Mr. Wickersham stated that OEA avoids matters that are either already in litigation or most likely headed for litigation. The agency also declines to get involved if other formal proceedings are pending.

Mr. Wickersham said that cases are divided into investigative cases or SBDM cases. Preferably, OEA provides a 3-day notice to districts prior to making a scheduled visit for an investigation. OEA informs the district of the witnesses the agency would like to interview while also not giving too much information regarding the specifics of the complaint. This practice reflects OEA's good faith effort to keep the district informed. OEA conducts interviews in the districts; but do not interview children or students. After fact finding is completed, there might possibly be an extensive follow-up period – this is due to the significant time it takes to complete these cases.

Mr. Wickersham said the vast majority of resolutions result in a recommendation for additional training. On the other hand, if any violation of a regulation, statute, or local board policy is confirmed, the assumption is that these are much more likely to be mistakes rather than an act of willfulness conduct or a crime. Simple errors in judgement are often committed without any ill will, thought, or intent to violate the law, statute, or policy. For that reason, OEA's recommendations and resolutions made with districts are very much structured to be rehabilitative and not punitive. OEA partners with EPSB, KSBA, and KDE to provide training to allow the district to get back on track in terms

of performance of their day-to-day work. Mr. Wickersham said that it is an extremely rare case in which OEA finds that someone has willfully violated the law, which warrants further action by law enforcement, the Auditor of Public Accounts, or the KBE. Most referrals that are made for action of that type are only in the cases of egregious conduct at the district level that is typically either repeated over a short period of time or has been a consistent problem in that district over a period of months or years.

Mr. Wickersham made a distinction between preliminary and final reports of agency issues. OEA's statutory obligation is to provide an opportunity for districts to respond before taking final action. Mr. Wickersham said that occasionally, there is some speculation raised that there has been some violation of due process in the performance in OEA's role. Mr. Wickersham explained that due process is based on notice of what the wrongdoing is believed to be and an opportunity to respond. Mr. Wickersham offered that the right to due process isn't greatly impacted by OEA's actions, because there is neither a deprivation of life, liberty, or property interest. Still the protections that the General Assembly has written into KRS 7.420 provide the notice and opportunity to respond that due process would require.

Mr. Wickersham said that a preliminary report is sent to the district with an opportunity to provide some response. A two-week window is given for the district's response, unless additional time is requested. Districts pay close attention and give consideration to each one of the responses, thus OEA allows additional time to gather information.

Mr. Wickersham emphasized that it is critically important that OEA continues to press on the notion that OEA's work is rehabilitative. OEA is very much interested in recognizing the hard work performed locally every day and under extremely difficult circumstances. OEA's role is essentially to get districts back on track. Mr. Wickersham said that there is a significant difference between getting a district back on track and applying a penalty, which would result in taking someone out of the classroom or the district, or keeping someone from being able to continue in their profession. OEA recognizes the dedication of school staff and administrators and attempts to build upon helping them improve on their performance at the local level.

Mr. Wickersham testified that many written complaints focus on SBDM councils, which have been in place for over 20 years. Most schools have SBDM councils in place. At most schools, the SBDM council consists of the principal, three teachers and two parents of children who attend the school. Frequently, complaints regard the election of parent/teacher representatives. Parent representatives are elected either by the Parent-Teacher Organization (PTO) or by the largest group that has been selected for the purpose of conducting that election. Teachers are elected by the majority of the teachers. The statute provides limited guidance on who conducts the teacher

elections, although there are fairly clear guidance regarding parent elections. Complaints received typically allege interference with one of those processes and the resolution involves guidance. OEA must determine whether guidance is appropriate or if there is a need for a reminder about what is in the statute.

Mr. Wickersham added that OEA also get complaints that SBDM councils have violated open meetings or open records laws – such as insufficient notice of meetings or meetings being held at an inconvenient times for parents or attendees. These complaints can also implicate closed session meetings, which are permitted as long as the appropriate procedures are followed. Another frequent complaint deals with SBDM councils that have failed to keep minutes or keep minutes that are inaccurate.

Mr. Wickersham conveyed that some complaints regard SBDM budgets - allegations that SBDM councils are not approving budgets or they are not properly recording that approval through the minutes of the actions of the body. Occasionally, there are complaints that there is an inappropriate policy or an absence of a policy that the SBDM is required to make. SBDM councils must make policies on curriculum, spending, the use of school space, discipline, extra-curricular activities, alignment with the standards, and the consultative role regarding hiring. The complaints typically state that there are no policies or that there is no fidelity to the policies that are in place. Mr. Wickersham said that the principal is to consult with SBDM councils on vacancies, and occasionally OEA will get a complaint that this type of consultation does not occur.

Mr. Wickersham said that there are concerns regarding local Boards of Education – mostly regarding allegations of hiring interference. KRS 161.80 provides clear instructions that Board of Education members may not influence or attempt to influence the hiring of any school employee with exceptions for superintendents, board treasurers, and board attorneys. It is possible for OEA to make referrals on an allegation of that type, if substantiated, to the OAG for action. Other complaints regard eligibility of a member to serve on a local Board of Education either through the holding of an incompatible office or residency. KRS 161:80 indicates that a member must live and vote in the district they serve. Occasionally OEA receives allegations that a member maintains more than one home, using one address for the purpose of attempting to serve as a board member for a particular district, when the member actually resides in another district. OEA also receives complaints regarding both direct and indirect financial conflicts, which are prohibited by KRS 161:80. If substantiated, OEA will make a referral to the OAG's office.

Mr. Wickersham state that less common are complaints concerning surplus property. This is a very difficult issue in a local district for a couple of reasons. In rural communities, there are school buildings that were once used but are now abandoned. Although many times

the community has strong feelings about the structures, the schools no longer serve an educational purpose which are beneficial to the district's current needs. The obligation of the board in that situation is to declare the structure as surplus property, and then dispose of it. Due to the expense of maintenance and insurance, OEA encourages the district to take action through surplus property. Even though it may be difficult from a political perspective, it is believed those monies can better be spent on the modern incarnation of the schools in the district.

Mr. Wickersham state that some complaints allege that boards are failing to properly exercise financial oversight, do not review and approve expenditures, and do not have adequate documentation regarding travel expenditures.

Mr. Wickersham highlighted outside activity funds as slight concern – often involving Booster Clubs. The KDE partners with OEA on the implementation and training of accounting procedures known as “the Redbook”. KDE provides assistance to insure that the training and guidance provided is responsive to issues that are commonly seen in districts.

Mr. Wickersham listed other miscellaneous complaints that arise less frequently: incompatible/dual offices held by board members, nepotism, boundary disputes involving the resident of students, certification of teachers, or teachers working in a district may not be properly certified.

Mr. Wickersham gave an overview of the OEA research division functions governed by the research agenda approved by EAARS. OEA has three pending studies that will be presented later in the year.

Projects completed and presented over this last year are:

The District Data Profiles for 2014

Mr. Wickersham explained that contains longitudinal data on each one of the districts that includes demographics, finance, staffing, and school performance. The report covered the years 2011-2014. The information relayed is extremely useful for legislators, general public, local school board members, and parents. While KDE's School Report Card is a fantastic document and an appropriate alternative for school districts that have neither the time or the inclination to take a “deep dive” into that sort of information, this report gives more of an overview that captures a great deal of information in a very concise format. This report is provided every year and is available to everyone.

The Bi-Annual Compendium

Mr. Wickersham indicated that this report compares Kentucky's public education system to indicators both national and selected peer states data. Mr. Wickersham advised that because the report uses the rankings is difficult to determine how far apart Kentucky is from some of the other states.

Peer states for this comparison were Alabama, Arkansas, Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee,

Texas, Virginia and West Virginia. Excluded from the compendium were neighboring or contiguous states of Illinois, Indiana, Missouri and Ohio.

Regarding demographics based on 2013 figures, Kentucky was 12th highest nationally in student poverty. Median family income in Kentucky was among the lowest. Kentucky had a lower percentage of minorities in the student population than the national average.

In terms of student services, Kentucky had a significantly lower figure of about 3 percent of students learning the English language compared to a national figure of approximately 9 percent.

Kentucky has approximately 50 percent of the school population on some form of lunch subsidy. Kentucky also has about 14.2 percent of students with disabilities, which is higher than the nation average of 12.9 percent.

The student-teacher ratio is approximately 16:1, which is very close to the national average. Kentucky has more total staff than the average, principally appearing to be made up of aides for student with disabilities and more administrative staff. The administrative staff is made up of more assistant principals than is common, but also Kentucky has more Family Resource and Services Directors. Mr. Wickersham said that other states do not necessarily have these positions. Therefore, caution must be used when discussing whether Kentucky has too many administrators or “top-heavy” positions.

As of 2012, Kentucky was 34th in per pupil revenue, and 33rd in per pupil spending. In 2013, the average teacher salary was 26th in the nation.

On the National Assessment of Educational Progress, Kentucky ranked 17th in grade 4 reading, 15th in grade 8 reading, 28th in grade 4 math, and 36th in grade 8 math.

In terms of advanced placement exams, Kentucky ranks 20th in nation in participation and 25th in passing scores. Regarding 2013 graduation rates, Kentucky is ahead of the national average of 81 percent. Kentucky ranks 10th nationally with 86 percent of students graduating.

Recess and Physical Education Report

OEA analyzed both the amounts and types of physical activity for the years 2014 in grades K-5, and described the views of educators in terms of physical activity. OEA also looked at federal and state requirements and analyzed the effect that the different laws and regulations have on this study.

Kentucky is 7th in childhood obesity for children between the ages of 10 and 17. Kentucky does not have specific requirements in place for a set amount or type of physical education or recess. There are some general recommendations and governing law regarding physical activity. There is a requirement that wellness policies be developed locally, and that reports be provided which assess what the physical activity environment is in a school and district. There must also be an adoption of tools that measure on an annual basis what physical

activity is like. There is no direct state funding to support that requirement. KDE has used grant funding to attempt to provide guidance and assistance to districts.

Mr. Wickersham stated that one of the difficulties encountered in the study was that the data for physical activity is not reported in a consistent way that allows the aggregation of statewide figures, so a great deal of this information is district by district. The research staff was able to determine that nearly all K-5 schools provide recess. Two two-thirds of the schools provided 20 minutes or more every day. It is also the case that most school's used classroom-based physical activity in addition to the allotted recess time. Educators tend to agree that Kentucky has the right amount of physical activity, given the curricular demands that are placed upon the schools. One of the tensions that educators identified was the recognition that a healthier child is probably more likely to learn well and function effectively in a classroom, but due to the limited number of hours in the day, minutes that are spent exclusively on physical activity compete against the academic demands that are placed on those students, schools and districts.

OEA made eight recommendations regarding physical activity to KDE and the General Assembly. In response to the report, KDE has executed significant activity to address some of these concerns. KDE continues to have a good partnership with OEA in carefully reviewing the recommendations and making legitimate and active responses.

The Primer on Independent Schools and Districts Report

This report reviews statutes that are relevant to independent school districts and includes the history of independent school districts and legislative changes over time.

Kentucky has a total of 53 independent schools and districts that are defined by boundaries that are set inside counties. These boundaries are essentially locked at this point as a consequence to a law introduced in 1934. Generally speaking independent schools and districts have fewer students in fewer schools. They are permitted under KRS 160 to annex territory and also to merge with county districts. Independent schools have a greater percentage of non-resident students than county schools. There are a total of approximately 27,000 non-residents students in Kentucky in 2014. About 5 percent of the revenue in independent school districts is from non-resident students. Support Education Excellence in Kentucky (SEEK) monies follow these non-resident students to the schools they are attending in these situations.

Kentucky has five independent school districts that do not have a high school, nor is there a statutory guidance on what high school those children must or may attend. Independent school districts spend a bit more money – approximately \$600 per student – than county schools spend. They typically have less taxable property, largely based on geographical

boundaries, but the property is taxed at a higher rate. In terms of student demographics and student performance, there are very few distinctions between independent and county districts. There is no real variation in special education, limited English proficiency, and migrate student counts between county and independents school districts.

Independent school districts are disproportionately both the highest and the lowest performing schools. Based on 2014 figures, achievement is a bit lower in the elementary and middle school levels than in the county school districts, but achievement is somewhat higher at the high-school level. However, that figure is likely to be skewed by the fact that there are a few exceptionally high performing independent school districts at the high school level.

Responding to a question by Senator Wilson, Mr. Wickersham stated he is unaware of any state agency that has not adhered to KERA regulations by attempting to exercise more authority than actually possessed to investigate a reported violation, rather than referring them to OEA. Mr. Wickersham indicated the aggressive "outreach approach" with educational agencies ensures all agencies are cognizant of both OEA's investigative and research functions. There appears to be no hesitation from a district or state level in referring those cases to OEA. Mr. Wickersham attributes the success of the outreach program to the professionalism of the people in the agencies with whom they work closely and the willingness to keep the discussion open. The agencies do not want to have their work diminished by someone who is stepping outside of their scope.

In response to a question by Senator Wilson, Mr. Wickersham said he will provide further evaluation regarding the number of students allowed to attend independent schools, since the county district boundaries can change but the city boundaries are locked in by law. Senator Wilson asked if any district has solved this through merger or other means. Mr. Wickersham said there have been three mergers that have occurred over the last several years, but not specifically on the facts of which Senator Wilson spoke.

Representative Graham discussed school deficits caused by the eroding tax base caused by the construction of new buildings. These buildings displace residents who provided taxes to the school districts. Mr. Wickersham agreed the topic should be studied to address the impact of lost revenue affecting these schools. Since many districts have limited ability to merge, Mr. Wickersham offered to conduct a study to determine what can be done to aid the districts who are losing tax dollars yearly, thereby impacting their district's budgets. Mr. Wickersham will provide members of the General Assembly with data for members who have similar situations in their districts.

Representative Graham said that board members may not always follow open meeting and open records law. Representative Graham suggested that all board members should be

fully trained and informed if they are to be held accountable.

Referring to a scenario discussed regarding a principal being involved with elections of parents and teacher in the SBDM council, Representative Graham expressed concern. Ms. Timmell reported that although some allegations have been substantiated, the violation has generally occurred in schools that do not have an active PTO/PTA. Since the school may not be aware of the steps to be taken, the school will proceed with managing the elections. In response to Representative Graham's question regarding how elections should be conducted if there is no active PTO/PTA, Ms. Timmell advised the burden falls upon the principal to create a group of parents and direct the focus to that group to elect the representatives for the council. Representative Graham expressed concern that the principal may be able to manipulate the outcome of the process by choosing parents that would benefit his agenda. Ms. Timmell explained that the parents are not elected representatives; therefore, the principal has followed the statute by appointing parents to supervise the election. That group would then disseminate the information to the other parents.

Representative Belcher questioned whether training is monitored after a violation occurs, or if the investigation ceases without further follow-up. Mr. Wickersham advised that proof of training by a specific date is required as part of the resolution, which is monitored internally. There is continued contact with the district if the deadline is nearing or missed. The district can request additional time if needed as this demonstrates a willingness to address the issue. There is, however, a set period of time in which corrective action must be taken, whether it is training, revision of policy, or institution of minutes. If a district refuses to administer the training to an acceptable level, the matter will be referred to the KDE.

In response to Representative Belcher's inquiry as to whether OEA has the authority to investigate home schools that are not effective, Mr. Wickersham replied that OEA has no control over home schools since these are not public schools.

Representative Belcher then questioned OEA's role in tribunals, and whether they conduct an investigation if the teacher has done something inappropriate. Ms. Timmell stated that OEA has no role in a local tribunal or in a tribunal conducted by the state board or by KDE. She added that it depends on when the complaint is received and on what level the complaint stands at the time. OEA has conducted investigations which ultimately went to a tribunal, but if there is a tribunal pending, OEA would not get involved. In response to Representative Belcher's question as to whether it is referred to a tribunal once OEA has conducted an investigation, Director Timmell reported that the final report is sent to the person being investigating unless a referral to another agency is made. However, there is a policy in place whereby a copy of the

investigation can be acquired by making an open records request. Although OEA is not subject to open records statutes and the information is not automatically released, the information can and will be provided if requested.

In response to a question by Representative, Mr. Wickersham confirmed Kentucky has the 12th highest student poverty rate among all states. Representative Kay relayed the importance of emphasizing to the committee the information regarding our ranking, and added that student poverty brings inherent challenges which students without poverty do not experience. Representative Kay also reminded the committee of the successes in the rankings, which provide testament to school districts, administrators, and teachers who help students in poverty. Representative Kay thanked all Kentucky teachers for what they do on a daily basis.

Representative Kay expressed appreciation to Senator Wilson, Representative Graham, and OEA for the resources and assets provided to the educational community.

Representative Kay suggested that one of the goals of the subcommittee should be to raise the level of awareness in the General Assembly regarding information, studies, and data that OEA distributes. Studies performed by OEA in the past and studies that are currently being done provide useful tools for legislators and educational partners. Representative Kay added he would like to raise awareness and make the public and legislators aware that the information provided in these reports is readily accessible and can be used for the good of education in Kentucky.

There being no further business, Senator Wilson moved to adjourn, and the meeting was adjourned at 11:10 a.m.

LRC Publications

Research Reports

- 420** Office of Education Accountability Recess And Physical Education (K-5)
- 419** Program Review and Investigations Quasi-Governmental Entities In The Kentucky Retirement Systems
- 418** Program Review and Investigations State Procurement: Requests For Proposals, Competitive Exemptions, And Leaseback Agreements
- 417** Program Review and Investigations Kentucky State Fair Board
- 414** Program Review and Investigations Comparison Of Salaries Paid To State Executive Branch Supervisory And Nonsupervisory Employees And To School Administrators And Teachers
- 413** Office of Education Accountability Compendium Of State Education Rankings 2015
- 412** Office of Education Accountability Kentucky District Data Profiles School Year 2014
- 411** Program Review and Investigations Local Defined-Benefit Pension Plans In Kentucky
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David A. Byerman, Director
Legislative Research
Commission

Robert Jenkins
Deputy Director for
Committee and Staff
Coordination

Rob Weber
Public Information Officer

Joe Cox
Publications and Printing
Officer

Rebecca Mullins Hanchett
Editor, Typography and
Design

Public Information Staff:
Stephanie Newberg
Jeff Fossett
Steve Gatewood
Bruce Phillips
Bud Kraft
Keith Krey
Jim Hannah



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