2015 Interim

LEGISLATIVE RECORD

Volume 28, No. 3
June 2015

* *Read online at www.lrc.ky.gov/legislation.htm*

State laws passed in 2015 take effect

by Rob Weber
LRC Public Information

Most new laws approved during the Kentucky General Assembly's 2015 regular session went into effect in June.

The state constitution specifies that new laws take effect 90 days after the adjournment of the legislature. The General Assembly's 2015 session adjourned on March 25, making June 24 the day that new laws took effect.

There are some exceptions. Bills that contained an emergency clause, such as this year's measure to fight heroin abuse, went into effect earlier this year as soon as they were signed by the governor. A handful of other bills also specified their own effective dates, such as a measure that goes into effect early next year to offer some civil protections to victims of dating violence.

But most new laws – 98 of the 117 passed this year – took effect on June 24. Laws that went into effect then include measures on:

Beer distribution. House Bill 168 states that beer brewing companies can't own beer distributorships. The measure is meant to affirm that beer is not exempt from the state's three-tier system of regulating – and keeping separate – alcoholic beverage producers, distributors and retailers.

Charitable gaming. Senate Bill 33 allows electronic versions of pull-tab Bingo tickets at charitable Bingo halls.

Child abuse. SB 102 allows a death caused by intentional abuse to be considered first-degree manslaughter.

Child booster seats. HB 315 requires booster seats to be used in motor vehicles by children who are less than eight years old and are between 40 and 57 inches in height.

Crowdfunding. HB 76 helps Kentucky entrepreneurs to gain investors through crowdfunding. The measure will allow people to invest up to $10,000 through a crowdfunding platform while helping businesses raise up to $2 million.

Drug abuse. HB 24 prevents youth from misusing certain cough medicines to get high -- sometimes called "robotripping" – by restricting access to medicines that contain dextromethorphan. The bill will prevent sales of dextromethorphan-based products, such as Robitussin-DM or Nyquil, to minors.

Drunk driving. SB 133 expands the use of ignition interlocks for people caught driving under the influence of alcohol. An ignition interlock is a device about the size of a mobile phone that is wired into the ignition system of a vehicle. A person convicted of driving under the influence must blow into the device in order to start their vehicle. If they have a measurable amount of alcohol in their system, the vehicle will not start.

Early childhood development. HB 234 requires early child care and education programs to follow a state quality-based rating system.

Emergency responders. SB 161 authorizes the governor to order that U.S. flags be lowered to half-staff on state buildings if a Kentucky emergency responder dies in the line of duty.

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Tobacco oversight panel looks at county ag investment

by Rebecca Hanchett
LRC Public Information

New county agricultural cost share dollars are being rolled out across Kentucky, with over $1.69 million approved in May for programs in 12 tobacco dependent counties.

The $1,692,296 in new County Agricultural Investment Program, or CAIP, funds were approved by the state Agricultural Development Board for Campbell, Estill, Garrard, Grayson, Hancock, Henry, Jessamine, Marion, Meade, Montgomery, Muhlenberg and Trimble counties, according to Joel Neaveill with the Governor's Office of Agricultural Policy. Neaveill told the Tobacco Settlement Agreement Fund Oversight Committee on June 3 that the dedication of those CAIP dollars is only the beginning.

"The deposits for 2015 have been made into county account. This is the start of, probably over the next few months, a large dedication of county funds toward programs and projects," said Neaveill.

A total of 118 Kentucky counties receive county allocations of Kentucky tobacco settlement dollars. At least one lawmaker, Sen. Carroll Gibson, R-Leitchfield, wanted to know how those allocations are decided. The answer, he was told, is based on a 15-year formula which Neaveill helped devise.

That formula, created with the passage of 2000 House Bill 611, determines a county's "relative tobacco dependency" using several pieces of data from the 1997 agricultural census (the most recent at the time) including, but

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End-of-life care. SB 77 allows Kentuckians to use a health care directive known as a "medical order for scope of treatment." These orders spell out patients' wishes for end-of-life care. Unlike advance directives, the orders are considered to be physician's orders and are signed by both the patient or patient's legal surrogate, and the patient's physician.

Hunters. SB 55 ensures that game meat can be donated to not-for-profit organizations to feed hungry people as long as the meat was properly field dressed and processed and is considered disease-free and unspoiled.

Kentucky Employees Retirement System. HB 62 makes sure the agencies that want to leave the Kentucky Employees Retirement System pay their part of the system's unfunded liability.

Newborn health screening. SB 75 requires newborn health screenings to include checks for Krabbe Disease, an inherited disorder that affects the nervous system.

Retirement systems. HB 47 adds the Legislators' Retirement Plan, the Judicial Retirement Plan, and the Kentucky Teachers' Retirement System to the Public Pension Oversight Board's review responsibilities.

Spina bifida. SB 159 requires health care providers to give information about spina bifida and treatment options to parents whose unborn children have been diagnosed with the disorder.

Stroke care. SB 10 improves care for stroke victims by requiring the state to make sure local emergency services have access to a list of all acute stroke-ready hospitals, comprehensive stroke centers, and primary stroke centers in Kentucky. Emergency medical services directors would be required to create protocols for assessment and treatment of stroke victims.

Tax check-offs. SB 82 will place check-off boxes on tax forms to give people getting state income tax refunds the option of donating a portion of their refund to support child cancer research, the Special Olympics or rape crisis centers.

Telephone deregulation. HB 152 is aimed at modernizing telecommunications and allowing more investment in modern technologies by ending phone companies' obligations to provide landline phone services to customers in urban and suburban areas if they provide service through another technology, such as a wireless or Internet-based phone service. While rural customers can keep landline phones they already have, newly constructed homes in rural areas won't be guaranteed landline services.

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not limited to, the number of tobacco farms in the county, price per pound of tobacco, and a county's total personal income, said Neaveill. The idea was for all 118 tobacco counties to have "a slice of that pie" relative to their level of dependency, he said.

To ensure the formula worked, Neaveill explained that one factor has to be adjusted each year—the county's total personal income. Adjusting for a county's total personal income ensures that those counties with a large amount of total personal income growth do not receive a disproportionate amount of county tobacco funds, explained Neaveill.

> To ensure the formula worked, Neaveill explained that one factor has to be adjusted each year—the county's total personal income.

"The idea is that as personal income grows in a county, the tobacco number will reduce," he said.

Both Neaveill and GOAP Executive Director Roger Thomas agreed with committee co-chair Rep. Wilson Stone, D-Scottsville, that counties receiving the largest allocation of MSA dollars generally had the largest amounts of tobacco quota at the end of the federal Tobacco Program in 2004. Yet Thomas made tobacco dependency's role clear, using Kentucky's smallest county as an example.

Robertson County, with around 2,200 residents and a total area of 100 square miles, is small in population and size, but it was mighty in tobacco production. Thomas said the county gets "a substantial amount" of county agriculture development funds, which totaled $316,290 in 2015.

That's because "it was so tobacco dependent in the past," said Thomas.

The committee's meeting agenda also included a presentation from the Department for Public Health on the state Tobacco Prevention and Cessation Program.

Top: Reps. Terry Mills, D-Lebanon, at left, and Will Coursey, D-Symsonia, talk at the close of the June meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

At right: Sen. Carroll Gibson, R-Leitchfield, asks a question during the June meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

College and career data rolled out before state labor panel

by Rebecca Hanchett
LRC Public Information

Almost 63 percent of Kentucky public high school graduates were college and/or career ready in 2014, but some question if that percentage indicates enough progress or not—especially in comparison to other states.

Kentucky's method of figuring its 62.8 percent overall college and/or career readiness score is "very Kentucky-specific," Dr. Kate Akers of the Kentucky Center for Education and Workforce Statistics told the Interim Joint Committee on Labor and Industry on June 17. She said her office is working with other states to come up with consistent measures to determine whether Kentucky's score is "good, or is that bad," comparably.

That led to a comment by Rep. Lynn Bechler, R-Marion, who had earlier asked Akers how the Center defines college and or career readiness, determines readiness, and how Kentucky's college and/or career readiness and readiness measures stand up against other states'.

"I would suggest that when I was in school, anything below 70 was an 'F'," he said.

Akers said 62.8 percent readiness is actually an increase over previous years.

"I can tell you that that has increased significantly in Kentucky, so we know that more students from Kentucky are graduating college and career ready," said Akers. "But as far as that comparison to others states—Kentucky is the only one with this very specific measure.

"A lot of states are beginning to go in that direction, so Kentucky is happy to kind of serve as a benchmark for them," she said.

As for specific measures, Akers said the Center has determined Kentucky students who are not college or career ready have lower first-year college grades and earn fewer credit hours than those who are. Per the data, the average grade point average of first-year college students who are college and career ready is 2.65; of those who aren't ready, the average GPA is 1.81, she said. The average number of credit hours earned by those students considered "ready" is 22.9, per the data; of those who aren't ready, the average number of hours earned is 12.1.

Income levels of high school graduates who do not attend college are another measure tracked by the Center, according to Akers. Those not attending college earn around $7,500 the first year out of high school, and only $11,511 three years out of high school, per the Center's data.

Altogether, Akers said the Center found that around 60 percent of high school graduates not attending college end up in the four lowest-paid industries in the workforce.

Senate Majority Whip Jimmy Higdon, R-Lebanon, commented on the anonymity of the data used in the Center's reports. He reassured Kentuckians with concerns that, per 2013 House Bill 240, all personal identifiers are removed from the data to ensure complete privacy.

Senate Minority Whip Julian Carroll, D-Frankfort, at right, and Sen. Tom Buford, R-Nicholasville, confer during the June meeting of the Interim Joint Committee on Labor and Industry. Bottom photo: Committee Co-Chair Rep. Rick Nelson, D-Middlesboro, fields questions during the meeting.

"When you get that data (it's) just a number—they don't have a name, and you track it by number," said Higdon. "It is secure."

Akers confirmed that he is correct. The data "has a unique ID not tied to any other (personal) identifier," she said.

Rep. Dennis Horlander, D-Shively, complimented Akers and the Center on their work to show how K-12 education and the workforce are tied together.

"For many, many years, it just seemed like we were getting on a train and we didn't know where we were going. So it seems like we're planning, and it will be good for our students and our workers," he said.

The meeting agenda also included an update from the Kentucky Department of Insurance and a presentation from an official with the Iron Workers Southern Ohio and Vicinity District Council.

Marque legislation pumps up Kentucky Road Fund

by Jim Hannah
LRC Public Information

State lawmakers received an update in June on how bipartisan legislation from this year's General Assembly has stabilized Kentucky's road fund, which was threatened by falling gas prices.

Known as House Bill 299, it froze the state gas tax at 26 cents per gallon through next fiscal year. The gas tax had been falling because it was pegged to the price at the pump -- with no provision on how low it could go.

"Thankfully, (HB) 299 was passed as the 2015 session came to a close," Kentucky Transportation Cabinet Deputy Secretary Russ Romine said Tuesday while testifying before the Interim Joint Committee on Transportation on June 2. It was the group's first meeting of the year.

Had HB 299 not passed, Kentucky would have gone from 32.5 cents at the start of the current fiscal year to 22.5 cents on April 1, or a loss of 10 cents per gallon of gas sold. Romine said the last time the gas tax was that low was in the first quarter of 2010.

"HB 299 actually preserved 3.5 cents per gallon," he said. "So instead of losing the full 10 cents, we only lost six-and-a-half cents off the gas tax. That is where we are right now."

Romine cited figures from the Governor's Office of Economic Analysis when asked how much money the 6.5-cent drop represented.

"A total of $291 million is what we stood to lose had the General Assembly not acted," he said. "We preserved $126 million in potential losses to the road fund for the remaining fiscal year and all of next fiscal year."

While the gas tax can now never dip below 26 cents per gallon, it can increase, starting in fiscal year 2017, if prices at the pump rise. The gas price will be calculated once a year, instead of the previous practice of quarterly, and cannot rise more than 10 cents a year.

Rep. John Short, D-Mallie, asked what the impact of the 6.5-cent loss in the gas tax was to small communities that get a share of the state gas tax.

Kentucky Transportation Secretary Mike Hancock said House Bill 510, also passed late in the session, authorized a one-time expenditure of $7.8 million for county and municipal road departments. The legislation's primary purpose

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Committee Meetings

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LEGISLATIVE RESEARCH COMMISSION

Minutes of the 547th Meeting

June 3, 2015

Call to Order and Roll Call

The 547th meeting of the Legislative Research Commission was held on Wednesday, June 3, 2015, at 1:30 PM, in Room 125 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Julian M. Carroll, David P. Givens, Jimmy Higdon, Gerald A. Neal, Dan "Malano" Seum, and Damon Thayer; Representatives Johnny Bell, Jim DeCesare, Jeff Hoover, Stan Lee, Sannie Overly, and Jody Richards.

LRC Staff: Robert Jenkins and Christy Glass.

There being a quorum present, Senator Stivers called for a motion to approve the minutes of the February 4, 2015, meeting; accept and refer as indicated items A. through H. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items C. through X. under New Business; and accept and refer as indicated items 1. through 32. under Communications. The motion was made by Senator Thayer and seconded by Representative Richards. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted or referred.

The minutes of the November 12, 2014, meeting were approved.

Staff and Committee Reports

Information requests for February through May 2015.

Committee Activity Reports for February 2015 through May 2015.

Report of the Administrative Regulation Review Subcommittee meetings on February 9, March 10, April 14, and May 5, 2015.

Committee review of the administrative regulations by the Senate Standing Committee on Health and Welfare during its meetings on February 4 and February 25, 2015.

Committee review of the administrative regulations by the House Standing Committee on Health and Welfare during its meetings on February 5 and February 26, 2015.

Committee review of FY 2015 Small Cities Community Development Block Grant and Section 108 Loan Guarantee Program Application by the Senate Standing Committee on State and Local Government and the House Standing Committee on Local Government during their meeting of February 25, 2015.

Committee review of FY 2016 Social Services Block Grant Application by the Senate Standing Committee on Health and Welfare during its meeting of March 4, 2015.

Committee review of FY 2016 Social Services Block Grant Application by the House Standing Committee on Health and Welfare during its meeting of March 10, 2015.

New Business

Referral of prefiled bills to the following committees: BR 15 (an act relating to service animals) and BR 17 (an act relating to criminal records) to Judiciary; and BR 18 (an act proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote) to State Government.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6) and 158.6471(6): 103 KAR 3:030 & E (Property and Severance Forms manual), 907 KAR 1:044 (Coverage provisions and requirements regarding community mental health center behavioral health services), 907 KAR 1:102 (Advanced practice registered nurse services), 907 KAR 1:350 (Coverage and payments for organ transplants) and 907 KAR 10:826 (Repeal of 907 KAR 10:825) to Appropriations and Revenue; 11 KAR 4:080 (Student aid applications), 11 KAR 5:145 (CAP grant award determination procedure), 11 KAR 15:010 (Definitions for 11 KAR Chapter 15) and 11 KAR 15:090 (Kentucky Educational Excellence Scholarship (KEES) program) to Education; 900 KAR 2:050 (Transfer and discharge rights), 908 KAR 2:220 & E (Adult peer support specialist), 908 KAR 2:230 & E (Kentucky family peer support specialist), 908 KAR 2:260 & E (Targeted case manager: eligibility and training), 910 KAR 1:140 (Appeal Procedures), 910 KAR 1:170 (Older American Act supportive services for the elderly), 910 KAR 1:210 (Kentucky Long-term Care Ombudsman Program) and 910 KAR 1:220 (General admission, programs for older individuals and persons with disabilities) to Health and Welfare; 803 KAR 1:035 (Hearing procedure) to Labor and Industry, 201 KAR 10:050 (Fees), 201 KAR 44:010 (Fees) and 804 KAR 7:011 (Repeal of 804 KAR 7:010) to Licensing and Occupations; 101 KAR 2:102 (Classified leave general requirements), 101 KAR 2:105 (Sick leave sharing procedures), 101 KAR 2:106 (Annual leave sharing procedures), 101 KAR 2:160 (Kentucky Employee Assistance Program (KEAP)), 101 KAR 2:180 (Employee performance evaluation system) and 101 KAR 3:015 (Leave requirements for unclassified service) to State Government.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing membership to the Subcommittee on Tourism Development.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing membership to the Task Force on Economic Development of the Interim Joint Committee on Economic Development and Tourism.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing membership to the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet June 15 in Lexington, rather than the regularly scheduled meeting date of June 5. There are no apparent conflicts.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet on July 27 in West Liberty, rather than the regularly scheduled meeting date of July 3. There are no apparent conflicts.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet on August 24, rather than the regularly scheduled meeting date of August 7. There are no apparent conflicts.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet on September 25, in Louisville, rather than the regularly scheduled meeting date of September 4. There are no apparent conflicts.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet in Hopkinsville for the October meeting.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet in Highland Heights for the November meeting. From Senator Christian McDaniel and Representative Rick Rand, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on November 16, rather than the regularly scheduled meeting date of November 26. There are no apparent conflicts.

From Senator Ernie Harris and Representative Hubert Collins, Co-Chairs of the Interim Joint Committee on Transportation: Memorandum requesting approval to meet on November 5, rather than the regularly scheduled meeting date of November 3, which is Election Day. There are no apparent conflicts.

From Senator John Schickel and Representative Dennis Keene, Co-Chairs of the Interim Joint Committee on Licensing and Occupations: Memorandum requesting approval to meet on June 18, in Northern Kentucky, rather than the regularly scheduled meeting date of June 12. There are nine potential conflicts.

From Senator Chris McDaniel and Representative Rick Rand, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on June 18, in Northern Kentucky, rather than the regularly scheduled meeting date of June 25. There are (15) potential conflicts.

From Senator Chris McDaniel and Representative Rick Rand, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting authorization and appointment of membership to the Subcommittee on 2016-2018 Budget Preparation and Submission of the Legislative Research Commission.

From Senator Chris Girdler and Representative Kevin Sinnette, Co-Chairs of the Capital Projects and Bond Oversight Committee: Memorandum requesting authorization to Expend Funds to Evaluate the Funding Process of the Louisville Arena Authority.

From Senator Alice Forgy Kerr and Representative Rick G. Nelson, Co-Chairs of the Interim Joint Committee on Labor and Industry: Memorandum requesting approval to meet on September 15, at Kentucky Dam Village State Resort, rather than the regularly scheduled meeting date of September 17. There are two potential conflicts.

From Representative Sannie Overly, House Majority Caucus Chair: Memorandum requesting LRC recognition of the Women's Caucus.

From Senator Alice Forgy Kerr and Representative Rick G. Nelson, Co-Chairs of the Interim Joint Committee on Labor and Industry: Memorandum requesting approval to meet on June 17, rather than the regularly scheduled meeting date of June 18. There is one potential conflict.

From Senator Mike Wilson and Representative Derrick Graham, Co-Chairs of the Interim Joint Committee on Education: Memorandum requesting authorization and appointment of members to the Subcommittee on Postsecondary Education, and Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education.

From Senator Paul Hornback and Representative Tom McKee, Co-Chairs of the Interim Joint Committee on Agriculture, and Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval for the Interim Joint Committee on Agriculture and the Interim Joint Committee on Judiciary to switch regular meeting days for the month of October, with Agriculture meeting on October 2 in Lexington, and Judiciary meeting on October 14 in Hopkinsville. There are no apparent conflicts.

From Senator Paul Hornback and Representative Tom McKee, Co-Chairs of the Interim Joint Committee on Agriculture: Memorandum requesting approval to meet on August 27, rather than the regularly scheduled meeting date of August 12. There are (15) potential conflicts.

From Senator Robin Webb: Memorandum requesting LRC recognition of the Sportsman's Caucus.

Communications

From Senator Danny Carroll and Representative Martha Jane King, Co-Chairs of the Program Review and Investigations Committee: Memorandum regarding opportunity for appointment of ex officio members for particular studies.

From the Office of the Attorney General: Constitutional Challenge Report for the months of December 2014, and January, February, and March 2015.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of January, February, March, and April 2015.

From the Cabinet for Economic Development, Office of Compliance and Administrative Services: Loan data sheets for each loan approved as of the quarter ending March 31, 2015.

From the Cabinet for Health and Family Services, Department for Public Health: FY 13 Status of Breast Cancer in the Commonwealth Annual Report.

From the University of Kentucky, Office of the Treasurer: 2014 Kentucky Tobacco Research and Development Center Financial Statements.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the fourth quarter of 2014.

From the Justice and Public Safety Cabinet, Department of Corrections: FY 14 Annual Report.

From the Cabinet for Health and Family Services: FY 14 Kentucky Elder Abuse Annual Report.

From the Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities: 2014 Locally Grown Food Use Report.

From the Administrative Office of the Courts: 2014 Annual Report for the Kentucky Citizen Foster Care Review Boards:

From the Cabinet for Health and Family Services: 2013 Kentucky Colon Cancer Screen Advisory Committee Annual Report.

From the University of Kentucky, Center for Business and Economic Research: 2015 Kentucky Annual Economic Report.

From the Cabinet for Health and Family Services: 2015 Kentucky Diabetes Report.

From Kentucky Employers' Mutual Insurance: 2014 Annual Statement and Letter of Actuarial Opinion.

From the Auditor of Public Accounts: FY 14 Report of the Audit of the Green River Regional Educational Cooperative, Inc.

From the Kentucky State Nature Preserves Commission: 2015 Biennial Report.

From the Louisville Policemen's Retirement Fund: 2015 Actuarial Valuation and Report.

From the Cabinet for Health and Family Services: 2014 Annual Report of the Kentucky Spinal Cord and Head Injury Research Board.

From the Kentucky Employers' Mutual Insurance: 2014 KEMI's Authority Management's Discussion and Analysis with Supplementary Schedules.

From the Education and Workforce Development Cabinet: Unemployment Insurance Report for the first quarter of 2015.

From the Kentucky Employers' Mutual Insurance: 2013-14 Report of Independent Auditors.

From the Personnel Cabinet: Personnel Cabinet Quarterly Reports as of March 31, 2015.

From the Kentucky Council on Postsecondary Education: Letter regarding information on postsecondary education students participating in the tuition and mandatory fee waiver program for foster or adopted children.

From the Kentucky Department of Agriculture: 2014 Kentucky Equine Health and Welfare Council Administrative, Programmatic and Financial Activity Report.

From the Kentucky Association of Food Banks, Surplus Agricultural Commodities Advisory Committee: Report of the Farms to Food Banks Program.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, quarter ending March 31, 2015.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the 1st quarter of 2015.

From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, 1st Quarter Report, ending March 31, 2015.

From Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of March 31, 2015.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending March 31, 2015.

From the Cabinet for Health and Family Services: 2014 Batterer Intervention Provider Program Annual Report.

Other Business

Senator Stivers asked if any member wished to discuss new business. Senator Higdon asked that President Stivers and Speaker Stumbo make the Kentucky Retired Teachers Association a priority in January 2016. President Stivers said that he and the Speaker had already been discussing this issue. Speaker Stumbo said that he thinks a report from the Pension Oversight Committee needs to be delivered to LRC by October or November in order to prepare for hearings. President Stivers agreed, saying the report should be no later than November.

A memorandum was handed out requesting approval of the creation of and appointments to the 2015 Senate Bill 192 Implementation Oversight Committee. A motion was made by Representative Stumbo and seconded by Representative Hoover. A roll call vote was taken, and the motion passed unanimously.

President Stivers stated that he and the Speaker and other leaders from each chamber have been in discussion regarding the conclusion of the NCSL report and the necessity of a motion to start the search for a new director. Speaker Stumbo moved to: appoint the President of the Senate, Speaker of the House, Minority Floor Leaders of the Senate and the House and one female or minority Senate member and one female or minority House member, to be selected by the President of the Senate and the Speaker of the House, respectively, as the members of the LRC Director Search Committee, and that these six members be given the authority to engage an independent search consultant and incur costs, not to exceed $25,000 without additional Commission authority, for the purpose of identifying suitable candidates for the Commission's consideration for the appointment of LRC Director; use the statutory job description for the position of LRC Director as well as the job description provided by NCSL for the position of LRC Director in seeking and evaluation applicants for this position; conduct a national search, and that the current LRC acting director and any current employees be considered if they apply; that the full LRC be given a choice of three candidates to consider for employment on or before LRC's September 2015 meeting, or a briefing to document progress. The motion was seconded by Senator Carroll, and a roll call vote was taken. The motion passed unanimously.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 1st Meeting of the 2015 Interim

June 2, 2015

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Transportation was held on Tuesday, June 2, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll.

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, Dorsey Ridley, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Denver Butler, Leslie Combs, Tim Couch, Will Coursey, Tom McKee, Russ A. Meyer, Charles Miller, Jerry T. Miller, Terry Mills, Rick G. Nelson, Tanya Pullin, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Diane St. Onge, Fitz Steele, Jim Stewart III, and Tommy Turner.

Guests: From the Kentucky Transportation Cabinet: Mike Hancock, Secretary; Russ Romine, Deputy Secretary; Rodney Kuhl, Commissioner, Department of Vehicle Regulation; Rick Taylor, Deputy Commissioner, Department of Vehicle Regulation; Becky Goodman, General Counsel, Department of Vehicle Regulation; and Kim Jenkins, Legislative Liaison; Ashli Watts, Director of Public Affairs, Kentucky Chamber of Commerce; and Dana Debel, Director of State and Local Government Affairs, Delta Air Lines.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Cindy Smith.

Partnership for Open and Fair Skies

Ashli Watts, Director of Public Affairs, Kentucky Chamber of Commerce spoke in support of airports like CVG, Louisville International Airport, Blue Grass and other smaller airports that play a vital role in Kentucky communities, serving as hubs for commerce and economic development.

She said that for more than two decades, the passenger airline industry has benefitted from the Open Skies agreements that expands markets, increases tourism and brings numerous benefits to airports and communities across the country. Recently it has come to light that Qatar and the United Arab Emirates have been undermining this international agreement, by subsidizing their airlines by over $42 billion, which is negatively impacting U.S. airlines. This issue crosses party lines and has united both labor and business groups because market-distorting practices that violate international agreements have no place in today's trade environment. The stakes are high: every daily international roundtrip flight a U.S. airline loses to a subsidized Gulf carrier means an estimated 821 U.S. jobs lost.

The Kentucky Chamber is proud to stand with the partnership for Open and Fair Skies, Delta, other U.S. and global carriers that are playing by the rules, and urges all lawmakers in Kentucky to be vocal on this issue and sign letters to the administration to seek a freeze on further expansion by these gulf carriers and open government to government consultations to resolve this dispute as quickly as possible.

Dana Debel, Director of State and Local Government Affairs, Delta Air Lines, said that since 1992, the U.S. has signed 116 Open Skies Agreements, which are bi-lateral trade agreements between the U.S. and other countries. These agreements give each country's airlines free and open access to other country's market for international flights. Delta fully supports the Open Skies policy and only has concerns relating to two of the agreements. Delta is asking for the U.S. government to open consultations with Qatar and the United Arab Emirates (UAE) and to seek a freeze on new Gulf carrier capacity into the U.S. during the talks. The governments of Qatar and the UAE have provided three of their state-owned airlines, Qatar Airways, Etihad Airways, and Emirates Airline, with $42.3 billion in quantifiable subsidies and other unfair benefits since 2004 alone. Emirates has made more than $11 billion in purchases of goods and services from other government-owned companies at below-market prices since 2004. The gulf carriers are expected to grow capacity at more than three times the growth rate of global DKP between 2012 and 2020. By 2020, the Gulf carriers' capacity will far exceed that of U.S. carriers. Each daily widebody roundtrip frequency lost because of subsidized Gull carrier competition results in a new loss of over 800 U.S. jobs.

In response to a question by Chairman Collins, Ms. Debel said that Delta still exists out of the Northern Kentucky/Cincinnati airport, but is smaller than it was at its peak. Delta has over 90 flights per day to over 40 markets.

In response to a question by Chairman Harris, Ms. Debel said there is currently one airport in Qatar, and in UAE there are two, but there is not a lot of traffic between the two airports. The growth is not to serve the local market since essentially all business is international. Delta is establishing the airports in the countries it services as hubs to transit passengers between the Americas, Europe, and the East.

In response to a question by Chairman Harris, Ms. Debel said the Middle Eastern carriers today have 25 routes they are servicing between those two countries and the U.S. The American carriers have two routes because the market forces are tilted so heavily in their favor. Those routes are generally one flight per day for the U.S. carriers.

In response to a question by Representative Pullen, Ms. Debel said these agreements are similar to the World Trade Organization (WTO), but there is a separate body that governs these particular agreements that is not WTO, it is the International Civil Aviation Organization (ICAO). Unlike WTO where there is a long history of law that guides these, there have not been many issues to come up on the Open Skies Agreement.

In response to a question by Chairman Collins, Ms. Debel said the jobs number is effectively an economic estimate and not a hard number. Delta has been moving away from the smaller aircraft over the past seven years because the customer prefers the bigger product.

In response to a question by Representative St. Onge, Ms. Debel said existing services are not being pulled, but Delta is asking for a moratorium on new services while the U.S. government is in consultation with the countries.

Update on implementation of general transportation related legislation from the 2015 Session

Mike Hancock, Secretary, Kentucky Transportation Cabinet, and Kim Jenkins, Legislative Liaison, Kentucky Transportation Cabinet provided a brief update of the implementation of general transportation legislation from the 2015 Session. In regard to HB 179, HB 209, HB 315, HB 378, HJR 100, SB 133, and SJR 78, the Transportation Cabinet is in full implementation mode and moving forward to continue to implement the legislative changes.

In response to a question by Senator Bowen, Secretary Hancock said the Cabinet has a report by consultants on the costs for turning the Natural Parkway into interstate standards, and he will provide a copy of that report to the committee.

Update on implementation and effects of HB 299 from the 2015 Session, Stabilization of Motor Fuel Tax Rates

Russ Romine, Deputy Secretary, Kentucky Transportation Cabinet provided a brief history of the gas tax from FY 2010 – FY 2016. Kentucky's gas tax has three components: (1) a variable rate, based on a percentage of the average wholesale price (AWP) of gasoline; (2) a fixed tax of 5 cents per gallon; and (3) the 1.4 cents per gallon fee for underground storage tank mitigation. The first quarter of FY 2015 had a total tax rate of 32.5 cents. In October, at the end of the first quarter, due to falling gas prices, .6 cents per gallon was lost off the tax rate. Again in January, due to falling prices, an additional 4.3 cents per gallon was lost off the tax rate. Over the first two quarters of the current fiscal year, 4.9 cents per gallon was lost. Entering into the current calendar year prices continued to drop. In January the weighted AWP of gas was 1.441 cents per gallon. That was the lowest the AWP had been since January, 2009. As a result, starting April 1, the loss was expected to be an additional 5.1 cents off the gas tax for a loss of 10 cents per gallon since July, 2014. The passage of HB 299 did the following: (1) established the AWP floor at $2.177 per gallon which yields an effective rate at the pump of 26.0 cents per gallon; this action preserved 3.5 cents per gallon of the rate that would have been lost on April 1; (2) held the $2.177 AWP floor constant through FY 2016; (3) changed to an annual AWP calculation from a quarterly AWP calculation; and (4) limited the increase or decrease of the AWP over the previous years to not more than 10 percent from year to year beginning in FY 2017.

Deputy Secretary Romine discussed HB 510. It was funded through the general fund and its primary purpose was to minimize the impact to the county and municipal road aid program. Almost eight million dollars is going to local governments to help them deal with anticipated loss this fiscal year. Looking ahead to FY 2016, the construction account and rural secondary programs will feel the full hit due to falling gas prices.

In response to a question by Senator Neal, Secretary Hancock said the needs of the highway infrastructure far exceed the state's ability to pay for them. The road system requires a great deal of money to keep it functioning as it should and to keep Kentucky in the forefront. Many things will not be able to be done due to the fall of the gas tax.

In response to a question by Senator Neal, Deputy Secretary Romine said at least $165 million in revenue will be lost this year and all of next year, but the cabinet does not have an exact calculation on the economic impact.

In response to a question by Representative Mills, Deputy Secretary Romine said the average wholesale price (AWP) is the price at the pump minus 60-70 cents. HB 299 raised the floor to $2.18 per gallon. In 2017, the tax rate fluctuation of +/- 10 percent will be based on that amount.

In response to a question by Representative Combs, Deputy Secretary Romine said the amount of money lost if the annual available rate was implemented would depend on what gas prices do.

In response to a question by Representative Short, Secretary Hancock said that in both large and small counties the money received is used mostly for resurfacing projects and sometimes for support staff in the county. When a decline of 10-15 percent is seen, then there are less resurfacing projects.

In response to a question by Senator Bowen, Secretary Hancock said that flex fuel vehicles, such as natural gas and ethanol, are covered under existing formulas but some vehicles (electric cars) do not pay any fuel tax and are essentially driving free on the roads.

In response to a question by Chairman Collins, Deputy Secretary Romine said the Federal Highway Trust Fund will run out in the end of July or the first part of August. Secretary Hancock added that the recent two month extension added no new revenue.

In response to a question by Chairman Harris, Secretary Hancock said there has been a variety of discussion within the past week about indexing the federal tax, which has been at 18.4 cents per gallon since 1993. Any time a state works with the same budget for 25 years, efficiencies give out early on. States are guilty of turning nothing into something and trying to keep everyone happy with the roads. They are not near where they could be if the federal gas tax were indexed initially.

In response to a question by Representative Steele, Secretary Hancock said the price per ton of blacktop only goes down if there is competition.

In response to a question by Chairman Collins, Secretary Hancock said that every bid for repaving is calculated on its own merits and that often the bids are lower than estimated.

In response to a question by Representative Simpson, Secretary Hancock said there is increased pressure on the remaining money to build new roads while maintaining the roads we have. The maintenance budget has been the same since 2010 and it needs an increase.

In response to a question by Representative Simpson, Secretary Hancock said the performance measures are at the national level. Congress is putting together rules that govern performance measures in each state. The receipt of federal funds will depend on how the state is doing with the performance indicators. It is an effort to get attention on system upkeep.

In response to a question by Representative Jerry Miller, Secretary Hancock said repaving standards have not been lowered, but there have been mix design changes. He stated that he does not support a reduction in the standards of repaving.

Representative Combs stated that if the rate would have been based on annualized AWP in FY 2016 rather than FY 2017, the loss would have only been between $12-$30 million dollars instead of $132 million in 2016.

Update on implementation of SB 153 from the 2015 Session, Omnibus Revision of Motor Carrier Statutes

Rodney Kuhl, Commissioner, Vehicle Regulation, Kentucky Transportation Cabinet, Becky Goodman, General Counsel, Vehicle Regulation, Kentucky Transportation Cabinet, and Rick Taylor, Deputy Commissioner, Vehicle Regulation, Kentucky Transportation reported on SB 153 from the 2015 Session. Commissioner Kuhl said the cabinet is carefully reviewing 13 regulations to implement the changes. The cabinet started with the Transportation Network Company (TNC) regulation. If those regulations touched other regulations, those updates were made as well to get them into compliance. The cabinet has worked out the processes to determine how all regulations might be affected. The forms have also all been revised and updated.

In response to a question by Chairman Collins, Deputy Commissioner Taylor said the motor carrier training that was repealed in SB 153 had one approved training entity and another entity with a pending application during the past session. The requirement applied to motor carriers at 26,000 and above. There was some question as to whether private carriers were included.

In response to a question by Chairman Collins, Commissioner Taylor said there is a national shortage of new drivers coming on board, which is a concern to that industry across the nation.

In response to a question by Chairman Collins, Commissioner Taylor said that the cabinet is moving forward on the temporary tag issue and should have something in a couple of months.

Chairman Harris noted that the committee will hold two out-of-town meetings during the interim, one at the Louisville Speedway and one to see the Louisville Bridges Project. The next meeting will be

July 7 in Frankfort.

With no further business to come before the committee, Chairman Collins adjourned the meeting at 2:25 P.M.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Minutes of the 1st Meeting of the 2015 Interim

June 4, 2015

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, June 4, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Chris Girdler, Ernie Harris, Brandon Smith, Johnny Ray Turner, and Robin L. Webb; Representatives Hubert Collins, Tim Couch, Jim DuPlessis, Chris Harris, Cluster Howard, Marie Rader, John Short, Kevin Sinnette, Fitz Steele, and Jill York.

Guests: Dr. Len Peters, Secretary, Energy and Environment Cabinet; Mr. Sean Riley, Chief Deputy Attorney General, Commonwealth of Kentucky; and Mr. Paul Bailey, Senior Vice President, American Coalition for Clean Coal Electricity.

LRC Staff: Tanya Monsanto, Stefan Kasacavage, and Kelly Blevins.

Update on Kentucky's lawsuit challenging U.S. EPA's greenhouse gas regulations

Sean Riley, Chief Deputy Attorney General (OAG), Commonwealth of Kentucky, updated the committee on the lawsuit against the United States Environmental Protection Agency (U.S. EPA) with regard to U.S. EPA's authority to regulate greenhouse gases under Section 111(d) of the Clean Air Act (CAA). In June 2014, U.S. EPA issued 111(d) which significantly changes how states regulate greenhouse gases. Subsequently U.S. EPA sought to regulate under Section 112. Kentucky and 12 other state attorney generals think that U.S. EPA cannot regulate under both sections and the authority under 111(d) is precluded.

The timing of the lawsuit is to head off states putting together costly implementation plans before the final rule on greenhouse gases is issued. The suit is in the Washington D.C. Circuit, and a ruling is expected in August 2015. The court was receptive to the OAG's arguments; however, there is a question of timing because the suit was brought before the final rule was issued.

In response to questions about how states could respond if the court rules against Kentucky, with respect to the timing of the lawsuit and if the lawsuit seeks injunctive relief, Mr. Riley said that the three judge panel voiced skepticism over the timing. If the court rules against Kentucky, then states will preserve their right to sue after the final rule is issued. The effect of the lawsuit is injunctive relief.

In response to questions about "sue and settle" lawsuits and whether courts could overturn past settlements, Mr. Riley said that "sue and settle" is a practice that the OAG sees frequently in environmental law and particularly with respect to the Clean Water Act. Courts likely do not have authority to overturn past settlements. That is why it is important to review those settlements.

Energy and Environment Cabinet's plans to respond to the U.S. EPA's greenhouse gas regulation requirements

Secretary Peters contrasted three separate periods of coal production--2000, 2014, and 2020--to illustrate that coal production declines are a function of various factors including low natural gas prices and shifting environmental emissions requirements. Coal production is likely to continue to decline given the aging fleet of Kentucky's coal-fired electric generation, which is roughly 40 years old. Plants tend to retire at 65-70 years, which means that in 2020, Kentucky will retire approximately 20 units or repower those units to natural gas. Twenty units constituting 17,189 megawatts represent a 24 percent loss of current capacity when the units are retired. An additional 13 units will retire by 2030, however; current plant retirements are due more to age and the federal mercury rule rather than the greenhouse gas requirements that are being issued by U.S. EPA.

In response to a question about whether plants outside of Kentucky show similar patterns of reduced coal production and if those patterns will affect demand for Kentucky coal, Secretary Peters said yes. Evidence clearly shows reduced demand in surrounding states, and that demand softening will affect Kentucky's production.

Secretary Peters stated that comments were submitted to U.S. EPA on 111(d) on November 26, 2014. In those comments, the cabinet expressed concern over higher electricity costs and stated that emission targets should be revised and made less stringent if any portion of the rule is vacated due to legal action. U.S. EPA should take certain factors into consideration when setting emission compliance goals such as recognizing retirements after the 2012 base year regardless of whether the retirement was due to the federal rule's requirements or due to some other reason like age of the plant. Also, there could be sizable stranded assets of roughly $4.5 billion dollars caused by 111(d) and U.S. EPA must consider the cost of those stranded assets to the plant and to the state.

Stakeholders to any state implementation plan to control greenhouse gases are telling the cabinet that a state-based approach is better than a federal plan. Stakeholders prefer a mass based approach, meaning that, instead of tons of carbon dioxide per kilowatt hour, plants would rather have a tonnage target by sector. Stakeholders think rates are too difficult to implement. Finally, while Kentucky will continue to act as an observer as multistate discussions, there is no benefit to being in a regional trading regime. However, there are interesting features to how implementation will affect regional trading groups.

Secretary Peters stated that the U.S. power industry must respond quickly or there will be a reduction in U.S. power plants. The Commonwealth's goals are to protect the Kentucky economy, maintain affordable rates and reliability of the electric grid, maximize the use of existing coal resources, and to remain in charge of the state's regulatory structure. States must respond to U.S. EPA's final rule by June 2016. If a plan is not submitted, then U.S. EPA has procedures for instituting a federal implementation plan and the U.S. EPA will directly regulate the electric power sector in this state. Also, even as plans are submitted and rules are issued or rewritten, there will be litigation. This is compliance with environmental law. The electric power sector has been clear that a state plan rather than federal regulation is preferred. If a federal plan is instituted, it would likely have a multistate cap and trade scheme and would have more onerous reduction requirements.

In response to a question about whether an implementation plan with different rates would increase the retail rate and create winners and losers in the electric power sector, Secretary Peters stated the plan might have a fixed cap and then participants could trade and sell. It is unclear whether U.S. EPA would take into account differences in state regulations. It is not known whether a federal plan would protect the economy, rate affordability, maximization of coal resources, or reliability.

In response to a question about what the cabinet will do when the court decision is announced and how the Northeast managed to remain powered during the Nor'easter, Secretary Peters stated that the cabinet can come back to the committee with an update when the court announces their decision. Also, the Northeast dispatched all coal-fired power plants to maintain power. Northeastern states also paid exorbitant prices for natural gas.

In response to another question about whether the cabinet agrees to the standards proposed in Section 111(d) and Section 112 of the Clean Air Act (CAA), Secretary Peters said that the proposed 111(d) has the least stringent standards. But, with respect to other areas of the CAA, the courts have said the rules are appropriate for regulating greenhouse gases. One legislator stated that the Maysville power plant is very clean and that Kentucky used to be third in the nation for coal production. The rules that are ruining the coal industry were developed behind closed doors of regulatory offices rather than in Congress.

In response to a question about who the "stakeholders" are in the cabinet's plan for regulating greenhouse gases are in regards to 111(d), Secretary Peters said that the stakeholders are the utilities, the Kentucky Chamber of Commerce, Kentucky Association of Manufacturers, and the Kentucky Coal Association, among others. There are 10 to 25 people who are in discussions. The cabinet is most concerned with talking to the target community, which is the utility industry.

One legislator, in reaction to Secretary Peter's remarks, commented that utilities are concerned about federal implementation plans, but unlike other parties, utilities have a guaranteed rate of return and will be less harmed than other groups. U.S. EPA's response to inquiry regarding how the science is developed behind its rulemakings lends itself to developing mistrust. For example, U.S. EPA misused the study identified, and US EPA is recalcitrant when questioned about the foundations or science behind its policies. It appears the federal government does not care about the cost or impact of those policies on Kentucky or other states. U.S. EPA tends to overestimate the benefits and diminish the impact of the cost.

One legislator described traveling to meet with officials at U.S. EPA. Those officials were hostile and intimidating and treated the legislative delegation badly. Another legislator commented that as an elected official the system is a mockery. In response, Secretary Peters stated that executive branch offices in the Capitol have a protocol for meeting with the public, and the experience was not simply reflective of meetings with U.S. EPA. Other offices would greet people the same way; however, U.S. EPA has done a good job with developing 111(d).

In response to a question about whether Mercury and Air Toxics Standards (MATS) will only affect power plants or other types of boilers, John Lyons, Assistant Secretary for Climate Policy, stated only steam electric generating units, regardless of whether those units have scrubbers, will be affected. The legislator further asked why the mercury rule is a problem for existing power plants because most have wet stack scrubbers and mercury is easy to remove. Mr. Lyons responded that some power plants can already comply with the mercury emissions but others need new technology. There is a Maximum Achievable Control Technology (MACT) rule that could impact other boilers. Overall compliance is a $4.5 billion dollar cost for the state. The legislator said that technology is already available for compliance, and it appears the policies are truly against coal.

One legislator commented that after U.S. EPA finishes with coal, the agency may go after natural gas too, because it is a fossil fuel. In response to a question as to who represents the normal consumer at the stakeholder meetings, Secretary Peters said there are individual ratepayers and nongovernmental organizations on the stakeholder group. He noted the focus has been to get a broad representation without getting so large that the group cannot come to a consensus.

Projections for the economic impact of U.S. EPA's greenhouse gas regulations

Paul Bailey, Senior Vice President, American Coalition for Clean Coal Electricity gave a profile of Kentucky's coal production and usage in 2014 and compared it to current trends to demonstrate that U.S. EPA's policies have had a detrimental impact on the state. The main point is that while U.S. EPA lacks authority to implement the current rules, the result will be higher electricity and natural gas prices without significant climate change benefits. In fact for the $560 billion spent to thwart climate change, the only result will be a reduction in sea levels that is three sheets of paper in thickness. However, energy prices will be 11 percent higher and there will be stranded assets along with a reduction in system reliability. There will be lost tax revenues in addition to a $2 billion loss in Kentucky gross domestic product (GDP). There will be job losses and no time to put together implantation plans.

National Economic Research Associates (NERA), however, finds energy prices will be 14 percent higher from 2020 to 2030. In the wholesale markets, electricity prices will increase from 40 percent in the PJM market to 52 percent and 55 percent in the South and Midwest Independent System Operator (MISO) respectively. According to the Energy Information Administration, retail electricity prices will be around four percent higher in 2020 and 8.2 percent in 2030. Overall all analyses show an increase in energy prices without real positive results. There will be almost one million Kentucky families that spend roughly 17 percent of their home pay on energy. These families are vulnerable. Coal usage will be reduced by 320 million tons per year.

Officials from 32 states have opposed the rule, and grid operators are equally concerned about negative impacts to reliability. There will be other legal challenges.

In response to a question about the dollar impact on tax revenues, Mr. Bailey said he did not know but would look at the data and get back to the committee. One legislator commented that the lack of coal severance would make budget discussions next year even more complicated. Another legislator echoed the speaker's concerns about the impact of higher energy prices on the low income families in the state.

The meeting adjourned at 2:35 PM.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 1st Meeting of the 2015 Interim

June 8, 2015

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Education was held on Monday, June 8, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Mike Wilson, Co-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, David P. Givens, Jimmy Higdon, Alice Forgy Kerr, Gerald A. Neal, Reginald Thomas, Stephen West, and Max Wise; Representatives Linda Belcher, George Brown Jr., Regina Bunch, John Carney, Hubert Collins, Leslie Combs, Jim DeCesare, Jeffery Donohue, Kelly Flood, Jim Glenn, Cluster Howard, James Kay, Donna Mayfield, Reginald Meeks, Charles Miller, Rick G. Nelson, Jody Richards, Tom Riner, Bart Rowland, Sal Santoro, Jim Stewart III, Wilson Stone, David Watkins, and Jill York.

Legislative Guest: Representative James Tipton.

Guests: Erin Klarer, Kentucky Higher Education Assistance Authority (KHEAA); Clyde Caudill, Kentucky Association of School Administrators (KASA); Wayne Young, KASA.

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

Presentation: The Craft Academy for Excellence in Science and Mathematics

Wayne Andrews, President, Morehead State University (MSU), thanked the committee and leadership for the support during the 2015 General Assembly in helping create The Craft Academy for Excellence in Science and Mathematics.

Carol Christian, Director, The Craft Academy for Excellence in Science and Mathematics, said the Craft Academy is a two year dual-credit residential high school for academically exceptional Kentucky students. The Craft Academy had 114 statewide applicants, with 60 students being selected. Those 60 students will be enrolled in August of 2015, with 60 additional students being admitted in the fall of 2016. The students will be housed in the newly renovated Grote-Thompson Hall on the MSU campus.

Dr. Christian said students who want to attend the Craft Academy must meet the application criteria. They must be Kentucky residents, current sophomores, have passed Algebra I and II and Geometry, and have a minimum ACT score of 22 in Math and Reading and a minimum ACT score of 18 in English. The Craft Academy initiated a selection and review board to develop criteria and approve scoring rubrics in the selection process. Students who apply are scored based on their letters of recommendation, ACT data, responses to four open response questions, and a 30-minute interview with a panel of judges.

Senator Higdon said he is proud of the Craft Academy and MSU and expressed his excitement for each institution.

In response to Representative Collins's question regarding objectives for students who graduate from the Craft Academy, Dr. Christian said changing focus is part of the learning and growing process for students. The Craft Academy provides mentors and coaches to help each student figure out their interest and what best fits their needs after high school.

In response to Representative Stone's question regarding the hiring of new faculty and college hours received at the Craft Academy, Dr. Andrews said all Craft Academy students will do their coursework with MSU faculty, and students will receive a minimum of 60 college hours.

In response to Representative Graham's questions regarding the recruitment of students from eastern Kentucky, Dr. Andrews said faculty of the Craft Academy meet with superintendents and guidance counselors in different school districts across the state, particularly the school districts in eastern Kentucky.

In response to Representative Meeks's questions regarding the Craft Academy students having automatic admission into MSU and their definition of diversity, Dr. Andrews said students do not have automatic admission into MSU, but students should not have an issue being admitted. Dr. Christian said many school districts have diversity officers and the definition can be different for each school district. For the first year, the Craft Academy selected three are African-American, one is Hispanic, and one is Asian.

Representative Belcher thanked the Craft Academy and said she was pleased with the balance of male and female students.

Representative Carney congratulated the Craft Academy and said the biggest challenge is keeping the graduates in Kentucky or bringing them back home.

Presentation: The Gatton Academy of Mathematics and Science in Kentucky

Lynette Breedlove, Director, The Gatton Academy of Mathematics and Science in Kentucky, said the Gatton Academy's mission is to offer a residential program for bright, highly motivated high school juniors and seniors who have demonstrated an interest in pursuing advanced careers in science, technology, engineering, and mathematics. The Gatton Academy's primary goal is economic development for Kentucky by advanced education opportunities for Kentucky's young mathematicians and scientists.

Dr. Breedlove said the Gatton Academy has a very successful structure and has been named by Newsweek as the best high school in the country for the past three years. The Gatton Academy is a statewide academy and has had students from 114 different counties in Kentucky. The Gatton Academy keeps strong partnerships with the students' home high schools and all benefits remain with the home high schools. The Gatton Academy will provide assistance to those high schools and report each student in Infinite Campus.

Dr. Breedlove said students attend Western Kentucky University (WKU) classes with regularly-enrolled students, receive a high school diploma, and earn a minimum of 60 hours of college credit. The Gatton Academy had 11 students commended for the 2014 National Merit Scholarship Program, and all 11 were finalists and scholarship winners. Research is a large component of the curriculum for students at the Gatton Academy. For the class of 2015, 92 percent of the students participated in research, and 78 percent of the class of 2016 participated.

Dr. Breedlove said that, in addition to research, it is important for students to have global experience while preparing for careers after high school and college. The Gatton Academy offers multiple study-abroad opportunities for students to Costa Rica, England, Greece, Italy, and China. For the class of 2015, 92 percent of students studied abroad, and 85 percent of the class of 2016 studied abroad. The Gatton Academy offers critical language courses for students wanting language-specific scholarships.

Dr. Breedlove said many Gatton Academy students have looked at out-of-state postsecondary opportunities because of scholarship opportunities. The class of 2015 was offered a total of $15.6 million in scholarships and grants. Gatton Academy faculty is looking at different ways to enhance the recruitment efforts of graduates to try and keep a larger proportion of students in Kentucky.

Dr. Breedlove said the Gatton Academy has started expanding and renovating this month and expects that process to be completed by July 2016. Once the expansion and renovation is complete, the Gatton Academy will house 160 students in 2016 and 200 students by August 2017.

Chairman Wilson acknowledged Representative Richards for his hard work getting highway signs for Bowling Green, Kentucky recognizing the Gatton Academy and its accomplishments.

Representative Graham said he is concerned with the number of exceptional students Kentucky is losing to out-of-state institutions.

In response to Representative Graham's question regarding the recruiting efforts of the Gatton Academy in western Kentucky, Dr. Breedlove said Gatton Academy faculty does recruit in the western Kentucky area along with the rest of the state. Faculty will have meetings in schools during school hours and then meet with parents during the evenings to try and initiate students' interest. Also, faculty will meet with school board members and superintendents.

Representative Graham thanked Representative Richards for his leadership in establishing the Gatton Academy.

Representative Richards praised MSU and WKU for their cost-effective model of using present college faculty to teach the students of the Craft and Gatton Academies and spoke of his and Chairman Wilson's experiences interviewing some of the Gatton Academy's students.

Representative Richards said it is a challenge to keep the brightest students in Kentucky for higher education and hopes that those students come back after receiving their degrees to help build the state's economy.

Senator Kerr praised the Gatton Academy for its hard work and said many of Kentucky's students can accomplish anything.

Representative Carney thanked Dr. Breedlove and the Gatton Academy staff for everything that they do.

Representative Carney said there is an ongoing issue with school textbooks and the home school district at the Gatton Academy. Many Gatton Academy students have to pay for their own college textbooks.

In response to Senator Wise's question regarding the percentage of college credit hours that transfer to undergraduate programs, Dr. Breedlove said a lot depends on the university the student chose and what would be studied. If a student chose to go to an in-state college, the majority of those college hours would transfer.

Presentation: Dual Credit

Terry Holliday, Commissioner, Kentucky Department of Education (KDE), said dual credit increases the percentage of students participating in postsecondary education, especially among low-income and traditionally underserved populations. Dual credit is associated with increases in college retention and completion rates and decreases the time and cost in completing a postsecondary credential. Also, dual credit increases the number of educational pathways made available to students.

Dr. Holliday spoke about the statewide policy on dual credit and said the policy addresses four primary issues: 1) Increase access to dual credit courses across the state; 2) promote quality and rigor in the courses offered regardless of the postsecondary institution providing the course; 3) ensure transferability of dual credit among postsecondary institutions; and 4) safeguard that dual credit remains affordable to all eligible Kentucky students and is cost effective to educational partners.

Dr. Holliday spoke about funding options for dual credit and said a line-item appropriation could be budgeted to provide students across the Commonwealth with the opportunity to participate in dual credit offerings on high school campuses, postsecondary campuses, and virtually. The appropriation could be a pro-rata allocation based on the number of eligible students participating in the academic year. Another option is to allow part of the SEEK per-pupil guarantee to be expended to support eligible students taking an approved dual credit course for the purpose of covering tuition and fees.

Bob King, President, Council on Postsecondary Education (CPE), said after numerous months of studying what was going on around the Unites States and looking at different dual credit practices, KDE, CPE, and KHEAA was able to come together and provide a statewide policy on dual credit. The policy addresses four primary issues and has support from all of Kentucky's public four year institutions, some of the private and independent colleges, and the Kentucky Community and Technical College System (KCTCS).

Carl Rollins, Executive Director, KHEAA, said KDE, CPE, and KHEAA came to a tentative agreement on financing for dual credit. The financing agreement needs to be brought before the Dual Credit Task Force before moving forward. Dr. Rollins hopes the financing details can be worked out soon, and the details subsequently reported to the Interim Joint Committee on Education.

In response to Chairman Wilson's question regarding transferability of credits, Mr. King said dual credit courses fall into two categories. The general education category of dual credit is comprised of fundamental courses found with a liberal arts education which is typically required for graduation from any Kentucky institution. The career and technical education category of dual credit has to be accepted and transferable to any community and technical college that offers courses in a particular career and technical education field.

Representative Miller spoke about his children's positive experiences with dual credit and said dual credit is a great program for the students of Kentucky.

In response to Senator Givens's question regarding cost effectiveness and resolutions for maintaining competitive advantages for students, Mr. King said the statewide policy on dual credit has a cap on the tuition that can be charged and cannot exceed 50 percent of the current KCTCS per credit hour rate. Dr. Holliday said if a high school teacher meets the accreditation standards to teach a college level course, that course can be taught at the high school at no tuition cost.

In response to Representative Graham's question regarding postsecondary institutions accepting dual credit hours, Mr. King said faculty of each department at a postsecondary institution defines the courses they think a student needs to earn a degree from that postsecondary institution. There are instances where dual credit courses will not transfer to a postsecondary institution because the definition of that course does not match.

Representative Graham said he hopes CPE will work carefully with postsecondary institutions to encourage kids to stay in Kentucky to attend college.

In response to Senator Higdon's question regarding Kentucky Educational Excellence Scholarship (KEES) money and online dual credit courses, Dr. Rollins said KEES money is only for undergraduate courses and has to be used within five years of graduating high school unless the student goes into the military. Mr. King said general education courses for dual credit are available online but career and technical education courses are more hands-on.

Review of Administrative Regulations

Kevin Brown, Associate Commissioner and General Counsel, KDE, said 703 KAR 5:200, 703 KAR 5:225, and 703 KAR, 5:240 are regulations that implement the assessment and accountability system pursuant to Senate Bill 1.

Rhonda Sims, Associate Commissioner, Office of Assessment and Accountability, KDE, explained the suggested amendments to administrative regulations 703 KAR 5:200, 703 KAR 5:225, and 703 KAR 5:240. The summaries of the suggested amendments are located in the committee meeting folders in the Legislative Research Commission library.

In response to Senator Givens's questions regarding the change in definition of Gap and changing Gap scores, Dr. Holliday said the changes were made to dig deeper into each sub-group and to hold schools and districts accountable for every sub-group. An asterisk will be placed by different scores to inform people that a measure has been changed.

Representative Flood thanked KDE for its effort and focus on achieving positive outcomes for each Gap group and thinks the change in the definition of Gap is a step in the right direction for Kentucky schools.

In response to Senator Thomas's question regarding the changes in the definition and improvement in achievement gaps, Dr. Holliday said KDE will work closely with Fayette County's Central Office staff to develop a novice reduction plan for the district beginning in August of 2015. KDE hopes that the novice reduction plan for Fayette County will eventually serve as a model for the rest of the state.

Representative Graham said he supports KDE's changes to the administrative regulations and believes those changes are a step in the right direction for Kentucky schools.

Senator Givens said he has some concerns with the changes in the Gap definition and hopes KDE measures Gap scores accurately and rigorously so Kentucky students can start to close achievement gaps.

With no further business before the committee, the meeting adjourned at 3:05 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 1st Meeting of the 2015 Interim

June 10, 2015

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Agriculture was held on Wednesday, June 10, 2015, at 10:00 AM, at the Harrison County Extension Office in Cynthiana. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Tom McKee, Co-Chair; Senators C.B. Embry Jr., Chris Girdler, Dennis Parrett, Damon Thayer, Stephen West, and Whitney Westerfield; Representatives Lynn Bechler, Mike Denham, Myron Dossett, Derrick Graham, David Hale, Richard Heath, James Kay, Kim King, Martha Jane King, Michael Meredith, Suzanne Miles, Terry Mills, David Osborne, Sannie Overly, Ryan Quarles, Tom Riner, Bart Rowland, Steven Rudy, Dean Schamore, John Short, Wilson Stone, James Tipton, and Tommy Turner.

Guests: Gary Carter, Harrison County Extension Agent; Dr. Gary Palmer, Assistant Director for Agriculture and Natural Resources, University of Kentucky of Agriculture, Food and Environment; Michelle Simon, Scott County Extension Agent, Kimberly Poe, Bourbon County Extension Agent and Clay Stamm, Nicholas County Extension Agent; Roger Thomas, Executive Director, Governor's Office of Agricultural Policy, Harrison County Judge-Executive Alex Barnett, Cynthiana Mayor James Smith and Dr. Rick Bennett, Director of the Agriculture Experiment Station, University of Kentucky.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Susan Spoonamore, Committee Assistant.

Agricultural Diversification

Dr. Gary Palmer, Gary Carter, Michelle Simon, Kimberly Poe and Clay Stamm discussed agricultural diversification that was made possible by tobacco settlement funds. Dr. Palmer stated that forage crops have vastly improved over the last year. Shared-use equipment has made a difference in getting the crops out and harvested. Mr. Carter said that Harrison County has been able to purchase no-till seeders, sprayers, scales, and vegetable equipment. In addition, he said that Harrison County funds have been able to provide a state-of-the art farmers market. The funds have also been used to build a storage building to house the equipment. He also said that a local family helps to maintain the equipment which is a huge plus.

Michelle Simon, Scott County Extension Agent, stated that funds have been used to build a value-added vegetable facility at the Triple J farm. Bi-Water Produce has expanded as well as Day Lilly Patches. The funds have also contributed to upgrading technology for farmers and the equine industries. She said that continued growth is expected in all areas.

Kim Poe, Bourbon County Extension Agent, said that the main uses of the tobacco funds had been for the equine, beef, and hay industry. She said it was important to offer assistance to farmers dealing with issues other than equine, beef and hay. Farmers are encouraged to use soil tests. Bourbon County had 200 applicants to apply for funds. At least 100 to 140 applicants were eligible. Bourbon County farmers have been involved in the Farm to Food Bank program and have a local food coordinator.

Clay Stamm, Nicholas County Extension Agent, explained that the funds have been used to construct a 4-H livestock barn which includes a meeting room that is used for indoor programs. There is also some money for dead farm animal removal. Cost-sharing has been important for fencing and forage crops. In 2014, there were 140 applications and 67 of those were approved.

In response to Senator Parrett, Mr. Carter said that only one individual had applied for timber funds. He said that the individual does a good job helping farmers by removing dead trees.

In response to Senator Hornback, Mr. Carter said that the effect on farmers has yet to been seen from discontinuing tobacco buyout payments. The farmers were able to put the payments toward good use. Most farmers only have a modest income and we will likely see some adverse effects.

In response to several questions regarding the recruitment of young farmers, Ms. Poe and Ms. Simon said that young farmers have been applying for funds.

In response to Representative McKee's question, Ms. Simon said that there is no cash to buy farms. Most farmers rent or lease and the landowners should be encouraged to apply for Kentucky Agricultural Development Funds (KADF).

Kentucky Agricultural Development Funds

Roger Thomas, Executive Director, Governor's Office of Agricultural Policy, said that KADF is provided in 118 counties. There are 1,080 volunteer members, 120 extension agents, 100 county program administrators, 16 Kentucky Agricultural Development Board members, and 12 Kentucky Agriculture Finance Corporation (KAFC) board members. He stated the opportunities available through the programs include low-interest loans, on-farm energy incentives, program grants, deceased farm animal removal, shared-use equipment program, County Agricultural Investment Program (CAIP) and the Governor's Garden program. More than 5,100 projects have been approved totaling approximately $444 million.

Mr. Thomas explained that the County Agricultural Investment Program (CAIP) is to provide farmers with incentives to allow them to improve and diversify their current production practices. He said that $96 million in funds has been provided for CAIP.

Mr. Thomas stated that KADF projects are to provide access to state and county funds for statewide, regional and county projects that fit outside the established programs. Just to name a few recipients of KADF funds: 4-H and FFA programs have received $2.2 million, and funds totaling $2.9 million has been accessed by over 60 counties for Farmer's Market Development. Mr. Thomas said that the largest recipient of funds has been the Kentucky Proud Program – over $17.1 million has been invested. The Kentucky Ag Finance Corporation provides low-interest access to capital for agricultural diversification and infrastructure projects. More than $49 million has been invested for agricultural infrastructure, beginning farmer, diversification through entrepreneurship in agribusiness, large animal veterinarian and agricultural processing. Mr. Thomas said it was interesting to note that the Purnell's "Old Folks" sausage producer purchases most of the sows in Kentucky. He said $1.5 million had been invested in a $5 million project which included the purchase of additional refrigeration and meat processing equipment. KADF has invested $4 million in grants and $3 million in loans for the expansion of Siemer Milling in Hopkinsville. McDonald's biscuits are made from the flour that Siemer Milling produces. Siemer Milling purchases its wheat from Kentucky farmers.

Mr. Thomas said that KADF works with the Kentucky Broadcasters Association for advertising as well as promotion of the Governor's Garden. The Governor's Garden seeks to educate the public about the health and economic benefits of gardening and utilizing locally grown foods. The Commonwealth Garden initiative is geared to those who would like to begin the process of having their own garden. As part of the Governor's Garden Program, selected schools, organizations, parks and others are eligible to apply.

In closing, Mr. Thomas explained the Governor's veto regarding certain parts of HB 510.

In response to Representative Tipton, Mr. Thomas said that county councils were beginning to put up some money for industrial hemp production and processing.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the First Meeting of the 2015 Interim

June 17, 2015

Call to Order and Roll Call

The first meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, June 17, 2015, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order at 1:05 p.m., and the secretary called the roll.

Present were:

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

Guests: Audrey Tayse Haynes, Secretary, and Emily Parento, Executive Director, Office of Health Policy, Cabinet for Health and Family Services; Anna Whites, Attorney; Rob Jones, Executive Director, Community Action Kentucky; Dr. Praveen Arla; Carole Kaufman, Certified Registered Nurse Anesthesiologist; Elizabeth Caywood, Policy Analyst, Department for Community Based Services, Cabinet for Health and Family Services; Phyllis Sosa and Victoria Elridge, Deputy Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services; Eric Clark, Kentucky Association for Health Care Facilities; Judy Taylor, KAPA; Shannon McCracken, KAPP; Darrell Link, Kentucky Council of Area Development Districts; Diona G. Mullins, Office of Health Policy, Cabinet for Health and Family Services; Dave Hoffman, Innovative Ophthalmology; Michele Blevin, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; John Muller, Carespring; Sarah Nicholson and Steve Miller, Kentucky Hospital Association; and Anne Joseph, Covering Kentucky Kids and Families.

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

Consideration of Referred Administrative Regulations

The following administrative regulations were referred to the committee for consideration: **900 KAR 2:050** – also establishes the requirements of the Kentucky Nursing Home Reform Act, KRS Chapter 216, as it relates to residents' transfer and discharge rights; **908 KAR 2:220 & E** – establishes the minimum eligibility, training, and supervision requirements for an adult peer support specialist; **908 KAR 2:230 & E** – establishes the minimum eligibility, training, and supervision requirements for a Kentucky family peer support specialist; **908 KAR 2:260 & E** – establishes the minimum eligibility and training requirements for individuals providing behavioral health targeted case management services to a targeted behavioral health population; **910 KAR 1:140** – establishes the Department for Aging and Independent Living's appeals procedures; **910 KAR 1:210** – establishes a statewide Long-term Care Ombudsman Program; and **910 KAR 1:220** – establishes the policies and procedures governing the general administration of the aging and disabilities programs and Older Americans Act in Kentucky.

In response to questions by Senator Julian Carroll, Victoria Eldridge, Deputy Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services, stated that the department is working with the area development districts (ADDs) about the concerns in 910 KAR 1:170, Older Americans Act supportive services for the elderly. Since the language in 910 KAR 1:220 applies to all contracted agencies, the administrative regulation was changed to replace ADDs with provider agency. Section 9 has the language for a corrective action plan. The department will still contract with the ADDs.

In response to a question by Representative Westrom via telephone, Ms. Elridge stated that the indirect rates are in the contract language not an administrative regulation.

In response to questions by Senator Givens, Mr. Link stated that he heard about the concerns on June 16, 2015 and was not present at the Administrative Regulation Review Subcommittee meeting where 910 KAR 1:220 was discussed. Ms. Elridge stated that conversations about the administrative regulations started in August 2014, and the department did not receive any comments from the ADDs or the Area Agencies on Aging and Independent Living during the public comment process. Phyllis Sosa, Staff Assistant, Department for Behavioral Health, Developmental and Intellectual Disabilities, stated that the ADDs are a quasi government agency, and do not have to compete with other provider agencies to provide services.

In response to a question by Representative Owens, Ms. Elridge stated that the administrative regulations would apply to all contracted provider agencies. There are no other DAIL administrative regulations that are vendor specific.

A motion to approve the administrative regulations was made by Senator Buford, seconded by Senator Julian Carroll, and approved by voice vote.

Overview of Recommended Changes to the State Health Plan

Audrey Tayse Haynes, Secretary, Cabinet for Health and Family Services (SHP), and stated that the proposed changes will affect the 2015-2017 State Health Plan. Secretary Haynes stated that it is critical for Kentucky to update the Certificate of Need (CON) process to allow increased flexibility that would allow access to healthcare in rural settings. The seven core principles identified are (1) support the evolution of care delivery; (2) incentivize development of full continuum of care; (3) incentivize quality; (4) improve access to care; (5) improve value of care; (6) improve technology; and (7) remove components that would allow nonsubstantive reviews.

Director Parento stated that in 2013, the cabinet commissioned Deloitte to conduct a health care facility capacity study to test whether existing healthcare facility supply could sustain the increased demand created as a result of anticipated changes in demographics, the individual coverage mandate, and expansion of the Medicaid program. The study projected that demand for inpatient acute care will decline over the next five years even after accounting for impacts of population growth and coverage expansion due to the Affordable Care Act (ACA). The national trend is to transition patients from hospital-based ambulatory surgery to reduce cost and avoid complications. More home health agencies (HHAs) will be needed in the Commonwealth to meet the increased demand for home health services anticipated through 2017. The report found that the CON process restricted the growth of HHAs, and there is a need for development of more home and community based services to transition care to the community.

Director Parento stated that currently 36 states plus the District of Columbia and Puerto Rico have CON programs that primarily focus on regulating outpatient facilities and long-term care. Having more insured individuals creates a more predictable and stable payer mix creating opportunities for more cost-effective care. Market forces are rapidly shifting the payment for providers creating incentives for outcome-based payment models and a need for more flexible and responsive CON programs. Kentucky's proposed changes are consistent with trends to change CON programs to exempt certain types of medical services from CON requirements. Secretary Haynes stated that the cabinet does not want to repeal the CON process, because, if repealed, it would open up competition and compromise quality of care. The CON process helps control costs.

Director Parento stated that the components that would be deleted from the SHP would be MRIs, adult day health programs, ambulance service, chemical dependency treatment beds, and outpatient health care centers. With the exception of MRIs, CON applications for the services will qualify for nonsubstantive review. MRIs would not require CON review because of statutory exemption. Exempting these services does not mean the services will not go through the licensure process. New criterion would allow licensed hospitals and HHAs to establish or expand HHA services if select Centers for Medicare and Medicaid Services (CMS) quality indicators are met. All HHA applications shall document that the HHA shall participate in the cabinet's National Background Check Program. A hospital can establish an ambulatory surgical center (ASC) if it is owned at least 50 percent by a hospital. A private office of a physician or physician group, both solely owned by physicians, could establish an ASC. Applicants proposing to expand an existing service will be required to participate in the Kentucky Health Information Exchange (KHIE) if the applicant has an electronic health record. New health facilities or service providers will be required to participate in KHIE within 12 months of licensure.

In response to questions by Senator Raque Adams, Secretary Haynes stated that deleting ambulance services from the SHP would allow a provider to provide these services where there is a demonstrated need. Changes to the CON process for ambulance service would not impact the licensure or regulatory standards, but would allow for more competition. Each city determines if it wants to contract with a new provider.

In response to questions by Senator Givens, Director Parento stated that the CON process is not geared to address network adequacy currently. It requires how providers will serve medically underserved and uninsured individuals. If a provider applies for a CON application, the entire population of potential patients is used to demonstrate a need. Once the application is approved, an applicant can eliminate a portion of the population that was used to demonstrate a need. Some providers say that the MCOs could not have an adequate provider network. The cabinet runs data of all contracted providers of each MCO monthly to make sure the organization meets requirements. There is a threshold in the MCO contract for each provider area for accepting new Medicaid patients, so the cabinet contracts with an outside organization to make calls to providers in each MCO network. A CON need is based on population not distinguished between payer source. The existing CON utilization-based methodology for ASCs will remain the same. Exceptions to the requirements will be to allow Kentucky physicians to establish an ASC and allow hospitals who meet quality standards. The exceptions are consistent with past practices in the CON program. Everywhere across the country people are trying to evaluate the role of the CON program in a world that looks dramatically different than when the CON program began. Kentucky's role in the CON process is to determine the utility of the program, ways to support providers to give them needed flexibility without opening competition completely, and to promote quality.

In response to questions by Senator Julian Carroll, Secretary Haynes stated that a CON application can be denied if a need for services cannot be proven. After a hearing officer makes a recommendation, the application would be accepted or denied by the commissioner of the appropriate department. A decision by the department could be appealed with the circuit court. Currently an application for an ASC can only be filed a couple times a year. Director Parento stated the process for the exempted service application would be a more streamlined process because it would receive a nonsubstantive review. Someone could still request a hearing to voice opposition to the application before the final determination.

In response to questions by Representative Benvenuti, Director Parento stated that the changes would allow ASC services to be provided by providers who were already doing the procedures. Director Parento stated that one area that was looked at is if a provider has targeted opportunities for access. Secretary Haynes stated that if an ASC is exempted, the same licensure and regulatory requirements would be the same as an established ASC. The CMS readmission penalties require a provider to use the national standard for Medicare patients. The changes would allow rural providers to lower penalties. Most of the proposed SHP changes were done with rural providers in mind to help give more flexibility. Rural hospitals could partner with other providers to keep down penalties. Director Parento stated that quality standards require hospitals to perform no different than or higher than the U.S. National Benchmark for 30-day outcomes for unplanned readmissions and 30-day death rates for select diagnoses as reported by CMS. Of the 93 hospitals reporting, 59 met the standards. Comments from consumers stated that the top two concerns were access and quality and the top provider concern is flexibility.

In response to a question by Senator Higdon, Secretary Haynes stated that all comments to date were before the SHP administrative regulation was filed with ARRS. A hearing will be held on June 22 giving everyone a chance for comments. The number one problem of stakeholders so far is that they do not understand the new proposed process.

In response to questions by Senator Danny Carroll, Director Parento stated that the reason certain components were chosen for exemption was because of flexibility and access of the services. Secretary Haynes stated that the Office of Inspector General (OIG) will continue to review the regulatory standards, including quality, and update administrative regulations as changes are needed. Director Parento stated that the number of additional ASC providers would include four or five physician practices. Secretary Haynes stated that the changes would allow rural hospitals to have more flexibility with care and business models. Rural hospitals have been actively involved through the process of updating the SHP.

In response to a question by Senator Alvarado, Secretary Haynes stated that the cabinet would have the SHP finalized by August or September. Director Parento stated that goal is more flexibility. The changes would require an ASC to be solely owned by physicians and ASC in a hospital have majority ownership by the hospital.

In response to a question by Representative Watkins, Secretary Haynes stated that the MCOs would have more contract choices.

Legislative Hearing on the 2016-2017 Community Services Block Grant

Elizabeth Caywood, Policy Analyst, Department for Community Based Services, Cabinet for Health and Family Services, was present to answer questions about the 2016-2017 Community Services Block Grant. The cabinet will receive $10,898,946 to administer the Community Services Block Grant. The mission for the block grant is to reduce and eliminate poverty by providing the opportunity for education, training, work, and the opportunity to live with dignity and decency. The mission focuses on self-sufficiency for the client and the reduction of dependency where possible. The community action agencies (CAAs) are required to prepare and submit an annual Plan and Budget Proposal on how the agency plans to ensure coordination and non-duplication of services with other service providers, inclusive of faith-based organizations, fatherhood programs, health marriage programs, and One-Stop partnerships, and a Logic Model for each of the nine National Association for State Community Services Programs (NASCSP) categories. A motion to approve the block grant was made by Representative Palumbo, seconded by Representative Watkins, and approved by voice vote.

Telehealth Services – Behavioral Health

Anna Whites, Attorney, stated that telehealth is one of the fastest advancing fields in healthcare. Across the nation, states have enacted laws permitting Medicare, Medicaid, and private insurers to pay for services provided via Telehealth. Telehealth permits providers to reach more patients most cost effectively. Kentucky established a state telehealth board, pursuant to KRS 194A.125, which reviews and updates the state's telehealth procedures and oversight. The board promotes administrative regulations on training and protocols, creates a network of providers eligible for reimbursement, and approves technology. In Kentucky, payors currently cover only telehealth services which are provided by a physician in the telehealth network and under contract for telehealth service provisions which severely limits the ability of providers and patients to access the benefits of telehealth. Kentucky has not expanded its definition to include direct to patient reimbursable services provided in the patient's home or other non-clinic locations. Many of the patients who would be afforded the greatest benefit from telehealth are served under state and federal grants and pass-through funds.

Rob Jones, Executive Director, Community Action Kentucky (CAK), stated that CAK is an association that consists of all 23 community action agencies (CAA) in Kentucky. The CAAs provide wrap-around social services to each county in Kentucky utilizing local, state, and federal grand funding sources. One focus of CAA services is to increase healthy behaviors and support systems across the lifespan of the state's most vulnerable low income citizens. A primary limitation on the number of low income citizens served by the CAAs is lack of funding and lack of personnel. Telehealth provides a vital channel for delivery of support and wrap-around services to a much larger group of clients. A big barrier to participation in classes and support services by the CAAs clientele is access and babysitting. With telehealth, those barriers are removed and each interested client can access the supports provided.

Dr. Praveen Arla, Primary Care Physician in Bullitt County, stated that the goal is highlighting the ability of technology capabilities, to improve patient outcomes from their homes, to reduce patient expenditures, and to avoid hospitalization. Telemonitoring could be a life saving tool for patients.

In response to questions by Senator Danny Carroll, Dr. Arla stated that currently a fee-for-service model is used for telehealth services using standard billing rates for physicians.

In response to questions by Senator Alvarado, Ms. Whites stated that out-of-state providers have to be qualified to provide services. Dr. Arla stated that equipment for monitoring patients is currently not reimbursed, only a face-to-face encounter with a provider.

In response to Senator Thomas, Ms. Whites stated that to provide effective and efficient telehealth services, a broadband network has to be in place.

Lowering Blood Alcohol Level

Carole Kaufman, retired Certified Registered Nurse Anesthesiologist (CRNA), stated that the National Transportation and Safety Board recommend lowering the alcohol levels from .08 to .05. Alcohol causes devastation and destroys families. Approximately 500 to 800 lives could be saved by lowering the alcohol levels, and could protect children who have to get in an automobile with an impaired driver. In 2013, over 10,000 people were killed due to alcohol with 1,439 of the total being children. Alcohol related accidents cost $199 billion per year. Approximately 300,000 individuals drive while intoxicated, but fewer than 4,000 of them are arrested. The main goal of lowering the alcohol levels is to save lives.

Representative Benvenuti stated that Kentucky laws regarding impaired driving are insufficient and need to be addressed by the General Assembly. Currently, the laws focus more on the perpetrator than the victim. The record of someone convicted of an aggravated DUI should not be expunged.

Representative Palumbo stated that another major problem to be addressed is drivers who drive under the influence of drugs.

There being no further business, the meeting was adjourned at 3:20 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

April 27, 2015

Call to Order and Roll Call

A meeting of the Public Pension Oversight Board was held on Monday, April 27, 2015, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Brent Yonts, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Jimmy Higdon and Gerald A. Neal; Representative Brian Linder; Tom Bennett, Jane Driskell, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Representatives Jerry Miller and James Tipton, among others.

LRC Staff: Brad Gross, Greg Woosley, Terrance Sullivan, and Marlene Rutherford.

Co-Chair Yonts advised that board member Michael Bowling had resigned and that the Speaker's Office had been advised.

Approval of Minutes

Co-Chair Bowen moved that the minutes of the February 23, 2015, meeting be approved. Mr. Bennett seconded the motion, and the minutes were approved without objection.

Co-Chair Yonts summarized the materials contained in the board members' folders that would be reviewed and discussed during the meeting.

He noted that the May board meeting falls on Memorial Day and that the meeting would be rescheduled to June 1 unless there are conflicts.

Kentucky Retirement Systems Investment Update

David Peden, Chief Investment Officer, Kentucky Retirement Systems

Mr. Peden discussed the estimated March composite performance summary. The 2014 investment update prepared by LRC staff comparing KRS with its peers is an excellent comparison mirroring what he had presented previously. While most of his previous comments had been negative in terms of the KRS portfolio's performance in a difficult investment environment, he was pleased to report that February was an excellent month and March was a little better than flat, with a return of about ten basis points. The total KRS portfolio shows a 1.19 percent return versus the benchmark return of 2.40 percent. Fiscal year to date, the asset class performance has seen positive returns, with U.S. public equity up 6.38 percent, real estate up 5.67 percent, private equity up 4.76 percent, absolute return up 2.72 percent, and fixed income up 2.22 percent. With the exception of U. S. public equity and fixed income, the others are alternative asset classes and are performing well. So far, the month of April has an estimated performance of 3.00 percent, and although the fiscal year to date is below the 7.5 percent return target, with February being a good performing month, KRS is catching up. The first part of the fiscal year had been a challenging environment, but in February the market began to change, and because the dollar is not rallying like it was earlier in the fiscal year, this is helping the non-U.S. equity portfolio. The markets in Europe and Japan have started to perform favorably, and the quality and value of European assets has helped the non-U.S. equity asset class become a good contributor.

Responding to a question by Co-Chair Yonts of the effect the turmoil occurring in Greece, Germany and China has had on non-U.S. equities, Mr. Peden indicated that it would not be as negative of an impact as it was a couple of years ago because KRS has minimal exposure to Greece, and China will be a major driver in the foreign market going forward. The problem with China is the comfort level with the type of information coming out of the country and whether investors can have confidence in economic reporting. Outside the U. S., Japan is the largest holder of U.S. treasuries.

Representative Miller asked Mr. Peden to define absolute return versus real return. Mr. Peden stated that absolute return is commonly known as hedge funds, which have provisions relating to liquidity, and that absolute return portfolios are made up of stocks, bonds, loans, cash, and some derivatives. Real return are assets that are tied to or are impacted by inflation and that real return as an asset class has performed poorly recently because there has just been no inflation.

Responding to Co-Chair Bowen about the ten-year rate of return compared to the peer group return for the same period and the assumed rate of return, Mr. Peden indicated that the 7.5 percent target rate of return is really a 20-year plus number that KRS believes it can attain. However, there is no easy answer as to what the assumed rate of return should be and how the portfolio should be judged against that assumed rate because it comes back to the timeframe used to judge the actual rate of return earned. Since 1984, the rate of return has exceeded the 7.5 percent return target, but with the situation the KERS non-hazardous plan is in, it may make it more appropriate to about a realistic return target over a shorter time period. He also noted the average public pension plan uses a 20-year term to set the expected rate of return.

Responding to a question by Representative Miller as to why KRS should not mimic KTRS in managing money, Mr. Peden said that KTRS has outperformed KRS because 60 percent of its assets are allocated to the U.S. equity market that has done well in the last couple of years. However, that asset class is as risky as any, and KRS has a long term strategy that it believes will eventually catch up to those returns. KRS asset allocation is set based on the asset liability modeling study. In short, given the funded status of the plan, KRS does not feel comfortable taking more equity risk and deviating from the standard set in the overall portfolio as KTRS has done.

Kentucky Retirement Systems Personnel and Compensation System

Bill Thielen, Executive Director, Kentucky Retirement Systems

Mr. Thielen advised that the KRS board at its April meeting made a selection for actuarial auditing to begin May 1. The contract was awarded to the Siegel Company. The final report will be due to KRS on August 1, and a "Level 2" audit will be performed by Siegel. The results of the actuarial study or report should be available to PPOB at its September meeting. The asset liability modeling study will be provided to the KRS Board at its May meeting and will be available to PPOB at the June 1 meeting.

Mr. Thielen discussed the benefits of the three systems administered by KRS for both pension and health insurance. The systems administered by KRS are more unique and complex than other pension plans around the country, with a total membership in the three systems of over 348,000. Since 2008, the active membership has been reduced relative to the number of retirees and the number of inactive members, meaning there are fewer individuals making monthly contributions to support the system.

Membership is broken down into three tiers. Tier 1 consists of members participating prior to September 1, 2008; Tier 2 covers September 1, 2008, through December 31, 2013, which was established by House Bill 1; and Tier 3 is the hybrid cash balance plan established January 1, 2014.

Mr. Thielen said that the internal legal department has ten staff attorneys, two paralegals, and two support staff. These employees perform hearings, review legal documents and re-employment requests, and conduct conferences, among other things. Most of the court cases involving KRS are handled in-house, but there has been $2.4 million spent in 2014 on external counsel, which is up from 2013 and is mainly related to the Seven Counties bankruptcy case.

There are 122 employees in the benefits section, which over the last two years has handled approximately 250,000 calls per year. Additionally, there have been over 5,000 in-office visits 2014, and there was a spike in October and November due to open enrollment for health insurance. There were over 10,000 pre-retirement audits in 2014, down slightly from 2013, and over 4,000 retirement recalculations and audits, up from 2013. There are over 107,000 monthly benefit recipients. KRS staff also conducts events and enrollments for retiree health care each year, with almost 26,000 Kentucky Employees Health Plan enrollments and over 48,000 Medicare eligible enrollments. KRS has attempted over the last few years to increase outreach to members through publications, social media, field visits, and webinars.

Some of the challenges for KRS are plan funding, the Seven Counties and other litigation, administration of pension spiking, budget and staff constraints, and investment performance. Mr. Thielen also pointed out that one-third of the KRS staff will reach retirement eligibility in the next five years, and that recruiting and training replacements for those employees is a challenge.

Responding to a question by Co-Chair Yonts as to staff turnover, Mr. Thielen said the main reasons that employees are choosing to leave or retire are due to furlough days and lack of pay raises, but there have been terminations for personal and other reasons. KRS has been trying to recruit individuals and get them trained to replace those who will be retiring in the next five years, and KRS is trying to address inefficiencies as it replaces personnel.

Overtime hours have decreased from 2012. The increased overtime in 2012 was due to the implementation of a new technology system and correcting employer reporting errors. The staffing levels for 2014 increased due to the complexity of the plans administered. In 2014 there were 258 employees. The bulk of administrative expenses are in the area of benefits and operations, which includes accounting, information technology, information security, and procurement, among other things.

Mr. Thielen stated that the KRS personnel system is not under the state merit system. In 2001, a comprehensive review with cost benefit analysis was performed by Ice Miller. The report identified problems with the personnel and pay system. Some of the problems were that the classification system did not allow for accurate placement of KRS employees, and compensation was based on the state's system and did not take into consideration comparable positions in other retirement systems; as a result, there were excessive overtime hours and staff turnover. The recommendations to address the problems were to move KRS from the merit system and recreate a new classification and compensation system, with some of the same rights and protections and policies relating to state benefits, leave, and payout rules, and with a policy of internal mobility similar to that contained in KRS Chapter 18A.

Responding to a question by Co-Chair Bowen as to benefits that KRS employees receive that other state employees do not, Mr. Thielen said KRS basically mirrors the state's system yet has a flex schedule program. Co-Chair Bowen asked Mr. Thielen to highlight the differences between the state and KRS systems and report to PPOB staff.

In response to a comment and question by Senator Higdon concerning compensation and simplification of a complex system, Mr. Thielen indicated that legislation has created some of the complexity with the different benefit tiers and the issue of how to administratively handle the issue of pension spiking. KRS had made some recommendations that would simplify the system, but those recommendations have not passed.

Co-Chair Bowen said that it would be helpful if members of the KRS Board would attend PPOB meetings to hear questions and concerns first hand. He said that participation of KRS board members would be beneficial so that both boards could work to address the issues together.

In response to a question by Ms. Driskell concerning the benefit tiers and how service in the different systems are counted, Mr. Thielen said that individuals are counted by the system in which they have the most time, and there is no duplication of numbers in each system.

Mr. Thielen said that KRS 61.645 established the separate personnel system for KRS, passed by legislation 2002. The KRS Board adopted personnel policies and established a classification and pay system to attract, hire, and retain qualified individuals. Copies of those policies and an organization chart were previously provided by LRC staff to PPOB members. KRS has a goal oriented performance management system. The executive staff and division managers establish division goals and meet with employees to establish employee goals. Pay is based on available revenue and on the employee's rating and uses the state's budgeted increases as the base for salary increases.

The salary and benefit analysis reflects the six furlough days in FY 2011, the two weeks payroll moved from FY 2012 into FY 2013, and the health administrative fees that were previously paid from the Insurance Trust Fund, but were added to the KRS administrative budget as recommended by the Auditor of Public Accounts, which increased the administrative budget from 2011 to 2014 by about $13 million. The analysis also reflects total actual expenses differing from the Comprehensive Annual Financial Report over FYs 2011 through 2014 because depreciation, standing accruals, and healthcare actual costs are included in the general administrative expenses in the annual report. The number of employees as of calendar year ending December 31, 2003, have increased from 225 to 252 employees as of December 31, 2014, and the salary increases for the same period have decreased from 3.55 percent in 2004 to 2.29 percent in 2014 with employees receiving no increases in some of those years. These percentage increases were those received by all state employees and also included an amount above the state level that was granted by the KRS Board.

In response to a question by Co-Chair Bowen as to the applicant pool, Mr. Thielen said that the applicant pool varies by type of position posted. Several employees left in the investments area for more compensation, which is a challenge for KRS. Over the last few years, counselors have left, and that it takes time to recruit and train individuals. Employees in the IT Department have been stable and have been reclassified in an effort to keep them. As wages have increased in the private sector, KRS sees its employees leave for more compensation.

In response to a question by Mr. Bennett as to the qualifications and requirements for the positions of member service and benefits employees and whether the issue is a retention problem rather than a recruitment problem, Mr. Thielen said it was more a recruitment problem made difficult by the state's economic condition over the last several years, but that historically, until recently, KRS has had a strong retention rate, except in key areas where competitive rates are being paid. Co-Chair Yonts asked Mr. Thielen to provide the job descriptions, qualifications, and salaries for positions.

Responding to a question by Mr. Jefferson concerning investment in technology to alleviate administrative costs and whether research in technology upgrades for savings is being conducted, Mr. Thielen stated in 2005 a $22 million capital project for technology was approved because KRS was operating on a thirty-year old system. An external firm was hired for the final phase of that technology project in 2011, and a good part of 2012 was spent correcting problems related to transitioning employer reporting to the new system, which resulted in a lot of overtime. There were over 40,000 errors in reporting that resulted in the retirements being inaccurate and each of these errors had to be corrected. Mr. Thielen said that KRS has an IT staff of about 29 qualified employees who are constantly looking for improvement in the system, but they are finding that considerably more money is spent each year on software and updates. Mr. Peden said that KRS spends a lot of money maintaining existing systems and on information security, and therefore there is not a lot of money available for researching technology.

Co-Chair Bowen commented on continuing to identify efficiencies, but he stated that the more important issue is the unfunded mandate and that all areas need to be reviewed and considered for those efficiencies, including looking at how KRS is paying its investment management groups. He asked about opportunities for other groups, including PPOB, to have input and express concerns during the process of the Siegel group performing an actuarial study on the systems. Mr. Thielen noted that Siegel is a national practice full actuarial firm, and that the RFP contained three meetings in which the company would present to the KRS Board, PPOB, and any legislative committee, and that there will be an opportunity to ask questions at those meetings. The review will be very data driven and will look at assumptions and Cavanaugh MacDonald's methodology, but will not look at any fees paid to investment management groups. KRS is in the process of reviewing and hiring CEM Benchmarking, an independent provider of cost and performance benchmarking analysis for pension funds that provides direct comparative insights on realized net investment returns and management fees for different asset classes. The results will be available at a later time.

Responding to a question by Representative Miller concerning the rate of return over a 20-year period, Mr. Peden stated that as of February the rate of return for 20 years is 8.27 percent.

Representative Miller inquired about the article written by John Cheves concerning the Camelot Group private equity issue. Responding to a question concerning the matter and the decisions that were made before Mr. Peden becoming Chief Investment Officer, Mr. Thielen stated that all investment decisions are made by the investment committee and ratified by the full board. Mr. Peden indicated that Adam Tosh, CIO at the time, and the investment committee went through the investment process and recommended the group after due diligence. The full investment committee heard the presentation by Camelot Group and the committee increased the initial recommendation for investment. This decision was in May 2009. The fraud was committed through the overbilling of the fund, and KRS has written down fifty percent of the investment, although there is still an opportunity for additional returns from where those assets were marked. He said it was unlikely that KRS would get back the whole investment, but there was a good possibility to get more back than was marked down. Mr. Peden indicated that KRS was aware there was an issue with the group when it received notification from the New York Auditor's Office. He said that not all private equity is bad, but that in this situation, one person controlled all the decisions. KRS will not invest where there is not a good balance of decision-making in the fund, a strong back office operation or comptroller, and strong investment decision-making authority. There is no reason to believe that there is an existing "Camelot" in the current portfolio. Mr. Thielen also stated that placement agents have not been used for over six years, and Mr. Peden explained the "infrastructure" of how payments are made. The management fees paid to a fund supports the infrastructure, which is the marketing and sales process, and is the same whether for a third party marketer or an internal marketing staff member. Mr. Peden also indicated that if there is a placement agent involved that is disclosed to the investment committee prior to the investment being approved

Update on 2015 Legislative Action

Co-Chair Yonts provided an update of the bills that were enacted in the 2015 session that directly impacted the state-administered retirement systems, and he discussed those bills that did not pass. House Bill 47 added other state-administered systems to the PPOB oversight functions; House Bill 62 established a process for voluntary and involuntary cessation of agency participation in the Kentucky Retirement Systems; Senate Bill 62 related to the re-employment of elected officials in the same position; and House Bill 163/House Bill 181 limited employer payments on retirees re-employed on or after September 1, 2008. Mr. Thielen indicated that it will take several months to promulgate regulations implementing House Bill 62.

Co-Chair Yonts also stated that suggested topics for discussion and study for the remainder of the year should be submitted by board members by e-mailing the co-chairs. He said that, due to legislative conferences, PPOB will not meet in July.

Before adjournment, Mr. Thielen announced that he will retire at the end of the calendar year, provided that the KRS Board finds a replacement.

There being no further business, the meeting adjourned at approximately 2:25 p.m.

A copy of the PowerPoint presentation used by Mr. Thielen is on file in the Legislative Research Commission Library.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes of the 3rd Meeting of the 2015 Interim

May 19, 2015

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, May 19, 2015, at 1:00 p.m., in Room 169 of the Capitol Annex. Senator Chris Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Kevin Sinnette, Co-Chair; Senator Julian M. Carroll; Representatives Steven Rudy, and Jim Wayne.

Guests: Mr. Larry Blake, Assistant Vice President for Facilities, NKU; Ms. Elizabeth Baker, Director of Planning, UK; Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Mr. John Hicks, Deputy State Budget Director; Ms. Brandi Norton, Financial Analyst, Kentucky Infrastructure Authority; Ms. Sandy Williams, Deputy Executive Director, Office of Financial Management; Ms. Kristi Culpepper, Executive Director, School Facilities Construction Commission.

LRC Staff: Josh Nacey, Katherine Halloran, and Maurya Allen.

Approval of Minutes

Senator Carroll moved to approve the minutes of the April 21, 2015 meeting. The motion was seconded by Representative Rudy and approved by voice vote.

Correspondence Items

Mr. Nacey said there were two correspondence items for review by the committee members. First, a memo to the Legislative Research Commission from the committee seeking authorization to expend funds to evaluate the funding process of the Louisville Arena Authority (LAA). Representative Wayne asked if there had been a response to the request. Ms. Halloran explained that the memo had been forwarded to leadership members and the committee is currently awaiting a response.

The second item of correspondence was a memo from Kristi Culpepper, Executive Director, School Facilities Construction Commission (SFCC) regarding high school construction costs per the request of the committee at the April 21, 2015 meeting. Mr. Nacey highlighted several points from the memo including the range of construction costs over the last ten years, the fact that SFCC does not manage construction costs and has no legal authority to limit construction costs, that the Kentucky Department of Education (KDE) has the legal authority to limit the scope of school construction projects, and that SFCC is not the only source of state funding for new school facilities. Mr. Nacey also directed members' attention to the table included with the memo that provides the costs associated with high schools constructed over the last ten years. This list does not include major renovation projects, but does include expenditures from capital outlay and equalization, which are the other methods for funding school construction outside of SFCC involvement.

Information Items

Mr. Nacey said there was one information item to report to the committee, the environmental justice assessment on the Louisville-Southern Indiana Ohio River Bridges (LSIORB) project. The committee sent a request in January to the Kentucky Transportation Cabinet (KYTC) seeking the assessment and KYTC responded that the assessment was under review by the Federal Highway Administration (FHWA) and was not available for distribution at the time. The review has now been completed and the assessment was included for the members in their folders.

The assessment provides a review of the efforts currently underway and those that will be undertaken to mitigate the effects of bridge tolls on low-income and minority citizens who comprise the environmental justice populations. Among those measures currently underway are plans to enhance the TARC services through construction and/or expansion of facilities, the purchase of buses and vans for use during bridge construction, and the creation of new bus stops. Additionally, there will be a free-flow connection between the non-tolled US-31 Clark Memorial Bridge and I-65. Future efforts include the distribution of transponders at no cost to the environmental justice populations, creation of two local offices for the toll operator (one in southern Indiana and one in Louisville), establishment of user accounts with a wide-range of replenishment options and the exemption of TARC vehicles from tolls.

Representative Wayne commented that the addition of TARC buses in the mitigation efforts was an encouraging sign, but that he was still critical of the manner in which the Cabinet released the documents. He also stated that the assessment seemed to criticize his recent legislation to mitigate the effects of tolls on low-income and minority citizens as posing an undue administrative burden. Representative Wayne stated that, in his opinion, this was an indication that the Cabinet did not fully understand the legislation which included mitigation measures, such as a toll rebate, that would have been much more effective and less burdensome than the issuance of transponders and the establishment of two entirely new offices. He indicated that there were serious problems with this assessment plan, aside from the very positive approaches taken regarding TARC buses, and he wished to look more closely at aligning the plan with legislation. Chairman Girdler made a note to the members and the public that the assessment plan was available online for anyone who wished to view it.

Project Reports from Universities

Mr. Larry Blake, Assistant Vice President for Facilities, Northern Kentucky University reported the university's intent to use the Construction Manager-at-Risk delivery method for the Renovate Old Science/Construct Health Innovation Center project authorized by the General Assembly in House Bill 235 of the 2014 Regular Session. No action was required for this report.

Mr. Blake then presented a scope increase for the Renovate Residence Halls project (Callahan Hall dining facility) also authorized in House Bill 235 of the 2014 Regular Session. The university is requesting a 15 percent scope increase from restricted funds to accommodate increased bid prices. Representative Wayne commented that he served with former Representative James Callahan, for whom the hall is named, and that the hall and plans for its renovation are an honor to his memory. Senator Carroll moved to approve the project, seconded by Representative Rudy. The motion passed by a roll call vote of 5 yeas, 0 nays.

Ms. Elizabeth Baker, Planning Director of the University of Kentucky, reported on four items. The first was an emergency capital project to replace central heating plant boilers damaged by fire in March 2015. No action was required for this report.

Second, Ms. Baker presented a change in funding source for the Renovate Academic/Administrative Space 3 (Combs Cancer Research Building) project authorized in House Bill 235 of the 2014 Regular Session. The university is requesting to use $484,000 of federal funds in lieu of restricted funds for this project. The total cost of the project would remain well within the authorized budget for the project. Senator Carroll made a motion to approve the project, which was seconded by Representative Rudy. The motion passed by a roll call vote of 5 yeas, 0 nays.

Ms. Baker next reported the purchase of medical equipment, a CT Scanner Fluoroscopy, for use within the Radiology Department of UK HealthCare's Good Samaritan Hospital. No action was required for this report.

Finally, Ms. Baker presented a lease renewal for the University of Kentucky College of Social Work Center for Children and Trauma. The annual rent is proposed to increase from $198,782 to $201,358 and includes utilities and common area maintenance charges. Representative Rudy made a motion to approve the project. Senator Carroll seconded and the motion passed by roll call vote of 5 yeas, 0 nays.

Lease Reports from Finance and Administration Cabinet

Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet, presented four lease items. The first was a lease modification for the Cabinet for Health and Family Services in Harlan County. The lease will be modified to increase the area by 7,111 square feet at an added annual cost of $56,888. Senator Carroll made a motion to approve, which was seconded by Representative Wayne. The motion passed by a roll call vote of 5 yeas, 0 nays.

Second, Mr. Aubrey presented a lease modification for the Department of Corrections in Estill County. This lease will include an increase of area of 1,585 square feet as well as renovations to the facility to include security/access control features, copy area, evidence storage, drug testing restroom, and male/female restrooms. The new annual cost for the lease will be $15,282 exclusive of the cost of renovation. No action was required for this report.

Mr. Aubrey next presented a lease modification for the Cabinet for Health and Family Services in Daviess County. New external light fixtures will be installed to enhance employee security at a cost of $29,200. The improvements will be amortized through the lease expiration date, making the annual rent on the property $530,979. No action was required for this report.

Finally, Mr. Aubrey presented a foreign jurisdiction lease agreement for the Department of Fish and Wildlife Resources in Scioto County, Ohio. The lease is for a covered boat slip on the Ohio River and has an annual cost of $2,037. Senator Carroll made a motion to approve, seconded by Representative Wayne. The motion passed by a roll call vote of 5 yeas, 0 nays.

Project Reports from the Finance and Administration Cabinet

Mr. John Hicks, Deputy State Budget Director, reported on two information items. The first was a pool project for the Department of Fish and Wildlife Resources Fee-In-Lieu-Of project on Old Trace Creek in Lewis County. This was a $2,689,642 appropriation for mitigation and monitoring of stream bank erosion as required by the U.S. Army Corps of Engineers and the Kentucky Division of Water.

Mr. Hicks then presented another pool project for the Department of Fish and Wildlife Resources Fee-In-Lieu-Of project on the East Fork of Indian River in Menifee County. This was a $1,192,910 appropriation for the improvement of habitat, stabilization of eroding stream banks, and the removal of old non-functioning concrete low-water stream crossing structures. No action was required on these items.

Kentucky Infrastructure Authority (KIA)

Ms. Brandi Norton, Financial Analyst for Kentucky Infrastructure Authority, presented ten items. Chairman Girdler stated that the committee would hear all ten items and vote upon them by roll call vote as one motion. Hearing no objection, Ms. Norton proceeded with her presentation. The first item was for a Fund A loan for the City of Corbin for the benefit of Corbin Utilities Commission in Laurel County. The request was for an $8,684,115 loan for the Corbin Wastewater Treatment Plant Upgrade project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $485,765.

The second item was for a Fund A loan for the City of Frankfort in Franklin County. The request was for a $747,041 loan for the Benson Creek Combined Sewer Overflow (CSO) project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $45,925.

The third item was for a Fund A loan for the City of Glasgow for the benefit of Glasgow Water Company in Barren County. The request was for a $3,500,000 loan for the Southside Interceptor project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $195,780.

The fourth item was for a Fund A loan for the City of Frankfort in Franklin County. The request was for a $1,570,000 loan for the Old Lawrenceburg Road Pump Station Replacement project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $96,517.

The fifth item was for a Fund A loan for the City of Frankfort in Franklin County. The request was for a $1,500,000 loan for the Rolling Acres Inflow and Infiltration (I&I) Phase 1 project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $92,213.

The sixth item was for a Fund A loan for the City of Frankfort in Franklin County. The request was for a $1,320,000 loan for the Wastewater Treatment Plant Emergency Generator and System Control and Data Acquisition (SCADA) system project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $81,148.

The seventh item was for a Fund B loan for the City of Catlettsburg in Boyd County. The request was for a $270,000 loan for the US-23 to I-64 Sewer Extension project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $15,103.

The eighth item was for a Fund F loan for the Monroe County Water District in Monroe County. The request was for an $8,000,000 loan for the Regional Water Treatment Plant and System Improvements project. The loan will have a 30-year term, an interest rate of 0.75 percent, and a debt service payment of $250,652.

The ninth item was for a Fund F1 Planning and Design loan for the City of Fleming-Neon in Letcher County. The request was for a $143,616 loan for the planning and design of the Water Treatment Plant Upgrade project. The loan will have a 5-year term, an interest rate of 2.75 percent, and a debt service payment of $31,299.

The tenth item was for a Fund F loan for the City of Paducah for the benefit of Paducah Water Works in McCracken County. The request was for a $4,493,000 loan for the 24 Inch Transmission Main project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $278,456. Having heard all the projects, Senator Carroll made a motion to approve the loans. The motion was seconded by Representative Wayne and approved by a roll call vote of 5 yeas, 0 nays.

Office of Financial Management

Ms. Sandy Williams, Deputy Executive Director, Office of Financial Management, presented five items. The first was a follow-up report for Eastern Kentucky University General Receipts Revenue Bonds to finance the Renovate/Improve Athletics Facilities project. The second was a follow-up report for Murray State University General Receipts Revenue Bonds to finance the Replace Franklin Hall project. The third item was also a follow-up report for University of Kentucky General Receipts Revenue and Refunding Revenue Bonds. The revenue bonds financed the Renovate/Upgrade Healthcare Facilities project.

The fourth item was a new bond issue for the Turnpike Authority of Kentucky (TAK) Economic Development Road Revenue and Revenue Refunding Bonds (Revitalization Projects). This bond issue will provide permanent, tax-exempt, Road Fund supported financing for approximately $125 million of projects authorized by the 2010 Extraordinary Session of the General Assembly in House Bill 3. Representative Wayne asked why it had taken five years to establish the funding for projects authorized in 2010. Ms. Williams deferred to Mr. John Hicks who answered, that it is policy to not issued bonds until necessary. Cash on hand is used to defer taking on new debt until necessary, so although the bonds were only being issued now, that did not mean there had necessarily been a delay in getting the road projects underway.

The final item was a follow-up report for the Kentucky Economic Development Finance Authority (KEDFA) Healthcare Facilities Revenue Bonds to fund the acquisition, construction, renovation, relocation, and equipping of long term care, memory care, and rehabilitation units on the campus of Carmel Manor in Fort Thomas, Kentucky. No action was required on these reports.

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

Ms. Kristi Culpepper, Executive Director, School Facilities Construction Commission, reported eight school bond issues with SFCC debt service participation with a total par amount of $143,675,000. The state portion of the annual debt service payment was $1,025,288 and the local contribution was $13,520,984. Four bond issues will refund outstanding debt and the other four will finance new construction and improvements at existing school facilities. The bond issues did not involve tax increases. Representative Rudy made a motion to approve the school bond issues, seconded by Representative Wayne. The motion passed by a roll call vote of 5 yeas, 0 nays.

New School Bond Issues with 100 Percent Locally Funded Debt Service Participation

Mr. Nacey said there were five local school bond issues reported to the committee. Each bond issue has 100 percent local debt service participation. No tax increases were required for these issues. These bonds will support the remodeling of and addition to a high school technology center, refinancing prior bond issues, district-wide energy savings measures, and the installation of turf field at two high schools. No action was required.

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

With there being no further business, the meeting was adjourned at 1:51 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

June 1, 2015

Call to Order and Roll Call

A meeting of the Public Pension Oversight Board was held on Monday, June 1, 2015, at 2:00 PM, in Room 131 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Jimmy Higdon; Representatives Brian Linder and Tommy Thompson; Tom Bennett, Jane Driskell, and Sharon Mattingly.

Laura Crittenden was present on behalf of Robyn Bender.

Guests: Representative James Kay, Representative Arnold Simpson, Representative Jerry Miller, Mary Martin, Kentucky Government Retirees, L. B. VanMeter, Kentucky Judicial Retirement System, Mary Helen Peter, Board Member, Kentucky Retirement Systems, Lowell Reese, Kentucky Roll Call, Sue G. Simon, Kentucky Government Retirees, Kevin Borland, Peritus, and Scott Wegenast, AARP Kentucky, among others.

LRC Staff: Brad Gross, Bo Cracraft, Greg Woosley, Terrance Sullivan, Judy Fritz, and Marlene Rutherford.

Approval of Minutes

Mr. Bennett moved that the minutes of the April 27, 2015, meeting be approved. Co-Chair Yonts seconded the motion, and the minutes were approved without objection.

Co-Chair Bowen summarized the materials contained in the board members' folders that would be reviewed and discussed during the meeting.

Bill Thielen, Executive Director, Kentucky Retirement Systems, introduced members of the KRS Board in attendance, Tommy Elliott, KRS Board Chairman, Ed Davis, CERS elected member, Vince Lange, KERS elected member, and Mary Helen Peter, KERS elected member.

Kentucky Retirement Systems Investment Update

David Peden, Chief Investment Officer, Kentucky Retirement Systems provided an investment performance update through the month of April. The total portfolio for the month of April was up 1.39 percent versus the benchmark of 1.54 percent. The performance fiscal year-to-date places the total portfolio at a positive 2.6 percent versus the benchmark return of 3.98 percent. Early May estimates appear to be up only 10 basis points, as the last week in the equity markets was not a good week and the month ended flat. He said that it was unlikely the 7.5 percent assumed rate of return would be met this fiscal year with only one additional month remaining, but that he was hoping for a four percent return for the fiscal year. He brought to the board's attention an article that was written in Bloomberg Business and highlighted that spending by affluent Americans is lower than historically seen and that this is weighing on U.S. growth. He noted that six years after the worst recession since the 1930s Americans who earn $100,000 to $249,999 a year are still making very careful decisions when it comes to discretionary purchases. The article further stated that spending power is curbed by sluggish income gains and these high wage earnings are spending about 10 percent less on luxury goods and services in this fourth quarter compared with the same period in 2013, and that analysts' estimates for sales growth in the high-end retail sector have been missed in three of the past five quarters. The caution of high-income consumers is key to the lackluster retail environment because the top 20 percent of households make up more than half of total spending. Mr. Peden said the same was true in business and capital spending, with many businesses holding cash instead of making substantial investments, and that this is the market environment in which KRS is dealing. He said the investment performance he discusses with the PPOB each month is largely dictated by the work done on asset allocation five years ago, but that the asset allocation information provided by RV Kuhns at the meeting will be what is occurring currently with asset allocation decisions going forward. He said the portfolio is constructed on fundamentals, and although he is not happy with the investment performance this year, as a long term investor KRS should be positioned to take advantage of the long run opportunities in the markets. He reminded the PPOB how KRS performed last year and that the economy is getting into a much better environment for performance in the future.

Mr. Thielen advised that the KRS Board at its last meeting approved a contract with CEM Benchmark, Inc. to perform a pension administration and investment benchmarking study, and that the investment study will be conducted first. CEM will appear before the PPOB if it desires to present those studies. He also stated that an executive director search committee has been appointed and has met one time, and that a RFP has been approved for a national search.

Review of KRS Actuarial Audit Process – The Segal Company

Ms. Kim Nicholl and Mr. Matt Strom, with the Segal Company, gave an overview of their backgrounds. Both Ms. Nicholl and Mr. Strom are Fellows of the Society of Actuaries, with combined experience of over 50 years. Ms. Nicholl's experience has focused on public pension plans since 1993 and she serves as lead actuary to statewide pension systems across the country. Mr. Strom's experience has focused on public pension plans since 2008. He serves as lead actuary to large municipal pension systems across the country and as a secondary actuary to statewide pension systems.

Ms. Nicholl and Mr. Strom discussed the overview of the valuation process; the purpose of an actuarial audit; the types of actuarial audits; and Segal's approach to the upcoming KRS actuarial audit.

Ms. Nicholl said there are different types of actuaries, and she and Mr. Strom are retirement actuaries who focus on the analysis of funding public sector pension plans and that they analyze the probabilities related to certain events impacting the members in the system, such as the likelihood of retirement, and the rates of disability, termination, and death, which in turn drive the cost and liability of a pension plan. They also analyze the economic factors that impact the value of benefits and assets, which include inflation, the expected return on assets, and individual salary increase assumptions. A valuation is prepared each year to determine the value of the benefits promised to members through that valuation period, and then that valuation is used to develop funding strategies and to determine the financial impact of any benefit changes due to benefit increases or reductions in future accruals.

An actuarial valuation is an annual snapshot of the assets and liabilities of a pension or retiree health program. As part of the valuation process the actuaries determine the actuarial accrued liability or benefit obligations that have been earned and compare this value to the assets in the pension trust to determine the unfunded liability and funded status of the plan, as well as the employer contribution rate. This helps provide an understanding of the current financial soundness of the pension system, as well as how the funded status of the plan has progressed over the years and how it is expected to progress in the future based on the funding policy. They also analyze changes from the actuarial accrued liability from year to year and identify trends in the funding status and the reason for the change in the contribution rate from one year to the next. As was noted earlier, KRS will not be attaining the 7.5 percent rate of return this year based on the markets and so the actuaries will advise KRS on the impact of not attaining the rate of return on the funded ratio and on the future contributions that will be required. The actuary looks at balancing two items, the projected value of future benefits and the projected financial resources, which not only includes what is in the trust today but what is expected to come in to the trust through investment returns and future contributions. The contributions to a pension plan over time will have to equal the benefits plus the expenses paid out of the trust minus any investment return, so the better the investment returns the lower the contributions that are needed, and conversely, lower investment returns will increase the required contributions.

Ms. Nicholl went over how the actuarial valuation is performed and noted that after gathering all the information, projecting the benefit for each member, and applying assumptions, a comprehensive picture of the funding policy is developed to determine the employer contribution rate. In this process, there are two types of actuarial assumptions, demographic and economic. The actuary makes assumptions as to when and why a member will leave active service, and they estimate the amount and duration of the pension benefits paid. There are also two actuarial methods used. The first is the asset valuation method and when the actuary performs the valuation for KRS they look at the market value of assets, but the market value of assets is expected to have gains and losses each year and the actuary uses a technique of smoothing the investment gains or losses. KRS uses a five year asset smoothing method for investment returns, so that any returns above or below the assumed rate of return are taken over a five year period. Mr. Strom noted that this is a volatility mitigation technique so that the contribution rate does not go up and down so much on an annual basis because of the markets and up and down gains and losses. The second actuarial method used is the cost method, which is the allocation of liability between past service and future service. KRS uses the entry age normal cost method which is the same method used by most public sector retirement plans and is the required method for the new GASB accounting standards that became effective this year. The amortization method is the period used to pay off the unfunded actuarially accrued liability. Effective June 30, 2013, KRS uses a 30-year closed period, which declines each year, and KRS also uses a level percentage of payroll contribution, which takes into account that payroll of the total membership is expected to grow each year and the contributions to pay down the unfunded liability are expected to remain at a level percentage of this growing payroll in future years.

Ms. Nicholl discussed the entry age normal cost method, which allocates cost between past and future service. The normal cost is the value as of the valuation date of one year's accrual of pension benefits – in other words, a plan wants to fund each year what the active members are earning toward their pension benefit that year, and the value of what they are earning in that year is the normal cost. The unfunded actuarial accrued liability is a comparison between the accrued liability and the value of assets. The actuarially determined contribution is equal to the normal cost plus an amortization payment of the unfunded liability assuming the unfunded liability will be paid off over the 30-year period. The funding process for a member then is the total of the actuarial accrued liability, the annual normal cost, and all future normal costs, equal to the present value of the future benefits, and represents benefits from the date of hire to the date of retirement. The valuation date and the valuation date plus one year equals the annual normal cost. The value of benefits from date of hire to the valuation date is the actuarial accrued liability and the value of normal costs and future normal costs is the present value of all future normal costs.

Responding to a question by Co-Chair Yonts as to how to account for the recession and the decrease in the number of employees and the assumptions made five years ago, Ms. Nicholl indicated that numbers and salaries of active members impacts the plan in two ways. First, from a liability standpoint the fewer the number of active employees the lower the liability will be for the plan in the future, but because the contribution rate is based on payroll and because it is assumed that payroll will increase at 3.5 percent each year, if the number of employees is decreasing you will not meet the payroll growth assumption and will be collecting less contributions, which means the payment for the unfunded liability is less than projected. She said this situation is common across the country, but that it appears to be leveling off as employment and wage growth rebounds. If the 3.5 percent growth in payroll is not a good assumption and should be less, then the contributions will need to go up. She said that if less money is coming in than payments being made there is a liquidity concern and that it is possible to have to sell assets to pay benefits.

Co-Chair Bowen indicated that board member Mac Jefferson, who was unable to be attendance, had submitted questions following his review of the information submitted. One of the questions he asked was whether there was any sensitivity analysis performed on the stated assumptions, which would inform the trustees as to the reasonableness of that stated assumption, or in other words whether a plan's funded status is reviewed if certain assumptions are not met. Mr. Theilen stated this had been discussed with consultant Cavanaugh McDonald and would be incorporated in the 2015 valuation, but that there has not been a sensitivity analysis performed on the past data discussed at this time. Mr. Thielen said that the experience study addresses this to some extent, and he noted that study is conducted every five years.

Mr. Strom discussed why an actuarial audit is performed, which is to enhance the credibility of the valuation process by providing independent assurance that it was performed in accordance with the Actuarial Standards of Practice; to increase public trust of how the plan is governed; to assess whether the plan is meeting its funding objectives; and to identify and address any errors and to make recommendations for improvement. He said that of the three types of actuarial audits that could be performed, Segal would perform a level two or limited scope audit of KRS. A level two audit has much of the same review as a level one audit; however the actuary is actually reviewing rather than replicating all the results over the test life. In approaching the KRS level two audit, Segal made of a determination of whether the June 30, 2014, valuation report and the most recent experience study were based on accepted actuarial standards, and the final written report will contain a formal opinion of the KRS valuation. The first step is to verify the validity of the data, then a validation of the actuarial calculation processes and benefits valuation is conducted, which provides a detailed analysis of sample life calculations. A written audit report is then prepared with specific findings for each element of the audit, along with a recap of any discrepancies, and an opinion as to the reasonableness of the valuation assumptions, methods, etc. The objective is to provide an opinion and evaluation regarding the reasonableness and accuracy of the valuation results, including accrued liability, normal cost and employer contribution rates, and any improvements that can be made, with comments, comparative tables, and detailed recommendations given on the overall profile of KRS. The draft report of findings will first be provided to KRS and the consulting actuary for review and feedback.

Ms. Nicholl indicated that both the KRS staff and KRS Board have a certain responsibility concerning Segal's report, but she noted that any feedback on the report by KRS staff will not result in any influence on the report findings.

In response to questions from Co-Chair Bowen concerning actuarial audits of other states, and the intensity of the audits of the other states compared to that for KRS, and the national trend of assumptions on investment returns, Ms. Nicholl indicated it is standard procedure for large state pension systems to have an audit performed at least every 10 years, but that actuarial audits are becoming more prevalent every five years. Ms. Nicholl said that of the types of audits the limited scope audits are more common because they are less expensive, but Segal looks at all the possible combinations of how a member could leave KRS and what benefits are due the member in the three tiers in a limited scope audit. She said that based on their findings they do not know if the investment return assumptions will change. They will look at the investment policy and the capital market expectations and see if the investment return assumption is reasonable. She said that nationally the investment rate of return is coming down, and that while it used to be around 8.0 percent, the typical assumption for public systems is now recommended between 7.5 and 7.75 percent. She noted that when you reduce risk in the asset portfolio the expected return assumption will also decrease. Mr. Thielen added that the National Association of State Retirement Administrators performed a study and that the national average assumed rate of return on investments is about 7.69 percent, so that the assumption used by KRS is roughly in the middle of the national average.

Responding to questions by Representative Thompson, Ms. Nicholl said that the limited scope audit will be as of June 30, 2014, and the draft report would be available in August and they are scheduled to meet with the KRS Audit Committee on August 27. Mr. Thielen indicated that the KRS board would take up the report at its September meeting, and that the projected cost of the audit is $98,500 excluding any additional trips that may be necessary. Ms. Nicholl felt that a limited scope audit will provide the necessary information for analysis and determination.

Responding to questions by Co-Chair Yonts concerning how subjective comments are resolved in a report, Ms. Nicholl said that recommendations have been made in the past and actuaries have to follow the procedures of actuarial practice and guidance on setting assumptions. Mr. Thielen said that, in the RFP and agreement, Cavanaugh McDonald has the ability to respond to opinions and recommendations contained in the report.

Senator Higdon referenced an article in the Courier Journal about the KRS accounting created pension crisis and creating future liabilities by using the five high years for retirement benefits. Ms. Nicholl said that Segal will look at recently retired members and compare their liability to what the liability would have been at retirement over a longer salary range to see if they match.

Responding to Representative Miller, Ms. Nicholl said they would be auditing how the liabilities and contributions are being determined for the plan, and whether the methods used to evaluate them are being applied properly. She said that she was pleased that the 30-year period of amortization period is closed. The 30-year period of amortization came about because the old accounting standards required that annual required contribution had to be based on a period of no more than 30 years; however most systems used the 30-year period. The 30-year amortization is common, and because Segal also helps clients set funding policies, in that work they would like to see unfunded liabilities paid off faster than 30 years. Mr. Thielen said that the KRS board had adopted the 30-year amortization period and was paying it down, and that Senate Bill 2 re-set the 30-year period in 2013.

Responding to a question by Mr. Bennett concerning the employer contribution rate for the next biennium, Ms. Nicholl indicated that Segal would not have input into setting the rate because they only were contracted to look at an audit of the June 30, 2014, results. Mr. Thielen said that he believes the contribution rate will be higher in the next biennium because the assumptions were changed by the board as a result of the experience study, specifically because of the decrease in the assumed rate of return from 7.75 to 7.5 percent, and because the mortality tables were lengthened, both of which impact future liabilities. In addition, it does not appear KRS will be making the 7.5 investment return this year, which will affect the future contribution rate. Ms. Nicholl could not recall how other states that have been audited compared to the contribution rate of KRS; however she said that Wisconsin is one of the few states that is overfunded so the contribution rate is lower. She also said that the Illinois teachers' retirement plan contribution rate would skyrocket because it has "kicked the can so far down the road." Mr. Thielen stated that the KERS nonhazardous plan at 21 percent funded is worse off than the Illinois plans.

In response to a question by Representative Linder, Mr. Thielen said it was important for the budget that if KRS is making the assumed rate of return it is easier to budget. If the investment return is not being met the contributions have to make up the difference.

KRS Asset Liability Modeling (ALM) Study

Tony Johnson, Senior Consultant and Head of Midwest Consulting for RV Kuhns, Inc. (RVK), provided company background. RVK is a 30-year old independently owned consulting firm ranked among the top 10 consulting firms in the nation. A large percentage of its clients are state plans. It has served as advisor and investment consultant to KRS for about seven years. RVK presented the key findings from the asset liability modeling (ALM) studies for the five pension plans of KRS.

Ryan Sullivan, Consultant with RV Kuhns, Inc. and based out of the Portland, Oregon Headquarters, discussed asset liability studies, why they are conducted, their importance, and the results of the studies on the five KRS pension plans. Asset liability studies are a tool to gauge the financial health of a plan and the direction it is headed over time. There are three components of any pension plan: 1) the liability or benefit policy; 2) the contribution policy; and 3) the investment policy. The ALM study is considered the gold standard for assessing the health of pension plans. An ALM study is not an actuarial study and not an audit. It is not a prescription of plan benefits and not an implementation plan for asset allocation or class decisions. The studies are not the sole determinant of the final asset allocation that is adopted by a fund.

The objectives of an ALM study is to present valuation results of the plan forward as to the funded status of the plan, including minimum required contributions and the expected return over the next 20 years, and that it projects the asset values based on several portfolios to determine the outcome through time based on the assumptions in the valuation process. An asset liability study estimates the liquidity demands on a plan's assets and investigates mixes of asset allocation to determine what best protects or increases funding levels while providing adequate liquidity for benefit payments and minimizes risks. If a large percentage of the asset base is being paid out in a given year and needs to be liquidated from the asset portfolio it makes it very difficult to invest in classes that have long term lock up periods such as private equity and real estate.

There are two types of analyses conducted, the deterministic forecast and the stochastic forecast. Mr. Sullivan said that RVK used the latest data, which was from the June 30, 2014, actuarial valuations, and that no assumption changes to the valuation were made and they used the actuarial assumptions from the experience study for the period ending June 30, 2013. RVK assumes the five plans' benefit policy remains the same throughout the projection period, as well as that the current contribution policy of the state making the full actuarially required contribution each year is assumed to continue, but it does not assume any actuarial adjustments that may take place in the future.

The deterministic analysis is the analysis looked at for each plan. It assumes for the next 20 years that every assumption is met with no uncertainty. It is simple to understand, but not very realistic. The stochastic analysis is the second analysis, which introduces uncertainty into the projections, such as future rates of return and inflation based on RVK's most recent capital market assumptions. It focuses on funding ratios, payout ratios, and contribution levels and analyzes the probability of full funding and insolvency in 20 years. This analysis is more complex and more realistic. In the stochastic analysis, a wide range of investment portfolios are tested to determine whether the plans are better following a strategy that falls in the category of a higher prospective return with greater risk or in a lower prospective return category with lower risk.

The stochastic analysis tested six portfolios ranging from the most conservative asset allocation portfolio to an aggressive portfolio, and including the current portfolio allocation, and utilized different asset classes in differing percentage amounts to predict funding ratio and payout outcomes. The most conservative portfolio is invested in the intermediate duration core fixed income and the most aggressive portfolio is fully invested in global equity and private equity asset classes.

Mr. Sullivan discussed the results of the more healthy plans in the KRS system, the CERS non-hazardous, CERS hazardous, and KERS hazardous plans. The deterministic results for the CERS non-hazardous plan shows a current value as of June 30, 2014, of $403 million and a 20 year projected value of $737 million (employer contribution only). The current liability for this plan is $9.8 billion and is projected to grow about 50 percent over the next 20 years to $15.1 billion. The assets are $6.5 billion and projected to grow to $11.8 billion over the next 20 years. There are no concerns of liquidity for this plan. The stochastic results for this plan shows there is a probability of full funding in the next 20 years and a significant chance of being better off in 20 years than today. In looking at the statistics of the stochastic summary, continued diversification of plan assets to avoid large market declines while generating the near assumed rate of return will maximize the outcome and should be the focus. Mr. Sullivan said the only way to recognize the benefits of an aggressive portfolio is to stay with it even after a bad year of returns, which is difficult for many investors. The most conservative approach of fixed income will protect assets but will result in increased costs to the employer in the long term because of lower than assumed rates of return.

In reviewing the deterministic summary results for the CERS and KERS hazardous plans the results are similar to the CERS non-hazardous. The current liability for the CERS hazardous plan is $3.3 billion with a projection to grow to $5.1 billion in the next 20 years; assets of $2.1 billion with a projection of $3.9 billion; and the employer contribution of $137 million with a projection of $261 million in 20 years. The payout ratio is projected to be the same over the next 20 years. The conclusions are the same for this plan as the CERS non-hazardous.

The KERS hazardous plan deterministic results reflects an accrued liability of $817 million, projected to grow to $1.4 billion in 20 years, with assets of $560 million with expected growth over the next 20 years to $1.1 billion. The employer's annual contribution is at $31 million and expected to grow to $70 million. The payout ratio decreases over the 20 years from 10 percent to nine percent. The conclusion would be the same as the previous two plans.

The accrued liability of the State Police Retirement System plan on June 30, 2014, is $681 million with a projection to grow to $754 million over the next 20 years; assets are $261 million with a projected growth to $336 million. The employer contribution of $28 million today is expected to grow to $66 million over the next 20 years and the payout ratio is expected to decrease from 21 percent to 19 percent. The funded ratio of this plan is at 38 percent and is projected to grow to 45 percent over the next 40 years. This is a severely stressed plan. The rate of return for this plan to reach full funding requires 18 percent over the next 10 years and 12 percent over the next 20 years, an unreasonable expectation. This plan faces severe challenges, and investing to improve financial health is not possible. The plan will face liquidity constraints in the near future, making investments focused on active liquidity management and planning a priority.

The KERS non-hazardous plan has accrued liability of $11.6 billion and a 20 year projected growth to $13.1 billion. The assets of the plan are at $2.6 billion and are projected to grow to $4.2 billion over the next 20 years. The current deficit is $9 billion and will only reduce to $8.9 billion over the next 20 years. The payout ratio is at 36 percent with a 27 percent projected growth to a maximum of 54 percent in 2023. The annual employer contribution of $565 million is projected to increase to $1.4 billion. Mr. Sullivan said that the 36 percent payout ratio of the plan would imply that about one-third of assets would need to be sold each year to meet current obligations, assuming there were no contributions, which is prohibitively high. He noted that this is projected to grow rapidly to about 50 percent in 10 years before starting a decline in the latter part of the projection period because the funded ratio is projected to decrease in the next 12 years before beginning to improve and is a direct result of the funding policy and how it works. This plan would require a 25 percent rate of return to reach full funding in the next 10 years and 15 percent over the next 20 years, which are not reasonable expectations. If the assumed rate of return is not met over the next 20 years, the impact would cost the state over $400 million in additional monies. The stochastic summary reflects that there is very little probability of full funding over the next 20 years under any investment approach and there is a significant chance of being in worse condition than today and a probability of depleting assets during the projection period. The fund faces severe challenges with a shortfall of $9 billion. Investments would not significantly improve the financial health of the fund. The plan will face liquidity constraints in the near future. Investment in private equity will be difficult going forward. The plan has exposure in past investments in private equity and real estate and it is difficult for this plan to continue investment in these assets, which hurts the investment outcomes of the plan in the long term.

Responding to a question by Co-Chair Yonts, Mr. Sullivan indicated there are two ways to address the funding situation: 1) by large investment returns; and/or 2) more employees and higher contributions. Mr. Johnson indicated that there is a possibility that the plan would fall to a 15 percent funding ratio, which will increase over time, if allocation is properly done with liquidity in mind and consistent contributions. Mr. Sullivan noted that if the analysis was extended to 30 years the funded ratio would increase considerably, assuming full contributions, because the funding ratio will increase at a much greater rate in the latter rate as contributions compound and the amortization period reaches its end. However, if the actuarially required contributions are not made, it would have a great impact on the analysis and the funding ration of the plan.

In response to a question by Representative Thompson with regard to the reforms made in 2008, Mr. Sullivan stated that the changes in benefits in additional tiers would take a significant period of time to impact the overall funding of the plan because it only affects new employees. The split between the various tiers takes years to reflect any significant change on the plan.

Mr. Sullivan indicated that as it is structured today, they have started the process of lowering the amount of illiquid investment, which is a slow moving process. He said that major changes in the investment strategy were not required.

In response to Representative Linder, Mr. Sullivan stated the RVK uses 20 year projections for all its clients. The ultimate goal is to provide guidance in the asset allocation policy, which requires a long term view.

Responding to Representative Miller, Mr. Sullivan stated that the employee portion of the overall contribution rate in similar state plans varies between 10 and 25 percent, and that Kentucky is not considerably outside that contribution rate.

Responding to Representative Yonts, Mr. Johnson stated that the last six years the equity markets have been unprecedented, which have affected investment strategies that should have worked. Equity is the driver of risk in a portfolio and hedge funds help reduce that risk. He said the common denominator is the amount of volatility of the return over time to lower that risk. Over the recent years, hedge funds have not performed as expected, but in the long term they should help reduce the overall portfolio risk. Mr. Peden stated that KRS would be making some changes in its investment strategies. He said there is confusion around private equity and that KERS non-hazardous will not be investing in private equity and will be using the cash flow from those assets. He noted that private equity is a long term investment and KRS cannot invest for the long term anymore in the KERS non-hazardous because of liquidity concerns.

Representative Kay asked what the Legislature could do in the short term to improve the long term funding situation. Mr. Sullivan said that the only thing that could be done would be to make the annual required contribution each and every year. Mr. Thielen stated that an actuarial analysis was performed on this matter and even if the General Assembly contributed an additional amount over the annual actuarially required contribution it would not affect the fund until reaching a level of $5 billion, which would increase the fund from 21 percent funded to 58 funded. This is because the unfunded liability of the KERS non-hazardous plan is $9.8 billion.

The next meeting of the PPOB will be June 22, 2014, at 12:00 noon. All future meetings will be held on the fourth Monday of each month at 12:00 noon rather than 1:00 p.m.

There being no further business, the meeting adjourned at 4:10 p.m.

Copies of the PowerPoint presentations are on file in the Legislative Research Commission Library.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

May 20, 2015

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Wednesday, May 20, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Mike Wilson, 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; Senator Max Wise; Representatives Linda Belcher, John Carney, and Mary Lou Marzian.

Legislative Guest: Representative Derrick Graham.

Guests: Clyde Caudill, Kentucky Association of School Administrators; Sabrina Olds, Office of Education Accountability; and Gregory Chaney, Kentucky Association of Professional Educators.

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

Approval of December 10, 2014, Meeting Minutes

Upon motion from Representative James Kay and second by Senator Max Wise, the minutes were approved by voice vote.

Review of Administrative Regulations:

Kevin Brown, Associate Commissioner and General Counsel, Kentucky Department of Education (KDE), said 703 KAR 5:200, 703 KAR 5:225, and 703 KAR 5:240 are regulations that implement the assessment and accountability system pursuant to Senate Bill 1 (2009).

Rhonda Sims, Associate Commissioner, Office of Assessment and Accountability, KDE, explained the suggested amendments to administrative regulation 703 KAR 5:200 which establishes the assessment and accountability requirements for students. The summary of the suggested amendments is located in the committee meeting folders in the Legislative Research Commission (LRC) library.

In response to Representative John Carney's question regarding free and reduced lunch calculations, Ms. Sims said if a school has a certain level of students that receive free and reduced lunch, then that school can qualify to have all students on free and reduced lunch. For purposes of SEEK funding calculations, KDE asked schools to report if a student qualified for free and reduced lunch under the basic qualification rules. Mr. Brown said the Community Eligibility Program is very good service for certain school districts but the United States Department of Agriculture has very strict rules of how food service monies can be utilized.

In response to Representative Belcher's question regarding students with disabilities who do not qualify for alternate assessment being included in Gap groups, Ms. Sims said KDE reported and included any student with an Individualized Education Plan (IEP) along with any student who has a severe disability in Gap groups. These students have a special assessment with accommodations and are included in all accountability assessments.

In response to Chairman Mike Wilson's question regarding measurements of high school growth and end-of-course assessment, Ms. Sims said there is still a measure of growth from the tenth grade Plan test to the eleventh grade ACT test. The Explore assessment and Plan assessment will no longer be used after 2016. KDE will need to move forward with other options regarding end-of-course assessments.

In response to Senator Max Wise's question regarding testing measurements with dual credit and career and technical education, Ms. Sims said there are many measures regarding career and technical education that show the students' ability to be college and career ready. Career and technical education offers many industry certificates along with a state produced assessment. Mr. Brown said a dual credit task force was formed last year and finished their recommendations before the 2015 Regular Session.

In response to Representative John Carney's question regarding students with disabilities and assessments, Ms. Sims said the idea of using a text reader for students with disabilities was brought forth this year for around 3,000 students. A text reader gives a consistent reader for all students who qualify for a reader, and helps take pressure off schools finding people to be readers for students with disabilities.

In response to Chairman Mike Wilson's question regarding the calculation of graduation rates, Ms. Sims said low incident students who take an alternate assessment are not calculated favorably into the graduation rate. The federal guidelines for graduation rates are structured around a standard diploma and the guidelines do not recognize an alternate diploma.

In response to Representative Mary Lou Marzian's question regarding dropout age and the cohort graduation rate, Ms. Sims said the new dropout age should not have a negative effect on the cohort graduation rate.

Representative Mary Lou Marzian moved to accept the technical amendments to 703 KAR 5:200, and Representative James Kay seconded the motion. The motion carried by voice vote.

Ms. Sims explained the suggested amendments to administrative regulation 703 KAR 5:225 which establishes the statewide system of accountability, recognition, support, and consequences, and reportedly addresses waiver requirements of the U.S. Department of Education relating to the 20 U.S.C. 7861 (the No Child Left Behind Act of 2001). The summary of the suggested amendments is located in the committee meeting folders in the LRC library.

In response to Representative Derrick Graham's question regarding KDE's definition of improvement in relation to focus schools, Ms. Sims said improvement is defined by any focus school that has moved out of the bottom five percent, met the Annual Measurable Objective (AMO) for two years, and had any change in score by a tenth of a percent.

Representative John Carney moved to accept the technical amendments to 703 KAR 5:225, and Senator Max Wise seconded the motion. The motion carried by voice vote.

Ms. Sims and Mr. Brown explained the suggested amendments to administrative regulation 703 KAR 5:240 which provides definitions and procedures for schools, districts, and the state to use when assigning students and schools for purposes of the state-required assessment and accountability program. The summary of the suggested amendments is located in the committee meeting folders in the LRC library.

Representative Mary Lou Marzian moved to accept the technical amendments to 703 KAR 5:240, and Representative James Kay seconded the motion. The motion carried by voice vote.

Adjournment

With no further business before the committee, the meeting adjourned at 11:12 AM.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

June 3, 2015

Call to Order and Roll Call

The 4th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, June 3, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, and Dennis Parrett; Representatives, Tom McKee, Terry Mills, Ryan Quarles, and Jonathan Shell.

Legislative Guest: Representative Will Coursey.

Guests: Roger Thomas, Joel Neaveill, Bill McCloskey, Angela Blank, and Brian Murphy, Governor's Office of Agricultural Policy and Andrew Waters, Health Promotion Branch Manager, Department for Public Health.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The May 6, 2015 minutes were approved, by voice vote, upon motion by Rep. Quarles and second by Rep. McKee.

Governor's Office of Agricultural Policy

Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ADB) during its May meeting.

Mr. Neaveill discussed tobacco settlement funding allocations for the previous months under the County Agricultural Improvement (CAIP), Deceased Farm Animal, and Shared-use Equipment programs.

Mr. Neaveill and Mr. Thomas responded to several questions from Co-Chair Stone and Senator Gibson regarding tobacco settlement appropriations to counties. According to their testimony, a total of 118 counties receive the allocations by virtue of varying degrees of tobacco production in those counties prior to the passage House Bill 611 in the 2000 General Assembly. In their discussion, Mr. Neaveill described the formula created as a result of the bill which determines how much counties receive based on their "tobacco dependency" at the time. Mr. Neaveill indicated one factor used in the formula is adjusted each year, a county's total personal income.

Representative Stone observed, and the speakers agreed, that counties receiving the largest allocation of tobacco funds generally were the larger tobacco counties. Mr. Thomas pointed out that Robertson County, a small county in population and land area, was highly tobacco dependent in the early 2000s, and thus currently receives a substantial amount of tobacco settlement funds.

Mr. McCloskey turned to the board's approval of on-farm energy programs. A total of 38 applicants were approved for energy-saving projects throughout the state. Most of the applications came from poultry and dairy farmers. Responding to several committee members' questions, Mr. McCloskey said the board will consider whether to renew the program later this year. He said farmers may apply more than once, but there is a lifetime limit of $25,000 for the cost-share funds. Mr. Thomas noted the program has evolved, with grain farmers actively seeking funds early-on and currently, poultry and dairy farmers.

Mr. McCloskey summarized one project that was denied funding, Kentucky Welding Institute, Fleming County. He indicated a board committee reasoned there were opportunities for welding training at local Kentucky Community and Technical College System locations.

The GOAP representatives summarized two projects that received funding, Mason County Board of Education, $20,000 in Mason County funds to buy equipment at the high school to improve and expand instruction and knowledge in diversified production agriculture; and Pulaski County Board of Education, $64,058 in county funds to build and equip a greenhouse for the high school agriculture department.

Mr. McCloskey and Mr. Neaveill responded to Senator Parrett that in the past, no state funds were ever approved for greenhouse projects.

Tobacco Prevention and Cessation Program

Mr. Andrew Waters, Health Promotion Branch Manager, Department for Public Health, reported on the Tobacco Prevention and Cessation Program's use of tobacco settlement funds.

According to Mr. Waters' testimony, Kentucky's smoking rate is slowly declining as is the smoking rate for high school students. Outreach and education efforts included a booth at last year's Kentucky State Fair, a youth anti-tobacco endeavor at Bourbon County High School, a smoke-free policy instituted by a Northern Kentucky housing authority, the expansion of smoke-free public school campuses, continuing underage sales training for retailers, and local health department initiatives, such as nicotine replacement therapy, assistance to help expectant mothers to quit smoking, cessation marketing, and other health department anti-smoking promotions.

Mr. Waters told the committee that in FY 2015, nearly 90 percent of the tobacco settlement funds appropriated went to support cessation efforts in local communities.

Responding to Representative Stone, Mr. Waters indicated the tobacco cessation appropriation for FY 2015 totaled over $2.4 million. Appropriation amounts have declined through the years.

He responded to Representative McKee that, even in the face of declining funding, local health departments have managed to gain positive results in their cessation efforts. Responding further to Representative McKee, he said Kentucky is one of 48 states falling below Centers for Disease Control and Prevention recommended levels for funding tobacco usage prevention.

Documents distributed during the meeting are available with meeting materials in the LRC Library.

There being no further business, the meeting was adjourned.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

June 9, 2015

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, June 9, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julie Raque Adams; Representatives Jim Gooch Jr., Brad Montell, and Brent Yonts.

Guests: Paul Brooks, Charlie Harman, Hiren Desai, Jim Irwin, Cookie Crews, Hilary Dailey, Paul Gannoe, Jennifer Linton, Andy Barber, Eric Pelfrey, Veronica Cecil, and Alison Simpson.

LRC Staff: Kim Eisner, Daniel Carter, and Jarrod Schmidt

A motion was made by Representative Yonts to approve Minutes of the May 2015, meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Addition List. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Correction List. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Brenda Laurie Huntsman, 1500001902.

DENTISTRY, BOARD OF:

George Ted Georgacopoulos, 1500002104.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Nirbhay N Singh, 1500001683.

EASTERN KENTUCKY UNIVERSITY:

Mountjoy Chilton Medley, 16-080; McBrayer, McGinnis, Leslie & Kirkland, 16-086; Summit Engineering, Inc., 16-087; strAdegy Advertising, 16-088; Stoll Keenon Ogden, PLLC, 16-089; HEWV Architects, P.S.C, 16-090; Bowles Rice, LLP, 16-091; Hanna Resource Group, 16-092.

EDUCATION, DEPARTMENT OF:

Technical Training Aids, 1500002042; Career Cruising, 1500002195.

EDUCATIONAL TELEVISION, KENTUCKY:

Susan B. Hines-Bricker, 1500002170; Rex Hart Consulting, 1500002176; Rebecca F. Embry, 1500002177.

FINANCE AND ADMINISTRATION CABINET:

Wyatt Tarrant and Combs, LLP, 1500002166; Dinsmore & Shohl, LLP, 1500002167.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Myers Jolly Architects, 1500001832; Sherman Carter Barnhart, 1500001837; Murphy & Graves & Trimble, PLLC, 1500001840; PMA Consultants, LLC, 1500001866.

GOVERNORS OFFICE FOR TECHNOLOGY:

Columbia Telecommunications Corporation, 1500002155.

HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY:

Rosen Harwood, P.A., 1500002204.

INFRASTRUCTURE AUTHORITY:

Blue & County, LLC, 1500002145.

KENTUCKY HOUSING CORPORATION:

Lerner, Sampson & Rothfuss, 2015-2016:10; Septtimous Taylor, PSC, 2015-2016:12; Community Housing Partners Corporation, 2015-2016:13; Multi, 2015-2016:14; Crowe Horwath LLP, 2015-2016:15; BLX Group, LLC, 2015-2016:2; Caine Mitter & Associates, 2015-2016:3; IIWA, LLC, 2015-2016:4; Valbridge Property Advisors, 2015-2016:5; Goldberg Simpson, LLC, 2015-2016:6; Stierle and Rettig, PLLC, 2015-2016:7; McBrayer, McGinnis, Leslie & Kirkland, 2015-2016:8; McBrayer, McGinnis, Leslie & Kirkland, PLLC, 2015-2016:9; Winifred K. Smith, 2015-26; Hanna Resource Group, 2016:12.

KENTUCKY LOTTERY CORPORATION:

Hudson Alley Software, Inc., 16-04-073; Commonwealth Radio Reports, 16-08-002; PriceWeber Marketing Communications, Inc., 16-08-043; GTECH Corporation, 16-10-001; PDT Communications, Ltd., 16-10-027; Software Information Systems, LLC, 16-10-053; Valenti, Hanley & Robinson, PLLC, 16-11-037-1; Smartplay International, Inc., 16-12-011; Affiliated Forensic Laboratory, Inc., 16-12-019-2; Gaming Laboratories International, LLC, 16-14-035; Kizan Technologies, LLC, 16-14-045.

MOREHEAD STATE UNIVERSITY:

Dean Dorton Allen Ford, PLLC, 16-001.

MURRAY STATE UNIVERSITY:

Multi, 001-16.

NURSING, BOARD OF:

Judy C. Amig, 1500002266.

OFFICE OF INSPECTOR GENERAL:

Amda-society for Post-acute and Long-term Care Medicine, Incorporated, 1500001426.

PERSONNEL-OFFICE OF THE SECRETARY:

Cannon Cochran Management Services, Inc., 1500002119.

POST SECONDARY EDUCATION, COUNCIL ON:

Blue & County, LLC, 1500001936; Tripp Umbach Healthcare, 1500001957.

TRANSPORTATION CABINET:

QK4, 1500001965; URS Corporation, 1500002121; Bacon Farmer Workman Engineering & Testing, Inc., 1500002134; HMB Professional Engineers, Inc., 1500002143; URS Corporation, 1500002149; Palmer Engineering County, 1500002150; QK4, 1500002151; Integrated Engineering, 1500002153; American Engineers, Inc., 1500002154; HDR Engineering, Inc., 1500002157; Integrated Engineering, 1500002236; Lochner H W Incorporated Consulting, 1500002238; Palmer Engineering, 1500002566.

UNIVERSITY OF KENTUCKY:

Sherman Carter Barnhart, A151230; Facility Commissioning Group, A151250; Witt Keiffer, K15-245; RuffaloCODY, K15-246; Affiliated Engineers, Inc., K15-247; Huron Consulting Services, LLC, K15-248; RVK, Inc., K16-101; Academic Leadership Associates, LLC, K16-102; Cornett Integrated Marketing Solutions, K16-103; Economic Research Services d/b/a ERS Group, K16-104; Sturgill, Turner, Barker & Moloney, PLLC, K16-105; Stidham & Associates, PSC, K16-106; Stoll Keenon Ogden, PLLC, K16-107; Kriz, Jenkins, Prewitt & Jones, K16-108; Walther, Gay & Mack f/k/a Walther, Roark and Gay, K16-109; Danny Corales, MD, K16-110.

UNIVERSITY OF LOUISVILLE:

CMTA Engineers, Inc., 15-134.

WESTERN KENTUCKY UNIVERSITY:

Crowe Horwath, LLP, 151601; Multi, 151602; Encompass Digital Media, Inc., 151604; Stokes Production Services, Inc., 151605.

WORKFORCE INVESTMENT, OFFICE OF:

Cell Staff, LLC, 1500001890

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Big Brothers Big Sisters of Kentuckiana, Inc., 1400002405; Transitions, Inc., 1400002504.

DENTISTRY, BOARD OF:

Brian Fingerson RPH, Inc., 1500000256.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Rescare, Inc., 1400003819; Crisis Prevention Institute, 1500001018.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Stantec Consulting Services, Inc., 1000001351.

DEPARTMENT FOR INCOME SUPPORT:

Lifesafe Services, LLC, 1500000034.

DEPARTMENT FOR PUBLIC HEALTH:

Kentucky Hospital Research & Education Foundation, 1400001125; Kentucky Pharmacists Association, 1400001126.

EASTERN KENTUCKY UNIVERSITY:

MGT of America, Inc., 16-003.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:

Finn Weisse, 1400003121.

EDUCATIONAL TELEVISION, KENTUCKY:

Vince Spoelker, 1400002554.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Lucas Schwering Architects, 1200001461; Shrout Tate Wilson Consulting, 1200002462; Stantec Consulting Services, Inc., 1300002153; Amec Foster Wheeler Environment & Infrastructure, Inc., 1300002184; Omni Architects, 1400001237; Bowser Morner Associates, Inc., 1500001064.

KENTUCKY STATE UNIVERSITY:

ERP Analysts, Inc., 15-20.

MILITARY AFFAIRS, DEPARTMENT OF:

Thomas P. Pendleton, Jr., 1400003712; Robert D. Cooley, 1500000792.

MURRAY STATE UNIVERSITY:

Sherman Carter Barnhart, PSC, 010-15; Sherman Carter Barnhart, PSC, 012-15; Multi, 014-15; McGrath Consulting Group, Inc., 021-15; Thurman Campbell Group, PLC f/k/a Martin, Colson, Hale & Henderson, 105-15; Haverstock Bell & Pittman, LLP, 106-15.

TRANSPORTATION CABINET:

GRW Engineers, Inc., 0600002125; Burgess and Niple, Inc., 0700003887; J M Crawford & Associates, Inc., 1000001094; Palmer Engineering County, 1100001196; URS Corporation, 1100002324; HDR Engineering, Inc., 1100002338; HMB Professional Engineers, Inc., 1200000964; J. M. Crawford & Associates, 1200001090; HDR Engineering, Inc., 1200002612; Cultural Resource Analysts, Inc., 1200003583; HMB Professional Engineers, Inc., 1200003738; J. M. Crawford & Associates, Inc., 1300000071; Vaughn & Melton Consulting Engineers (Kentucky), Inc., 1300000211; E. A. Partners, PLC, 1300001430; Burgess and Niple, Inc., 1300001653; Stantec Consulting Services, Inc., 1300001683; URS Corporation, 1300001719; HDR Engineering, Inc., 1300001736; Parsons Brinckerhoff, Inc., 1300001909; GRW Engineers, Inc., 1300002177; HMB Professional Engineers, Inc., 1300002470; THE Engineers, Inc., 1400000223; HDR Engineering, Inc., 1400000573; Lochner H. W. Incorporated Consulting, 1400000808; WMB, Inc., 1400001260; David P. Schoepf Associates, 1400001377; Baptist Physicians Lexington, Inc., 1400002436; GRW Engineers, Inc., C-99004860-4.

UNIVERSITY OF KENTUCKY:

Lawrence J. Miller, 020; Ross Tarrant Architects, A131090; Stengel-Hill Architecture, A151150.

UNIVERSITY OF LOUISVILLE:

BKD, LLP, 15-006; Marleeta Harris, 15-093.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Commonwealth of Kentucky Personnel, 1500002383.

CORRECTIONS, DEPARTMENT OF:

Boyle County Detention Center, 1500001460; Breckinridge County Jail, 1500001461; Daviess County Detention Center, 1500001553; Grayson County Jailer, 1500001568; Hardin County Jail, 1500001570; Marion County Jail, 1500001618; Mason County Detention Center, 1500001644; Shelby County Detention Center, 1500001661; Henderson County Jail, 1500001771; Powell County Fiscal Court, 1500001772; Oldham County Public Library, 1500001911.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Eastern Kentucky University, 1500001876; Eastern Kentucky University, 1500001877; University of Louisville, 1500001878.

DEPARTMENT FOR NATURAL RESOURCES:

Rowan County Fiscal Court, 1500002139.

EDUCATION, DEPARTMENT OF:

Multi, 1500001873; Floyd County Board of Education, 1500001954; KCTCS, 1500001976; Grant County Board of Education, 1500001982; NKU Research Foundation, 1500001983; University of Louisville Research Foundation, 1500001985; Murray State University, 1500001986; VSA Arts of Kentucky, 1500001992; Eastern Kentucky University, 1500001996; University of Kentucky Research Foundation, 1500002026; University of Kentucky Research Foundation, 1500002027; University of Kentucky Research Foundation, 1500002031; University of Kentucky Research Foundation, 1500002037; University of Kentucky Research Foundation, 1500002115; Ashland Independent Board of Education, 1500002206; Berea Independent Board of Education, 1500002207; Calloway County Board of Education, 1500002208; Simpson County Board of Education, 1500002209.

INFRASTRUCTURE AUTHORITY:

City of Sebree, 1500002419.

KENTUCKY HOUSING CORPORATION:

University of Kentucky Research Foundation Center for Drug and Alcohol Research, FY2016-UK.

MILITARY AFFAIRS, DEPARTMENT OF:

Oldham County EMA, 1500001780.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Jackson County Fiscal County, 1500002019; Shelby County Fiscal Court, 1500002045; Knott County Fiscal Court, 1500002140; City of West Liberty, 1500002217; City of Mckee, 1500002283; Union County Fiscal Court, 1500002324.

OFFICE OF THE KENTUCKY HEALTH BENEFIT EXCHANGE:

Department of Insurance, 1500001641.

PERSONNEL-OFFICE OF THE SECRETARY:

Kentucky State Police, 1500002181.

POST SECONDARY EDUCATION, COUNCIL ON:

Spalding University, 1500002041; Murray State University, 1500002290.

WORKFORCE INVESTMENT, OFFICE OF:

Idaho Department of Labor, 1500002144.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001216; Multi, 1500001218.

ATTORNEY GENERAL, OFFICE OF THE:

Childrens Advocacy Center, 1400003479; Judi's Place for Kids, 1400003487; Kentucky Association of Child Advocacy Centers, 1500000268.

BOARD OF LICENSURE FOR PRIVATE INVESTIGATORS:

Occupations and Professions, 1400001254.

CORRECTIONS, DEPARTMENT OF:

University of Kentucky Research, 1400001441; Seven Counties Services, Inc., 1400001832; Kentuckianaworks, 1400001929.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1400001066; Multi, 1400001156; Multi, 1400001157; Multi, 1400001159; Multi, 1400001161;

Multi, 1400001168; Multi, 1400003278.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Four Rivers Behavioral Health, 1400000851; Pennyroyal Mental Health, 1400000852; Green River Regional Mental Health Mental Retardation Board d/b/a Rivervalley Behavior, 1400000853; Lifeskills, Inc., 1400000854; Communicare, Inc., 1400000855; Seven Counties Services, 1400000856; Northern Kentucky Regional Mental Health Mental Retardation Board, 1400000857; Comprehend, Inc., 1400000858; Pathways, Inc., 1400000859; Mountain Comp Care Center, 1400000860; Kentucky River Community Care, 1400000861; Cumberland River Behavioral Health, Inc., 1400000862; Lake Cumberland Mental Health Mental Retardation Board, 1400000863; Bluegrass Regional Mental Health Mental Retardation, 1400000864; New Beginnings Bluegrass, Inc., 1400000883; Eastern Kentucky University, 1400000885; Pennyroyal Regional Mental Health Mental Retardation Board, 1400000979; University of Kentucky Research Foundation, 1400000994; Nami Kentucky, 1400001275; Nami Lexington (Kentucky), Inc., 1400001276; Kentucky Partnership for Families and Children, Inc., 1400001307; Kentucky Partnership for Families and Children, Inc., 1400001307; Department of Education, 1400002553; Chestnut Health Systems, Inc., 1400002831; Wellspring, Inc., 1500000903.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentuckianaworks, 1400001473.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Multi, 1400002107; Multi, 1400002108; Jefferson County Board of Education, 1400002109; Multi, 1400002110; Multi, 1400002111; Multi, 1400002112; Multi, 1400002113; Multi, 1400002114; Multi, 1400002115; Multi, 1400002116; Multi, 1400002117.

DEPARTMENT FOR INCOME SUPPORT:

South Carolina of Social, 1400000953.

DEPARTMENT FOR NATURAL RESOURCES:

University of Kentucky Research Foundation, 1500000347.

DEPARTMENT FOR PUBLIC HEALTH:

University of Kentucky Research Foundation, 1500000417; University of Kentucky Research Foundation, 1500000420.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Franklin County Public Schools, 1500000463.

EDUCATION, DEPARTMENT OF:

Perry County Board of Education, 1400002466; Jefferson County Board of Education, 1400002535; Shelby County Board of Education, 1400002706; Trustees of Indiana University, 1400003727; Taylor County Board of Education, 1400003747; Franklin County Board of Education, 1500000028; KCTCS KCTCS, 1500000504; University of Kentucky Research Foundation, 1500000650; Western Kentucky University, 1500001173.

INFRASTRUCTURE AUTHORITY:

Big Sandy Area Development District, 1500000171.

KENTUCKY ASSOCIATION OF DIABETES EDUCATORS:

Occupations and Professions, 1400001178.

KENTUCKY RIVER AUTHORITY:

Bluegrass Water Supply Commission, 1400002099.

NURSING HOME ADMINISTRATORS, BOARD OF LICENSURE FOR:

Occupations and Professions, 1400001221.

OFFICE OF INSPECTOR GENERAL:

Kentucky Board of Nursing, 1500001419.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Cynthiana, 0800010040; City of Morgantown, 1100000301; Lewis County Fiscal Court, 1300000660; City of Sturgis, 1300000811; City of Nicholasville, 1300000905; Clinton County Fiscal Court, 1300001292; City of Edmonton, 1300001364; Henderson County Fiscal Court, 1300001434; Perry County Fiscal Court, 1300001539; Webster County Fiscal Court, 1300001857; Meade County Fiscal Court, 1300001952; City of Winchester, 1300002227; City of Tompkinsville, 1300002293; City of Gamaliel, 1300002297; City of Grand Rivers, 1300002408; City of Sebree, 1300002502; Jackson County Fiscal County, 1300002523; Kenton County Fiscal Court, 1300002647; Green County Fiscal Court, 1300002825; City of Grand Rivers, 1400000047; City of Trenton, 1400000508; USDA Forest Service, 1400000719; Bell County Fiscal Court, 1400000812; Menifee County Fiscal Court, 1400002625; Purchase Area Housing Corporation, 1400003253; Wayne County Fiscal Court, 1500000338; City of Benton, 1500000362; Magoffin County Fiscal Court, 1500000364; Union County Fiscal Court, 1500001020; City of Murray, 1500001376.

OFFICE OF THE KENTUCKY HEALTH BENEFIT EXCHANGE:

Department of Insurance, 1400001924.

OPHTHALMIC DISPENSERS, BOARD OF:

Occupations and Professions, 1400001222.

TRANSPORTATION CABINET:

Kentucky State University, 1400003205; Buffalo Trace Covered Bridge Authority, 1400003755.

WORKFORCE INVESTMENT, OFFICE OF:

Pennyrile Area Development District, 1400002826.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

TRK, Ltd., 1500001924. Paul Brooks discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

The Bagley Group, LLC, 1500001943. Paul Brooks discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

EDUCATION, DEPARTMENT OF:

Greenwood/Asher & Associates, Inc., 1500002174. Charlie Harman and Hiren Desai discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF:

Correct Care Solutions, LLC, 1400002555. Jim Irwin, Cookie Crews, and Hilary Dailey discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

John L Carman and Associates, Inc. Paul Gannoe and Jennifer Linton discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

Omni Architects, 1500000941. Paul Gannoe and Jennifer Linton discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Gooch seconded the motion, which passed.

TRANSPORTATION CABINET:

Community Transportation Solutions, 0900012152. Andy Barber and Eric Pelfrey discussed the contract with the committee. A motion was made by Representative Horlander to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR MEDICAID SERVICES:

University of Louisville Research Foundation, 1400002206. Veronica Cecil and Alison Simpson discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

MAY 2015 DEFERRED ITEMS

UNIVERSITY OF KENTUCKY:

DevObal Technologies, Inc., K15-237. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed.

STATE POLICE, DEPARTMENT OF:

Diamondback Specialized CMV Training, LLC, 1500001594. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed.

EXEMPTION REQUEST:

THE DEPARTMENT FOR JUVENILE JUSTICE:

The Department for Juvenile Justice requested an exemption from the committee's routine review process for emergency governmental services and unanticipated or specialized medical care of youth. A motion was made by Representative Yonts to grant the request to June 30, 2016. Representative Horlander seconded the motion, which passed without objection.

With no further business before the committee, the meeting was adjourned at 10:50 a.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the June Meeting

June 9, 2015

Call to Order and Roll Call

The June meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, June 9, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; and Representative Denver Butler.

Guests: Travis Powell, Council on Postsecondary Education; Maryellen Allen, Lynn Zellen, State Board of Elections; Kendy Parks, Department of Revenue; Karalee Oldenkamp, Board of Chiropractic Examiners; Ann Tyler Morgan, Charles O'Neal, Board of Emergency Medical Services; Tim Arnold, Department of Public Advocacy; John Cummings, Parole Board; Amy Barker, Department of Corrections; Elena Butler, Ann D'Angelo, Bill Gorton, Troy Hearn, Ryan Halloran, Catherine McBride, Jason Ramler, Rick Taylor, Lynn Soporowski, Jeff Tipton, Erik Wright, Transportation Cabinet; James Cundy, Wayne Onkst, Barbara Teague, Department for Libraries and Archives, John Alexander, Tammy Scruggs, Jessica Sharpe, Charles Vic, Department of Financial Institutions; Jamie Eads, Marc Guilfoil, Katherine Paisley, Horse Racing Commission; Elizabeth Caywood, Virginia Carrington, Department of Community Based Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, June 9, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions

13 KAR 2:045 & E. Determination of residency status for admission and tuition assessment purposes. Travis Powell, general counsel, represented the council.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; and (2) to amend Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:010. General Administrative Forms Manual. Kendy Parks, internal policy analyst II, represented the department.

In response to a question by Co-Chair Harris, Ms. Parks stated that new forms, which in some cases seemed duplicative, were necessary because two (2) new data systems required information to be submitted in a specific way.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Chiropractic Examiners: Board

201 KAR 21:090 & E. Prechiropractic education requirements. Dr. Karalee Oldenkamp, executive director, represented the board.

In response to a question by Co-Chair Harris, Dr. Oldenkamp stated that this administrative regulation mimicked the national organization's changes. This administrative regulation, before amendment, referred to specific coursework that conflicted with the national requirements. Exceptions were previously granted so that Kentucky students could take the test, but those exceptions did not mean the students were eligible for licensure in Kentucky. The authorizing statute required graduation from a college accredited by the Council on Chiropractic Education; therefore, the specific coursework requirements were redundant to the statute and in conflict with the national organization's requirement. The redundancy and conflicts were deleted.

Kentucky Community and Technical College System: Board of Emergency Medical Services: Board

202 KAR 7:701. Scope of practice matters. Anne – Tyler Morgan, counsel, and Charles O'Neal, deputy executive director, represented the board.

In response to questions by Co-Chair Harris, Mr. O'Neal stated that this administrative regulation was related to recent legislation pertaining to heroin abuse. If bystanders were authorized to administer Naloxone, EMS personnel should be trained and prepared to administer Naloxone as well. Ms. Morgan stated that, if new drugs with similar uses became available, this administrative regulation would be amended to include those specific drugs and to establish the specific training for administration of those drugs.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 11 to add a document to the list of items incorporated by reference. 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. Corrections policies and procedures. Amy Barker, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend CPP 3.14, 5.3, 9.4, 14.6, 17.1, and 17.2 to: (a) correct citations; and (b) comply with the drafting requirements of KRS Chapter 13A; (2) to amend CPP 10.2, 13.13, and 18.3 to: (a) add citations; (b) include additional definitions; and (c) clarify procedures; and (3) to amend Section 1 to update the edition dates for the revised policies. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Carriers: Motor Vehicle Tax

601 KAR 9:135. Appointed registration. Ann D'Angelo, assistant general counsel; Rick Taylor, deputy commissioner; and Jeff Tipton, administrative branch manager, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3, 4 through 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 12 to add the IRP Audit Assistance manual to the list of documents incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Bicycle and Bikeways Commission: Office of the Secretary: Motorcycle and Bicycle Safety

601 KAR 14:020. Bicycle safety standards. Ann D'Angelo, assistant general counsel; Rick Taylor, deputy commissioner; and Bill Gorton, commission chair, represented the commission. Eric Wright, assistant Jessamine County attorney, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair Harris, Mr. Wright stated that a provision in Section 7(1)(a) of this administrative regulation was in conflict with KRS 189.300. KRS 189.300 required slower vehicles to keep to the right. The conflict centered on the use of "highway" versus "roadway" in the statute and administrative regulation. Section 7(1)(a) of this administrative regulation stated that "Where bicycle travel on shoulders is permitted, it shall not be required." The commission, Mr. Wright, and the subcommittee agreed to an oral amendment to delete the sentence.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend Sections 1, 5, and 7 to: (a) clarify requirements; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 7(1)(a) to delete the sentence "Where bicycle travel on shoulders is permitted, it shall not be required." Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department for Libraries and Archives: Archives and Records Management Division: Archives

725 KAR 1:061. Records retention schedules; authorized schedules. James Cundy, branch manager; Wayne Onkst, commissioner; and Barbara Teague, division director, represented the division.

In response to questions by Co-Chair Harris, Ms. Teague stated that LRC had a retention schedule, and this administrative regulation did apply to LRC as well as other agencies. The department welcomed input from state agencies on needed updates to the retention schedules.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: Division of Non-Depository Institutions: Consumer Loans

808 KAR 6:015. Licensure application; annual report. Charles Vice, commissioner; John Allender, staff attorney; and Tammy Scruggs, division director, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend the STATUTORY AUTHORITY paragraph and Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 6:105. Records required.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:090. Kentucky thoroughbred development fund. Jamie Eads, division director; Marc Guilfoil, director of racing; and Katherine Paisley, deputy general counsel, represented the commission.

In response to questions by Co-Chair Harris, Ms. Paisley stated that racetracks received the financial benefit from excess thoroughbred development fund money, which allowed for funding of the purses and had a positive impact on various economies.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:045. Issuance procedures. Elizabeth Caywood, internal policy analyst IV, and Virginia Carrington, director, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Carrington stated that this administrative regulation would improve selection for the participants by distributing items more evenly over a longer time period. For instance, fruits and vegetables could be stocked throughout the month and participants shopping later in the month would have access to fresh produce.

In response to a question by Senator Kerr, Ms. Carrington stated that a recent letter from the USDA regarding Kentucky being out of compliance was regarding hearings related to potential fraud. That letter did not apply to this administrative regulation.

The following administrative regulations were deferred to the July 14, 2015, meeting of the Subcommittee:

KENTUCKY STATE BOARD OF ELECTIONS: Statewide Voter Registration

31 KAR 3:040. Electronic Voter Registration System. Maryellen Allen, executive director, and Lynn Zellen, general counsel, represented the board.

In response to questions by Senator Kerr, Ms. Zellen stated that these administrative regulations were authorized by the board's general authority to promulgate methods for voter registration. Statutory deadlines and eligibility requirements applied to electronic voter registration, and the system was commensurate with the system already in place for absentee registration for voters serving in the armed forces. Personal identifying information would be entered into the computer system, which may be optimized for use with mobile devices. The data would be forwarded to the applicable county clerk's office and compared with data already established. The voter signature would be accomplished by using the driver's license signature already on file with the Transportation Cabinet. Fraud risk was mitigated by existing perjury penalties, which were the same for paper and electronic voter registration.

In response to a question by Representative Butler, Ms. Allen stated that the personal data match requirements were the same for paper and electronic voter registration.

In response to a question by Co-Chair Harris, Ms. Zellen stated that the nonpartisan council supported, but did not propose, legislation during the 2015 Regular Session of the General Assembly to establish explicit authority for electronic voter registration. Twenty-seven (27) states already had a similar system, and there was insufficient time before the next presidential election to pursue the legislative process again. These administrative regulations would make voter registration easier for voters and less costly for the state. In response, Co-Chair Harris stated that, while the provisions of these administrative regulations may be necessary, implementing failed legislation via administrative regulations seemed problematic.

Senator Clark stated that the proposed legislation may have been developed independently of the board.

Ms. Zellen requested deferral of this administrative regulation and 31 KAR 4:120 to the July 14 meeting of the subcommittee. Without objection, and with agreement of the agency, these administrative regulations were deferred.

Forms and Procedures

31 KAR 4:120. Additional and emergency precinct officers.

GENERAL GOVERNMENT CABINET: Board of Hairdressers and Cosmetologists: Board

201 KAR 12:083. Educational requirements.

201 KAR 12:110. School license.

Board of Medical Imaging and Radiation Therapy: Board

201 KAR 46:070. Violations and enforcement.

JUSTICE AND PUBLIC SAFETY CABINET: Parole Board: Board

501 KAR 1:080. Parole Board policies and procedures. John Cummings, attorney, represented the board.

In response to a question by Representative Butler, Mr. Cummings requested that the board be allowed to defer this administrative regulation to the July 14 meeting of the subcommittee in order to address stakeholder concerns regarding risk and needs assessment provisions. Without objection, and with agreement of the subcommittee, this administrative regulation was deferred to the July 14 meeting of the subcommittee.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Carriers: Motor Carriers

601 KAR 1:112 & E. Transportation network company.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Public Health Protection and Safety: Sanitation

902 KAR 10:022. Repeal of 902 KAR 10:020 and 10:021.

Health Services and Facilities

902 KAR 20:091. Facilities specifications, operation and services; community mental health center.

902 KAR 20:180. Psychiatric hospitals; operation and services.

902 KAR 20:320. Level I and Level II psychiatric residential treatment facility operation and services.

902 KAR 20:400. Limited services clinics.

Food and Cosmetics

902 KAR 45:011. Repeal of 902 KAR 45:010, 45:030, 45:040, 45:050, 45:060, and 45:130.

Department for Medicaid Services: Division of Community Alternatives: Medicaid Services

907 KAR 1:045 & E. Reimbursement provisions and requirements regarding community mental health center services.

Division of Policy and Operations: Medicaid Services

907 KAR 1:046. Community mental health center primary care services.

Psychiatric Residential Treatment Facility Services and Reimbursement

907 KAR 9:010. Reimbursement for non-outpatient Level I and Level II psychiatric residential treatment facility services.

The Subcommittee adjourned at 2:02 p.m. until July 14, 2015, at 1 p.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

June 11, 2015

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, June 11, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order. He recognized Senator West and Representative Couch as new members of the committee. The secretary called the roll.

Present were:

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

Guests: Robert Gunter, Finance Director, City of Henderson; Ronnie Bastin, Commissioner of Public Safety, Bill O'Mara, Commissioner of Finance and Administration, and Scott Shapiro, Senior Advisor to the Mayor, Lexington-Fayette Urban County Government.

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

Minutes for December 16, 2014 and February 13, 2015

Upon motion by Senator McDaniel and second by Senator Seum, the minutes for the December 16, 2014, and February 13, 2015, meetings were approved by voice vote, without objection.

Staff Report: *Local Defined-Benefit Pension Plans In Kentucky*

Greg Hager presented the report, which covers local defined-benefit plans other than the County Employees Retirement System (CERS).

House Bill 398 closed local defined-benefit pension plans to new enrollees in 1988. Members of existing plans could switch to CERS or remain with their plans. First class cities and urban county governments were given the option to have plans outside of CERS. The first class city, Louisville, has its employees, police, and firefighters in CERS. The Lexington-Fayette Urban County Government maintains its local plan for police and firefighters. It is the one remaining local defined benefit plan open to new enrollees. The 29 other local defined-benefit plans that remain are closed to new enrollees.

There is nothing in statute to indicate state financial responsibility for local defined-benefit plans other than for CERS. Statute does specify an inviolable contract between employees and cities for some employee plans, but not for police and firefighter plans.

Statute requires that there be an actuarial evaluation of a local defined-benefit plan at least once every 3 years. Program Review staff verified that most plans are doing reports in a timely fashion but most are not sending the reports to LRC as required. Statute also requires that cities with defined-benefit pension plans contribute annually to adequately fund the plan. Other statutory requirements vary depending on the city classification and whether it is a plan for employees or police and firefighters. For most types of plans, statute defines who is on the governing board of the plan. For second, third, and fourth class police and firefighter plans, statute specifies that there be one retired police officer and one retired firefighter on the board. If there is a specified number of active members of the plan, there shall also be one active police officer and one active firefighter on the board. If all remaining active members are from the same department, that department gets two representatives. There is no such contingency for retired members. A more general issue is that as the number of retirees and beneficiaries in a plan declines, there may not be any of them who are able or willing to serve on the governing board. If so, the governing board could be as small as two local officials.

The first recommendation of the report is that the General Assembly may wish to consider revising statutes related to the composition of governing boards of police and firefighter plans of second, third, and fourth class cities.

Statute may also establish employee contributions, benefits, minimum service time and age for retirement, reporting to the city, cost-of-living adjustments (COLA), and who qualifies as a beneficiary of a retiree. Depending on the type of plan, a beneficiary can be a surviving spouse, a minor child, and/or dependent parents.

The 29 plans closed to new enrollees are the plans for Louisville police; for Louisville firefighters; for police and firefighters in Ashland, Bowling Green, Corbin, Covington, Danville, Fort Thomas, Frankfort, Glasgow, Hazard, Henderson, Hopkinsville, Madisonville, Mayfield, Murray, Newport, Owensboro, Paducah, Richmond, and Winchester; and for other employees in Ashland, Covington, Franklin, Henderson, Lexington-Fayette County, Newport, Owensboro, and Paducah. The 29 closed plans have 1,093 retirees and beneficiaries. Four closed plans each have one active employee. The other plans have no active employees. The Louisville plans each have more than 150 retirees and beneficiaries. Eighteen of the plans have 30 or fewer retirees and beneficiaries, including six plans with fewer than 10. The Lexington-Fayette County police and firefighter plan has 1,097 active members and 1,070 retirees and beneficiaries. So, overall for the 30 plans, there are 2,163 retirees and beneficiaries, nearly one-half of whom are in the one plan accepting new enrollees.

The Mayfield police and firefighter plan is the only closed plan for which the average age of retirees and beneficiaries is less than 70. Average age for the other closed plans ranges from 71 to 81. Two-thirds of retirees and beneficiaries of closed plans that reported on age are at least 75. The average age of retirees and beneficiaries of the Lexington-Fayette police and firefighter plan is 63.

For 14 of the 29 closed plans, the average pension is between $15,000 and $20,000. Five plans have an average pension of less than $10,000 and five have an average pension of more than $20,000. The average pension for Lexington-Fayette County police and firefighters is more than $50,000.

Five of the closed plans are at approximately 100 percent funded or greater. Seven closed plans are 65 percent to 75 percent funded. The open Lexington-Fayette police and firefighters plan is 76 percent funded. Seventeen closed plans have funded ratios of less than 65 percent. This includes six plans with funded ratios of less than 5 percent. In practice, these are pay-as-you-go plans. For nine closed plans, the actuarial reports showed the projected benefits for many years. Benefits are predicted to decline for each of these plans.

Five cities have issued bonds to finance pension liabilities. Over a 3-year period, Lexington-Fayette County issued more than $136 million in bonds to fund its police and firefighter pension plan. Covington, Newport, Owensboro, and Paducah issued bonds to finance plans closed to new enrollees.

For the Lexington-Fayette County police and firefighter plan, the city's required contribution and pension bond payments represent 9.4 percent of local general fund revenue in FY 2014. For 19 of 22 localities with closed plans, the annual required contribution plus any pension bond payment represents less than 4 percent of general fund revenue. This includes nine cities for which the percentage is 1 or less. The three cities with required payments of approximately 5 percent or more are Corbin (4.8 percent), Hazard (7.3 percent), and Mayfield (9.7 percent).

An issue for the closed plans, in the near future for some, is that at some point there will be no retirees and beneficiaries for whom benefits have to be paid. Statute covers repeal of Fourth Class police and firefighter plans, which applies to only 3 of the 29 closed plans.

Recommendation 2 is that the General Assembly may wish to revise statutes governing local defined-benefit pension plans to establish procedures for the repeal of plans with no retirees and beneficiaries.

Before plans have no retirees and beneficiaries, their numbers will decrease to the point that there will only be a few of them. When a plan has such few members receiving benefits, it is feasible that the cost of the plan will be manageable by the city regardless of the pension fund's actuarial status. Given this, it may be advisable for the statutory reporting requirement to take the status of the plan into account. Having an actuarial study done every 3 years may not be worthwhile for all local pension plans.

Recommendation 3 is that the General Assembly may wish to consider revising the timing of actuarial reports as specified in KRS 65.156.

Senator McDaniel asked how the issuance of bonds has worked out. Mr. Hager said that he could provide details on this, but that he recalled that one locality issued a bond to make investments just before the stock market crash of 2008. In response to other questions from Senator McDaniel, Mr. Hager said that for most plans state statutes do not provide for a fund's balance to revert to the locality's general fund as the amount needed to support its remaining retirees or beneficiaries diminishes. For plans with very few retirees and beneficiaries, meeting the statutory requirement of doing an actuarial report every three years may not be cost effective.

In response to a question from Senator West, Mr. Hager said there are no statutory penalties for local defined-benefit pension plans that fail to submit actuarial reports to LRC. There are no statutory penalties for localities that do not make the required contributions to their local defined-benefit pension plans. However, for some types of plans, COLAs can only be provided if the plan is funded at a specified level.

In response to a question from Representative Mills, Mr. Hager said that statute only provides for reversion of fund balances to the locality's general fund upon repeal for one type of plan.

In response to a question from Senator Seum, Mr. Hager said that the Commonwealth does not have financial responsibility for local defined-benefit pension plans except for CERS.

Robert Gunter of the City of Henderson appeared before the committee.

Mr. Gunter agreed with recommendations 1 and 2. He said that it is difficult to obtain responses from retirees to ballots for governing board members. He would like to see the General Assembly revise statutes related to the composition of governing boards. City of Henderson officials' understanding had been that any leftover funding reverted to the state. Recommendation 3 is not yet relevant for Henderson. He would like to see procedures established in statute for the repeal of plans with no retirees and no beneficiaries. Mr. Gunter also noted that the City of Henderson now sends actuarial reports to the LRC and also posts the reports on the city website.

In response to a question from Senator Clark, Mr. Gunter clarified that funds remaining after a locality repeals its plan should revert to the locality's general fund, not that of the state.

Scott Shapiro, Bill O'Mara, and Ronnie Bastin of the Lexington-Fayette Urban County Government appeared before the committee.

Mr. Shapiro said that Lexington's police and firefighter pension system had spiraled out of control. The annual required contribution for the fund had quadrupled from 2000 to 2012, from $7 million to $29 million, with $37 million projected for 2013. This happened despite the issuance of more than $130 million in pension bonds, which contributed to Lexington-Fayette County hitting its bond ceiling. As a share of general fund revenue, the cost of the police and firefighter plan and for local employees in CERS increased from 7 percent in 2000 to 22 percent in 2012.

Pension benefit changes and a guarantee of more money from the city took the unfunded liability from $296 million to $161 million. The changes included lowering the range of COLAs from 3-5 percent to 0-2 percent, increasing the employee contribution from 11 percent to 12 percent, and increasing required service time for new hires from 20 to 25 years and reducing their benefit formula. By statute, Lexington-Fayette County must pay at least $20 million per year to the police and fire pension fund.

He summarized how the reform of the system will affect liability and annual required payments over time. The result is that the city will be able to pay down the liability over the next 30 years with no more bonding. This makes the fund sustainable and affordable, while maintaining a dignified retirement for policemen and firefighters.

Representative Palumbo thanked those who worked to produce the agreement to put the pension plan on a sound financial footing that was fair to police and firefighters.

In response to questions from Senator Seum, Mr. Shapiro said that the number of years new enrollees must serve to be eligible for full pension benefits was increased from 20 to 25. They did not extend the requirement beyond 25 years because their consultant advised that a 25-year requirement is long enough if the plan is structured correctly. The ratio of active members to retirees is 1:1. He also said that in theory a COLA could be frozen but that such a practice was not part of the negotiated solution in this case. There is nothing further needed from the General Assembly for the Lexington-Fayette police and firefighter plan.

Senator Buford commented that after the 2013 statutory change, cities are no longer required to obtain the General Assembly's approval before making changes to their pension plans. Lexington-Fayette County's reform allowed it to correct its local defined-benefit pension plan without increasing bonding. The General Assembly should take that decision to heart as it considers the state's pension plans. Any bond funding is taken from funding for the rest of the state's programs.

In response to questions from Senator Carroll, Mr. O'Mara said Lexington-Fayette County Urban Government had found that with regard to investment strategies, the most beneficial course of action was to listen to its pension advisers and stay the course. They do, however, actively manage their investments. He also noted that joining the state system was not feasible for them because it was unaffordable.

In response to a question from Senator West, Mr. O'Mara said prior to 2013, the plan's long-run rate of return was just over 8 percent. It was decided that a 7.5 percent assumed rate of return for the next 30 years would be realistic.

In response to a question from Senator Seum, Mr. Shapiro said Lexington-Fayette County's costs and other numbers are transparent. Transparency was achieved in part by hiring a new independent consultant.

Senator Seum said that the only source of information on the Kentucky Teachers' Retirement System is the system itself. Senate leadership has discussing bringing in an outside group to provide numbers on teacher retirement.

Mr. Shapiro said that consultants for the Lexington-Fayette plan brought in their own actuary, which provided a new independent assessment.

Senator Carroll said that the state seems to fail to provide for bad times during good times. He asked whether there are plans to create reserves for the Lexington-Fayette County plan. Mr. Shapiro said that the calculation of the actuarially required contribution takes potential bad times into account.

Mr. O'Mara noted Lexington-Fayette Urban County Government commits to pay the actuarially required contribution with each payroll, though it is not required to do so.

Upon motion by Representative Simpson and second by Representative Palumbo, the *Local Defined-Benefit Pension Plans In Kentucky* report was adopted by a roll call vote.

The meeting adjourned at 11:02 am.

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 1st Meeting of the 2015 Calendar

June 12, 2015

Call to Order and Roll Call

The first meeting of the Capital Planning Advisory Board was held on Friday, June 12, 2015, at 9:00 AM, in Room 171 of the Capitol Annex. Representative Terry Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Terry Mills, Co-Chair; Senator Whitney Westerfield, Representative Tom Riner, Charles Byers, Jane Driskell, John Hicks, Sherron Jackson, Mary Lassiter, Dan Markwell, and Mark Overstreet.

LRC Staff: Shawn Bowen, Katherine Halloran, and Jennifer Luttrell.

Guests: Colonel Steven T. King, Construction and Facilities Management Officer and Larry Goode, Chief Warrant Officer, Department for Military Affairs; Tony Wilder, Commissioner, Department for Local Government; John Covington, Executive Director, Kentucky Infrastructure Authority; Jerry Graves, Executive Director, David Hamilton, Engineer, and Jennie Wolfe, Staff Assistant, Kentucky River Authority; Kristi Culpepper, Executive Director, and Lisa Collins, Administrative Specialist, School Facilities Construction Commission; Charles Harman, Director, Division of Budget and Financial Management, and Walter Hulett, State Supervisor, School for the Deaf and School for the Blind, Department of Education; Beth Brinly, Deputy Secretary, Fred Engel, Senior Director of Technology, Kentucky Educational Television, and Stuart Johnston, Chief Information Officer, Education and Workforce Development Cabinet; Katie Smith, Executive Director, Office of Financial Services, Economic Development Cabinet; Robin Brewer, Executive Director, Office of Budget and Fiscal Management, Transportation Cabinet; and Jeff Acob, Cemeteries Branch Manager, Mark Bowman, Executive Director, Office of Kentucky Veterans Centers, and Judy Solomon, Internal Policy Analyst, Department of Veterans Affairs.

Approval of Minutes

A motion to approve the minutes of the August 12, 2014 and the October 24, 2014 meetings was made by Representative Riner, seconded by Ms. Lassiter, and approved by voice vote.

Welcome New Members

Representative Mills welcomed two new members to the board. Senate Leadership has appointed Dan Markwell as a citizen-at-large member of the board. Jane Driskell is an executive branch appointee and was appointed to the board last October. Representative Mills also recognized and welcomed Representative James Kay to the meeting.

State Information Technology Survey – Program Review Committee

At the board's August 12, 2014 meeting, staff from the LRC Program Review and Investigations Committee discussed an ongoing study relative to the state's information technology resources. Because of the Capital Planning Advisory Board's role in the capital planning and budget process, members were asked to participate. The overall consensus was that the capital planning process for information technology projects was appropriate, however, one member recommended that the list of state-funded information technology projects included in the capital plan be increased from ten to 15. With there being no objections, members were in agreement to increase the list of recommended information technology projects in the capital plan from ten to 15.

Overview of the Capital Planning Process

Shawn Bowen, Committee Staff Administrator, said over the next five months the board will meet monthly to complete its work in preparing the *2016-2022 Six-Year Statewide Capital Improvements Plan*. From July through September, members will hear testimony from state agencies, postsecondary education institutions, and the judicial branch regarding their capital needs. Members will also hear reports from outside agencies that assist with preparation of the capital plan, including the Commonwealth Office of Technology, and the Council on Postsecondary Education. The last meeting, scheduled for October 20, will require members to vote upon the final draft of the plan.

Summary Information on Certain Executive Branch Agency Plans

Representative Mills said included in members' binders was a list of state agencies, boards, and cabinets that are not scheduled to testify before the board during the planning period. These agencies utilize restricted funds for capital needs or they did not submit capital project requests.

Consideration of Agency Plans

The Capital Planning Advisory Board received testimony regarding ten state agency capital plans. The testimony included discussion of capital construction, information technology, grant/loan programs, and equipment needs for the period 2016-2022. The following state agencies testified: Department of Military Affairs, Department for Local Government, Kentucky Infrastructure Authority, Kentucky River Authority, School Facilities Construction Commission, Department of Education, Education and Workforce Development Cabinet, Economic Development Cabinet, Transportation Cabinet, and the Department of Veterans Affairs.

<u>Department of Military Affairs:</u>

Representative Riner asked if General Funds utilized for the National Guard Memorial project were needed for other capital needs. [The 2014-2016 Executive Budget included an appropriation of $300,000 in fiscal year 2014-2015 for a grant to the National Guard Foundation of Kentucky to support the National Guard Memorial.] Colonel Steven T. King, Construction and Facilities Management Officer, said the total cost of the National Guard Memorial was $1.6 million. The department received private donations and raised funds over a five-year period for the project, but it was the $300,000 grant from the General Assembly that allowed for completion of the project. Colonel King said from a historical perspective, the memorial was an outstanding tribute to those that have served and died in service of the state and the county. Representative Riner commented that state should focus more on planning and safeguarding the state's infrastructure.

In response to a question from Representative Kay, Colonel King said the department's federal fund request for the 2018-2020 biennium is significantly less than the other two biennia due to limited federal funding availability.

In response to a question from Mr. Hicks, Colonel King said National Guard units for personnel and human resources were initially housed in two separate buildings at Boone National Guard Center in Frankfort. The two units are now housed in one building, and the human resources building was demolished to accommodate the new aviation building. The remaining amount of leased space will be eliminated upon occupancy of the new aviation building.

<u>Kentucky Infrastructure Authority:</u>

In response to a question from Representative Mills, John Covington, Executive Director, said regional Water Management Councils are located in each area development district. The councils are comprised of locally elected officials and operators and managers of utility systems. The councils are responsible for developing long-range water supply plans, and prioritizing water and wastewater state-funded projects for their respective region.

<u>Kentucky River Authority:</u>

In response to a question from Representative Riner, Jerry Graves, Executive Director, said the agency has not taken measures to protect the dams from a possible terrorist attack.

In response to a question from Mr. Hicks, David Hamilton, Kentucky River Authority Engineer, said a substantial portion of the design work for the Design Dam 10 project, including the geotechnical work completed in 1999, is still usable. Mr. Hamilton further explained that some geotechnical work will be required, since the Corps of Engineers did not finalize the design for the dam in 1999. The original geotechnical work was completed by Mossbarger, Scott, and May Engineers. That company was eventually brought out by the current design engineer Stantec.

Responding to a question from Representative Mills, Mr. Graves said the Kentucky River Authority plans to issue bonds to finance the Lock and Dam 10 project. The bond issuance will require an increase in Tier II fees of approximately $0.11-$0.12 per 1,000 gallons of water used. The current cost per 1,000 gallons of water is $0.152. An average family of four uses approximately 4,000 gallons of water a month, costing them about $0.61 a month on their water bill. The cost after the increase will be about $0.262 per 1,000 gallons of water. The increase amounts to about 40%, or about $1.04 per 1,000 gallons.

Representative Mills said within the last year there has been some controversy about the use of natural gas pipelines to transmit liquefied natural gas. He asked Mr. Graves how this issue might affect the Kentucky River Authority. Mr. Graves said the Kentucky River Authority board would make a final decision if this were ever an issue. He said the Department of Natural Resources and the Army Corps of Engineers would be involved in the decision also.

<u>Education and Workforce Development Cabinet:</u>

Representative Mills noted the cabinet has several buildings containing vacant square footage. He asked what the plans are for the vacant space. Beth Brinly, Deputy Secretary, said the cabinet has completed a building assessment for the Covington State Office building. The cabinet plans to renovate the building and lease it out. The renovations are estimated to cost between $134,000 to $250,000. The cabinet must now determine if the work can be completed in-house, if not, a contractor will be hired. Similar building assessments are underway for the Louisville and Somerset facilities also.

In response to a question from Representative Riner regarding the placement of Kentucky Educational Television's (KET) microwave radio towers, Fred Engel, Senior Director of Technology, KET, said he did not know the locations of the towers, but he would find out, and provide that information to the board. He added that most of the towers are in rural areas of the state situated on elevated ground to ensure better reception. Representative Riner said there has been some concern regarding the placement of these towers close to schools, and in Europe, the towers are banned.

In response to a question from Mr. Hicks regarding the availability of federal funding for the Enterprise Case Management System project, Ms. Brinly said the Education and Workforce Development Cabinet is committed to pursuing federal funding, and if funds do become available, they will apply for them.

<u>Kentucky Department of Veterans Affairs:</u>

In response to a question from Mr. Hicks regarding the renovation of the Thomson-Hood Veterans Center from a traditional nursing facility layout to the federally-required community living concept, Mr. Bowman, Executive Director, Office of Kentucky Veterans Centers, said the new layout will reduce the amount of beds available to veterans from 285 to approximately 250. The unused space will be converted to real living space. He added that they will not lose the ability to care for veterans. The scope of work for the Thomson-Hood Renovation project includes the conversion of two 60-bed traditional nursing home wings, the Lincoln and Eisenhower Wings, to the community living concept. Currently, the bedrooms are double-occupancy and the nurse's station and gathering space is at the end of the hall. The renovations will include private rooms, centralized meal preparation areas, and comfortable gathering spaces for residents. The community living concept is now a requirement of new construction of nursing homes within the U.S. Department of Veterans Affairs grant-supported system.

Representative Mills said implementing the community living concept in veterans centers is more expensive than the traditional nursing home structure. He asked if a cost analysis for this project was done. Mr. Bowman said as they implement this design concept into veterans centers, they are finding ways to save money. The original model, which was implemented at the Western Kentucky Veterans Center, was structured in an inefficient manner. For the Thomson-Hood Renovation project, steps have been taken to save money and achieve economies of scale. The common areas, which include dining spaces, activities areas, and lounge areas/great rooms, and the bedrooms, will still have adjacent hallways that serve a higher number of veterans on that unit, unlike the Western Kentucky Veterans Center community living concept model, which has three separate buildings housing 12 veterans each. This type of model is inefficient because it requires staff to travel between three different buildings to care for patients.

In response to a question from Representative

Mills, Jeff Acob, Cemeteries Branch Manager, said the Kentucky Veterans Cemetery Central in Radcliffe opened in June 2007, and an expansion of this cemetery is the department's number one priority. The expansion will open up approximately 3,500 burial plots, add 800 wall niches to the columbarium wall, and add 300 burial plots for in-ground cremations. Space for existing burial plots will be depleted by 2020 and space for in-ground cremations and the columbarium wall will be depleted in 2021.

Adjournment

There being no further business, the meeting was adjourned at 11:00 a.m.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes

June 17, 2015

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, June 17, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Jonathan Scott, Lead Staff, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative David Watkins, Co-Chair; Senators Julie Raque Adams, Tom Buford, Morgan McGarvey, and Dan "Malano" Seum; Representatives Robert Benvenuti III, and Jim Glenn.

Guest Legislators: Senator David Givens, and Representative Jim Gooch.

Guests: Eric Clark for the Kentucky Association of Health Care Facilities; Judy Taylor for the Kentucky Ambulance Providers Association; Bill Doll and Cory Meadows for the Kentucky Medical Association; David Adams for Kentucky Citizens Judicial; Sarah Nicholson and Steve Miller for the Kentucky Hospital Association.

LRC Staff: Jonathan Scott, DeeAnn Wenk, Cindy Smith, and Miranda Deaton.

Election of Committee Co-Chairs

The first order of business was election of committee co-chairs. A motion was made by Representative Glenn and seconded by Representative Benvenuti to nominate Representative Watkins as House co-chair. A motion was made by Representative Glenn, seconded by Representative Benvenuti, and approved by voice vote that nominations cease and Representative Watkins be elected House co-chair by acclamation. A motion was made by Senator Adams and seconded by Senator Seum to nominate Senator Alvarado as Senate co-chair. A motion was made by Senator Adams, seconded by Senator McGarvey, and approved by voice vote that nominations cease and Senator Alvarado be elected Senate co-chair by acclamation.

Medicaid Overview and Update

Audrey Tayse Haynes, Secretary, Cabinet for Health and Family Services, and Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services presented an overview of Medicaid. Medicaid is a state and federal partnership designed to provide healthcare to qualifying individuals. Medicaid provides healthcare for over 1 million Kentuckians, and continues to evolve to meet the healthcare needs of the population served. In Kentucky, 70 cents on the dollar is federal and approximately 30 cents is state and is for persons that are aged, blind, and disabled. Medicaid expansion is 100 percent federal until 2017, and is for persons based on income, up to 138 percent of the poverty level.

Medicaid enrollment in December 2014 was just around 1.2 million. Over 381,000 were in the expansion category. The largest group is children based. Traditional income based Medicaid covers 412,667 children. These are children, regardless of expansion, that are on Medicaid. There is an average of about 25,000 people per month churn with enrollment.

Secretary Haynes reviewed Medical costs that were paid for in 2014 by Medicaid. She noted specifically 603,000 preventive dental services; 31,000 newborn deliveries, and 734,000 immunizations and vaccinations.

Payments made in CY 2014 paid to providers total $6,691,540,817. These payments include DSH payments and supplemental payments to universities. She also noted that preventive services for the Medicaid expansion population are increasing and she noted that more screenings equal better health. Medicaid expansion payments to providers from January, 2014 through June 10, 2015 total $2,041,679,225.

In regard to uninsured rates by state in 2014, Kentucky was in the second lowest uninsured quintile. Also the uninsured population per capita has dramatically decreased. Many counties populations are at less than 5 percent uninsured.

Next, Secretary Haynes discussed DSH payments. She said that DSH payments are not going away, just being reduced. The reductions are scheduled to begin in 2018. The 2018 reduction is approximately 12 percent. By 2024 the reductions will be 49 percent of current expenditures.

In regard to managed care, Commissioner Lee said the Department for Medicaid Services utilizes managed care organizations to deliver care to approximately 90 percent of the population. Managed care was implemented statewide in November 1, 2011. Prior to that Passport operated managed care in the Jefferson County area. There are five MCOs serving Medicaid members: Anthem; Coventry/Aetna; Humana; Passport; and Wellcare. Managed care provides medically necessary services as outlined in Medicaid regulations with approvals from CMS with flexibility regarding prior authorizations, rates and structure of contracts. Managed care does not serve Medicaid members in long term care facilities or 1915(c) waivers.

In regard to Medicaid MCO oversight, there is a contract with the Department of Insurance to investigate timely payment complaints. There are monthly operational meetings as well. Reporting is done monthly, quarterly, and annually. Actions taken in 2014 and 2015 include 20 inquiry letters, 44 letters of concern, and 84 corrective actions plans.

Medicaid Waiver Program Overview

Audrey Tayse Hanes, Secretary, Cabinet for Health and Family Services, and Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services presented an overview of Medicaid. Commissioner Lee explained that waivers provide states with flexibility to deliver and pay for health care services in Medicaid. The four types of waivers include: Section 1115 Research and Demonstration Projects; Section 1915(b) Managed Care Waivers; Section 1915(c) Home and Community-Based Service Waivers; and Concurrent Section 1915(b) and 1915(c) Waivers. Kentucky has six waiver programs which include: Home and Community Based (HCBW); Supports for Community Living (SCL); Michelle P. (MPW); Model Waiver II (MWII); Acquired Brain Injury-Acute Care (ABI); and Acquired Brain Injury/Long Term Care (ABI/LTC). The cost of waiver programs over time has increased. In 2008 the cost was around $300 million dollars. In 2014 the cost for the waiver population was $700 million dollars. Waiver services must be delivered and operated within the scope of CMS purview. There are specific regulations related to waiver programs. In March 2014 CMS issued new regulations in which states must modify some of their waiver programs to come into compliance. The department is amending its waivers with an effective date of January 1, 2016.

In response to a question by Senator Buford, Commissioner Lee said the payment for the state share is phased in over time. The first payment is due in 2017.

In response to a question by Senator Buford, Secretary Haynes said the amount of Kentucky's share was outlined in the February Deloitte report. The expansion number changes every day and that number is beginning to go down a bit. For the next biennium budget, the report estimates that Kentucky's portion for expansion will be $74.4 million and $173.2 million respectfully for the biennium.

In response to a question by Senator Alvarado, Secretary Haynes said there is a reason budgets are only looked at two years at a time. There are many factors that change over two years. Currently, Kentucky is seeing the lowest unemployment in the state in many years. The unemployment rate in every county has gone down. There is a bipartisan effort in the Soar region as the Governor looks at creating more jobs. As Kentucky generates more revenue, Medicaid is a bridge program for hard working Kentuckians. This is the best projection that can be made today. Secretary Haynes urged the next Governor to have the entire Deloitte report done again in a couple years.

Senator Alvarado quoted many statements in letters from KNectors expressing concerns for the people they serve explaining that they cannot afford it.

In response to a question by Senator Alvarado, Secretary Haynes said she believes that Senator Alvarado is confusing Medicaid with private insurance plans. With Medicaid there is a co-pay, but it is up to the providers to work with the MCOs on a plan to accept co-pays. The cabinet allows the MCOs to charge the maximum allowable by the federal government. There is no deductible with the Medicaid plan.

In response to a question by Senator Alvarado, Commissioner Lee said there are reports from all MCOs on a monthly basis that tell what percentage of their claims were paid within 30 days or within 90 days. The contract states they are to pay 99 percent of claims in 90 days.

In response to a question by Senator Alvarado, Commissioner Lee said the department keeps track of payments to providers by monitoring self reporting and looking at claims data service dates and payment dates.

Senator Alvarado discussed numerous unpaid claims by one MCO provider to one OBGYN in a four month period. In response to a question by Senator Alvarado, Commissioner Lee said a clean claim with accurate information is to be paid within 30 days.

In response to a question by Senator Alvarado, Secretary Haynes said in regard to the suboxone issue, the reason there are several doctors looking to drop providing suboxone is that many have been taking cash for a suboxone prescription, then they would have them filled at a pharmacy and that is illegal. If you are a Medicaid provider, you must bill Medicaid for the doctor visit and for the prescription. The cabinet has now worked with the Kentucky Board of Medical Licensure to close the loophole.

In response to a question by Senator Alvarado, Secretary Haynes said the cabinet is in an active procurement process now. A press release was put out in April that outlined many improvements that are being made with the contracts and those will be finished in the coming weeks. Many of the improvements are areas in which the KHA and others have requested. Regarding the cost of care and regarding the decline to some of the hospital and KentuckyOne, it is disingenuous to think that the layoffs at the hospitals in every situation had anything to do with managed care or the Affordable Care Act. When two companies merge, the merger has efficiencies in the business and market place. Companies improve their economic standing by merging several hospitals. As a consumer of healthcare with the rising costs trending upward, the Affordable Care Act was developed to bring down costs and to stabilize the market.

In response to a question by Senator Alvarado, Secretary Haynes said if the legislature would like the cabinet to increase the rates for providers, the cabinet would be delighted to, but the legislature has to appropriate the money. The cabinet can only provide rates with the money that has been allocated.

In response to a question by Senator Alvarado, Secretary Haynes said she does not have the figure with her that shows how much money has been paid to MCOs this year. MCOs are only allowed to make a certain amount of profit. The profit for an MCO is between 3 percent and 5 percent after administrative costs.

In response to a question by Senator Alvarado, Secretary Haynes said MCOs were hired to help manage patients as well as costs. She noted that over $300 million was saved from taxpayers over the last biennium. In the 2012-2014 biennium, $1.3 billion in taxpayer money was saved because the cabinet came in on budget and the budget has been met every year.

In response to a question by Senator Alvarado, Secretary Haynes said the cabinet has an appropriate data bank and it has been working when many others have not. The cabinet has not had a problem with the eligibility system for KNect or Medicaid. Whenever an audit has occurred based on the state based exchange, the cabinet has received glowing reports.

In response to a question by Senator Alvarado, Secretary Haynes said she does not know if there has been a class action lawsuit filed against the Commonwealth by Medicaid providers for lack of payment within Kentucky. Senator Alvarado said there has been and the cabinet may want to look into that. Secretary Haynes said there is a recent suit of hospitals against the MCOs, but the cabinet was not included in the lawsuit regarding the triage fee and is not a party to that suit. In response to a question by Representative Glenn, Secretary Haynes said the cabinet is screening a lot more, so that is trending upward. The cabinet is hopeful that the disease statistics begin to trend downward.

Representative Benvenuti noted that he is receiving the same letters from providers that Senator Alvarado discussed. He said that some of Kentucky's best and brightest physicians are no longer interested in practicing medicine in Kentucky. That is a tragedy to the Commonwealth. He said that if Medicaid recipients each paid $100 per year, the income back to the Commonwealth could be used in different programs or could be given back to the taxpayer.

In response to a question by Representative Benvenuti, Secretary Haynes said the cabinet is not resistant to co-pays. Co-pays are in the contracts. It is between the providers and the MCOs. Most providers do not want to try to collect the money.

In response to a question by Representative Benvenuti, Secretary Haynes said Kentucky has the second lowest administrative costs in the country at only 2-3 percent which includes supplemental payments and claw backs.

In response to a question by Representative Benvenuti, Secretary Haynes said the Exchange does cover out-of-network coverage. She added that one insurer chose not to cover out-of-network services. That was a business decision the cabinet could make, but going forward the cabinet will cover those charges.

In response to a question by Representative Benvenuti, Secretary Haynes said there were 31,000 newborn births to mothers on Medicaid. This is over half of the yearly number of newborn births in the state. Commissioner Lee noted that the federal poverty level is 185 percent, so it is a little higher than the traditional Medicaid population.

In response to a question by Senator Adams, Secretary Haynes said she would have to get the cost for institutional care and get back to the committee. The federal match was not included for that population.

In response to a question by Senator Adams, Commissioner Lee said the department amended the state plan in January 2014 and included behavioral health services and other services in the plan. Historically the therapies were provided in other settings such as the waiver programs. When the State Plan was amended the therapy services were listed in the Plan. Because those services were listed in the State Plan and they had specific provider types, the cabinet was trying to mold the service delivery system to comply with the State Plan. The cabinet has heard from providers about some concerns about the delivery of services through the State Plan. The cabinet is working with CMS to devise a plan to allow the services to continue as they are now.

Representative Watkins recommended that the MCOs be at a future meeting to answer questions. He noted that MCOs need to be more responsive and accountable.

In response to a question by Senator McGarvey, Secretary Haynes said there are no cuts in the ABI program. Speech, physical, and occupational therapy are in the state health plans, which means they could be billed under a Medicaid card. The department has acknowledged that for all waivers, including brain injury, there are complex cases and the rate is less on the State Health Plan side than on the waiver side. The Commissioner is working with the federal government to correct that.

The meeting was adjourned at 12:07 p.m.

Road Fund,

from page 3

was to minimize the impact to the county and municipal road-aid program, he added.

Sen. Gerald A. Neal, D-Louisville, asked if HB 299 provided enough money to tackle the state's deteriorating transportation infrastructure.

"The needs that we have for our highway infrastructure in Kentucky far outstrips our ability to provide the revenues to pay for them," Hancock said. "We were very pleased the General Assembly arrested the freefall that we were experiencing back earlier this year. I do not want to sound ungrateful in any way, size, shape or form. But the truth of the matter is the road system out there requires a great deal of money to keep it functioning as it should."

Rep. Arnold Simpson, D-Covington, asked if funding for new road projects would decrease because of the lower gas tax.

"New routes and bypasses are less than 8 percent of road plan budget," Hancock said. "The rest of the money is heavenly invested in maintaining the current system."

He added that the road maintenance budget has been the same since 2010. "That is, in our view, a big concern," Hancock said.

Interim committee Co-Chair Sen. Ernie Harris, R-Prospect, said the state previously issued $1 billion in road contracts per year. He asked if that amount would decrease because of the lower gas tax.

"We would estimate that amount to drop some," Hancock said, adding he wasn't prepared to give an exact figure.

Harris also asked if the state taxes alternative fuels.

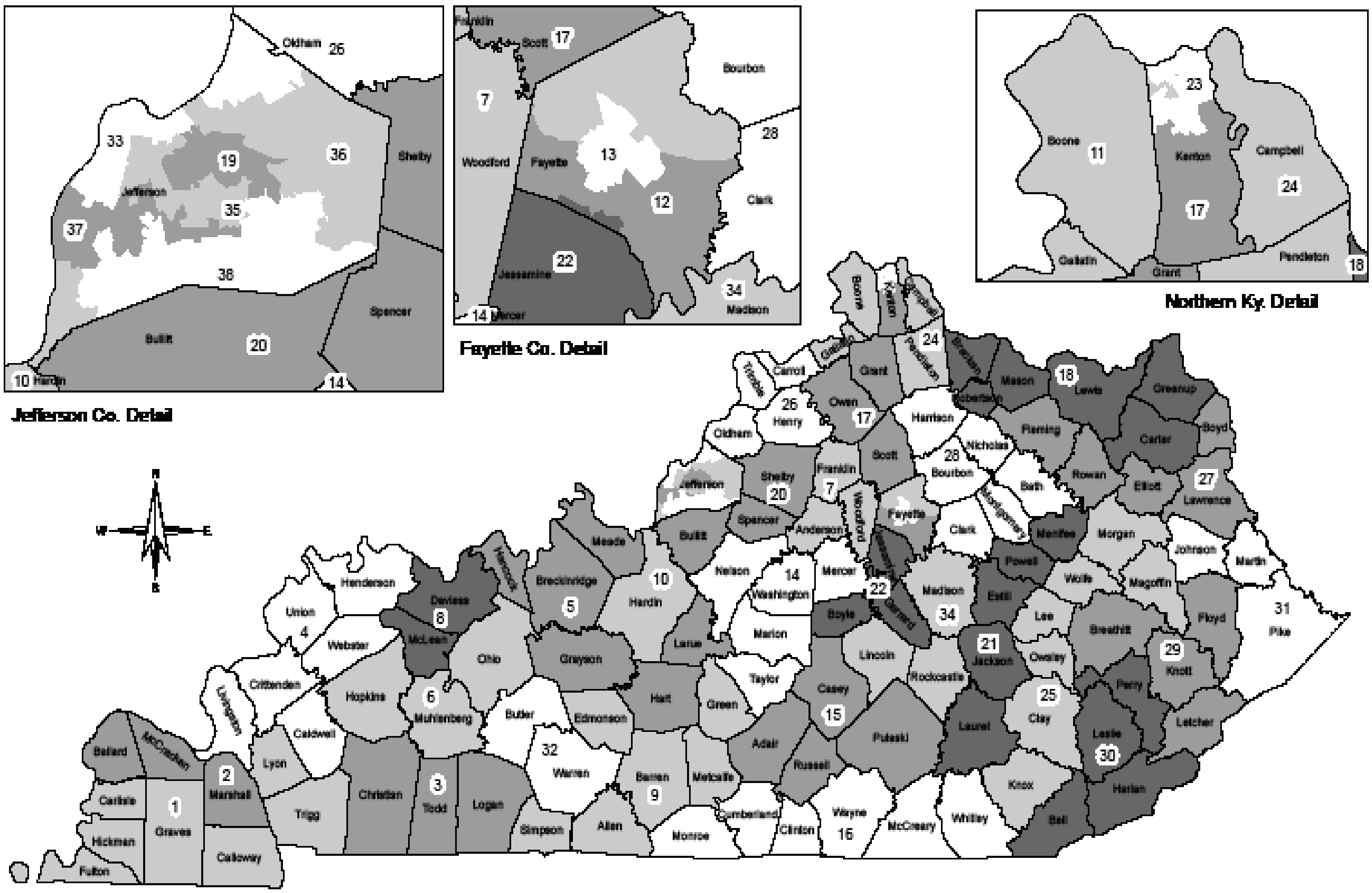
Hancock said vehicles that run on natural gas were covered under the current taxing scheme but not electric cars.

"There are some vehicles that drive free on our roads," Hancock said. "Some are allowed to avoid the gas tax by using alternative-fuel vehicles. As we look ahead, the nation as a whole is facing this challenge."

Interim committee Co-Chair Rep. Hubert Collins, D-Wittensville, said the uncertainty of how much money states will receive from the underfunded U.S. Highway Trust Fund must cause havoc for state road planners.

Hancock said the U.S. has a highway trust fund supported by a federal gas tax that hasn't been raised since 1993. He said it's operating on a $17 billion annual shortfall.

Hancock called the situation a "dire concern."



2002 Kentucky Senate Districts

Senate Plan (SH001A09) became law (KRS 5.101 - 5.138) January 31, 2002, with enactment of House Bill 1.

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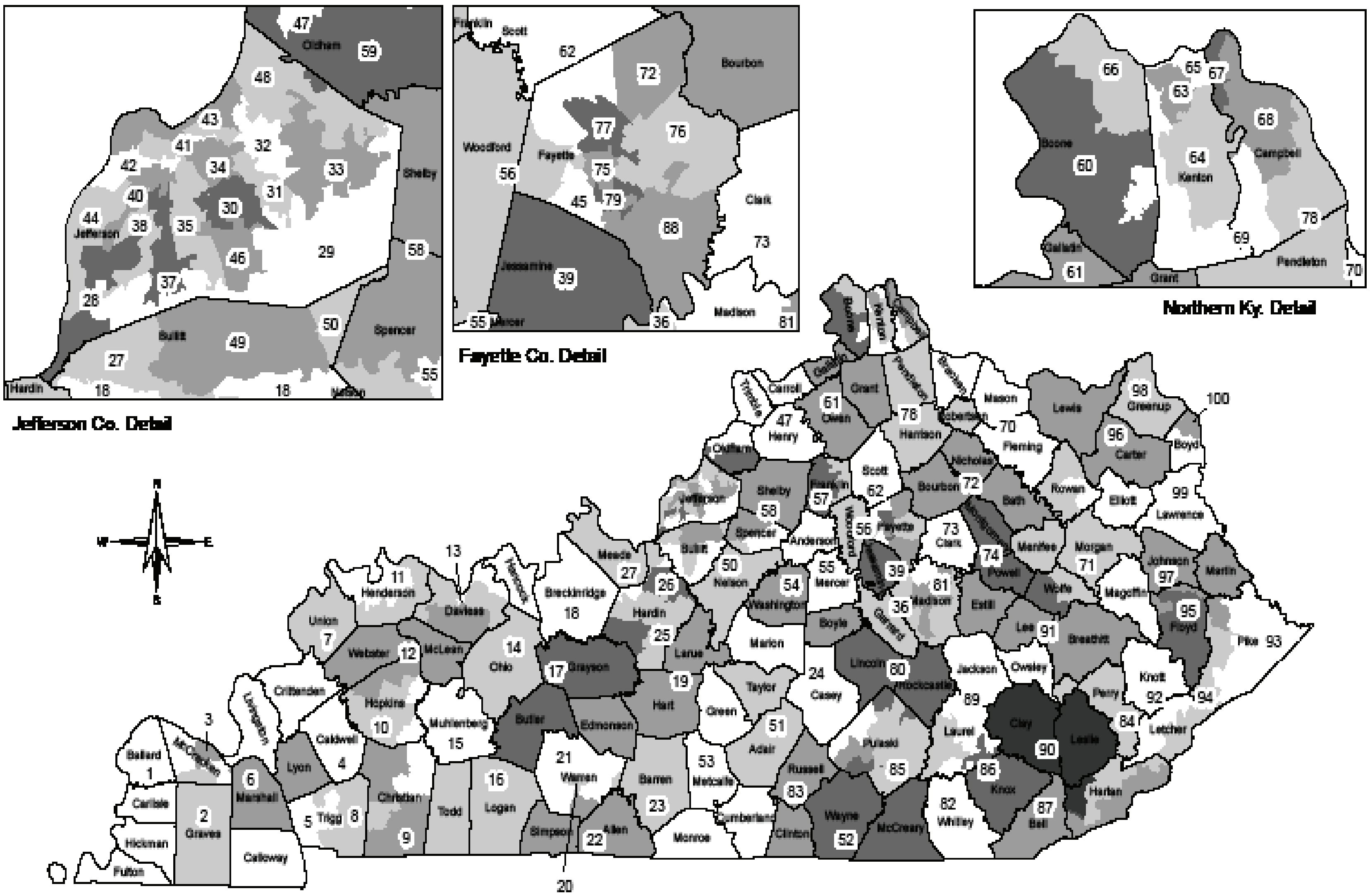

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